

Agenda Item No. 4.1

**DERBYSHIRE COUNTY COUNCIL
REGULATORY PLANNING COMMITTEE**

11 April 2016

Report of the Strategic Director – Economy, Transport and Communities

- 1 THE CONSTRUCTION AND OPERATION OF AN ENERGY RECOVERY FACILITY (ERF) AND ANCILLARY FACILITIES, COMPRISING OFFICES AND WELFARE FACILITIES, VISITOR CENTRE, ACCESS ROADS AND WEIGHBRIDGE FACILITIES, ELECTRICAL COMPOUND, TOGETHER WITH PERIPHERAL LANDSCAPING, DRAINAGE AND SECURITY FENCE, AT BRIDGE STREET, CLAY CROSS
APPLICANT: CLAY CROSS BIOMASS LIMITED
CODE NO: CW4/1114/98**

4.2362.11

Introductory Summary The proposal is under an application for planning permission to develop an Energy Recovery Facility (ERF), contained within a purpose built building on vacant employment land at Bridge Street, Clay Cross. The proposal is designed to accept up to 80,000 tonnes per year of residual wood waste arising from construction and demolition (C&D) waste. The facility would generate up to 12 Mega Watts (MW) of electrical energy and up to 14MW of thermal energy.

The waste process, known as gasification, would be self-contained within an industrial building operating 24 hours a day with waste being accepted onto the site during daytime hours only. The building would be approximately 105m long and up to 71m wide (excluding the office accommodation). The height of the building varies from around 14.5m towards Bridge Street to a maximum height of 22m at the rear of the site. In addition, there would be a 40m main stack and a second stack of 30m in height. External works include access roadways, landscaping including a sustainable drainage system, heavy goods vehicle (HGV) parking and staff and visitor parking.

It is anticipated that, during the construction phase, the plant will provide employment opportunities for around 150 - 200 workers along with associated indirect employment opportunities. During operation, the plant will provide around 30 jobs on a shift basis.

The waste process operation and any emissions would be controlled through an Environmental Permit issued by the Environment Agency (EA).

I have considered the proposal against relevant policies of the Development Plans and national planning documents. I am satisfied that, having considered the representations made and consultation responses received, on balance, the development is acceptable. On that basis, it is recommended that subject to the satisfactory completion of a Section 106 legal agreement, planning permission is **granted** subject to the conditions set out in the recommendation at the end of the report.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

The Applicant

Clay Cross Biomass Limited has been established to develop this project following a partnership between two organisations involved in the waste and renewable energy industry: The partnerships are Falcon Waste Development Land (Falcon), part of the Larkfleet Group of companies, and REACT Energy PLC (formally Kedco PLC) which is a renewable energy portfolio developer.

The application has been submitted by SLR Consulting Limited as the planning agent. This included the preparation of an Environmental Impact Assessment (EIA) and the subsequent Environmental Statement (ES) submitted with the application.

Site and Surroundings

The application site comprises approximately 2.4 hectares of land fronting Bridge Street (A6175). It is bounded by industrial premises to the south and west, and open ground to the north. Bridge Street is located on the northern fringes of Clay Cross, linking the A6175 (Market Street) to the east (via Furness Hill Road) and the A61 to the west).

The majority of the application site forms a gently sloping plateau. The highest point is located at the south-eastern corner with levels falling towards the north and east. The topography then falls away steeply from the edge of the existing plateau towards the northern and eastern site boundary. These slopes are covered with dense vegetation and trees.

The site is previously developed “brownfield” land, having previously had several waste management uses including scrap metal processing and landfill. There are no structures or buildings currently on the site, although there is evidence of the previous usage in terms of areas of hardstanding. The site in general looks aesthetically poor with an abundance of litter and other materials across the site and around the boundary fencing, not untypical of vacant, under used employment or industrial land. Having said this, the site has partly been colonised by buddleia and willow with a small amount of birch

and bramble also present. There are localised areas of grassland dominated by mosses and small, isolated areas of Open Habitat Mosaic (OHM) which are being replaced by dense willow, buddleia and bramble.

The land largely comprises made up ground, known to be contaminated in parts. The contaminants include colliery spoil, construction, industrial and waste from historic landfilling. The mining history indicates the presence of a known shaft on the site. An existing right of way, located to the north of the site, is currently closed for safety reasons. Also to the north of the site is an extensive parcel of land (partly former Biwaters site) which has extant mixed use planning permissions for residential, leisure, industrial and commercial uses.

The village of North Wingfield, to the north-east, lies around 900m from the boundary of the application site, whilst Old Tupton lies just over 1km to the north of the application site. Whilst the site is located within an industrial area, residential properties exist within 1m - 200m of the site boundary. The nearest housing development fronting Furnace Hill Road (and centred on Dewley Way) is approximately 110m from the nearest boundary of the site.

There are a range of environmental receptors that may potentially be sensitive to the proposed development. These include:

- Grade II listed Building (North portal to Clay Cross railway tunnel) around 180m to the north-east of the site boundary;
- Grade II listed buildings of Egstow Hall and associated barn and outbuildings;
- Grade I listed Church of St Lawrence and associated Grade II structures, and the grade II Manor House;
- Clay Cross Town Centre Conservation Area and Grade II Church of St Bartholomew, Grade II cemetery chapels and monument and milepost 830m south of Clay Cross centre;
- Ancient and Semi natural woodlands over 1.7km to the north west of the site boundary; and
- Three Scheduled Monuments (sections of Rykneld Street Roman road) the closest lying around 950m to the north of the site boundary.

There are no international or national ecological designations within 2.5km of the site and the site does not overlie an aquifer or source protection zone. The site is also within Flood Zone 1 (i.e. lying outside of the floodplain). There are no sites of international or national nature conservation importance within a 2 km radius of the site.

International ecological designations (Natura 2000 sites) within 10km of the site include the Peak District Moors (South Pennine Moors Phase 1) Special

Protection Area (SPA) and the South Pennine Moors Special Area of Conservation (SAC).

Currently the site has two gated entrances off Bridge Street.

Proposed Development

The application sets out the proposal which is predominately an ERF. The proposed development comprises:

- ERF designed to accept 80,000 tonnes per year of residual wood waste arising from C&D waste. The facility is enclosed within a building and has two stacks of 40m and 30m tall.
- Office and administration facilities together with car parking.
- Electrical sub-station.
- Weighbridge.
- HGV Parking.
- Roadways and peripheral landscaping.

The ERF would be housed in a single building. The main building would be around 105m long (excluding the office accommodation) and up to 71m wide. In total, it would occupy a footprint of around 7,500 m² (7,800m² with the office accommodation). The roofline would result in the height of the building varying from around 14.5m (Bridge Street) to a maximum height of 22m (at the rear of the site), notwithstanding the height of the stacks.

The office and administration facility would include a dedicated education/visitor centre/conference suite. The purpose would predominately be used to make presentations to visitors about the facility and with this in mind it is envisaged that schools, colleges and local community groups will also make use of the resource. This area would include a viewing platform to enable visitors to access and appreciate the inner workings of the plant in a safe manner.

In terms of the electrical substation connection, the applicant had suggested a grid connection is feasible in Market Street. To provide the necessary grid connection, around 900m of underground 33kv cable would be installed from the proposed facility to the connection point; of which 50% would typically be in the highway and 50% would be in the footpath. The route would follow Bridge Street/Furnace Hill Road in the general easterly direction to the junction with the A6175, where the cable would be routed north-easterly towards the connection point. It is not anticipated that the route would cross any third party land, nor involve disturbance to any habitats. This development does not form part of this application being considered.

The applicant has since clarified (30 March 2016) that the grid connection offer has been confirmed and it is no longer at Market Street as referred to above.

The new Point of Connection is to an existing Distribution Network Operator (DNO) substation within the Biwaters Site, some 500m away to the north-east.

The cable route to the DNO substation will be for a short distance along Furnace Hill Road, and then turn north to head to the DNO substation. The applicant states that the DNO already has wayleaves in place for access over land from Furnace Hill Road to its substation and the cable route would be located within an area with wayleaves already in place.

This means that cable route works within the public highway will be limited to a short section from Plot 20 Bridge Street, along Furnace Hill Road to its junction with the unnamed access road to the DNO substation and the playing fields.

Landscaping would comprise 6,500m² hard standing/car parking, 3,450m² of open mosaic grassland, 700m² of low growing shrubs to the south, 4,100m² tree belt to the north and east to complement existing woodland off site and 540m² ponds for surface water attenuation and wildlife habitat.

Wooded areas to the north of the site boundary would be retained and enhanced. There is also the aim to improve boundary fencing in an attempt to enhance the appearance of the site.

Energy Recovery Facility (ERF)

The facility would be designed to accept 80,000 tonnes per year of residual C&D wood waste. The imported feedstock would be residual in nature, that is it would be the fraction that exists after recycling and is currently sent to landfill for disposal. The ERF would house the waste reception and processing equipment, facilities for maintenance, administration, welfare and the visitor area. The ERF would contain the following waste treatment process elements:

- Waste reception area with storage areas.
- Feedstock preparation area.
- Feedstock infeed rakes and conveyors.
- Gasifier units and associated equipment.
- Six Gas Engines and associated fans and flue stack.
- Control Room and substation.

The plant would use gasification technology. Gasification is an advanced thermal process and defined in the application as the thermochemical transformation of, in general, material containing carbon (such as wood) into a

gas fuel, known as synthesis gas (or 'syngas'). As stated in the application details the process can be identified by three principle stages:

- When the process begins, with the arrival of wood to the gasifier, there is an initial drying process to remove the water contained within the material.
- After the initial stage the dry wood is decomposed at temperatures above 300°C forming a mixture of solids, liquids (primary tars) and gases. This stage is called pyrolysis or devolatilisation. The solid resulting from this thermal degradation is called 'char' and the liquids, due to their partial tar and condensable vapour content are commonly described as 'tar'. The relative yield of gas, tars and char will depend on the speed of the heating, the final temperature of the process and the configuration of the gasifier.
- When the temperature of the char exceeds 700°C the constituent elements react with each other and the gasifying agent (air) to create a final gaseous mixture. This stage is generically known as gasification.

The gas that results is a composition of hydrogen (H₂), carbon monoxide (CO), carbon dioxide (CO₂), methane (CH₄), (C₂H_n), water (H₂O), nitrogen (N₂) and a minority of tars and suspended solid particles. The gas, once conditioned, is used as fuel in internal combustion engines generating electricity and heat.

The proposed facility has two stacks in total measuring 40m high and 5m wide (main stack) and 30m high and 4m wide. One stack is for the combustion chamber and the second for the exhaust of six gas engines. The emissions from the stacks would be monitored via a single continuous emissions monitoring system (CEMS). A silencer would also be fitted to the stacks to reduce noise emissions.

Operational Aspects

The plant would operate on a continuous basis, 24 hours a day, 7 days a week throughout the year on a shift system which would be:

- 01:00 – 09:00 (night)
- 09:00 – 17:00 (daytime)
- 17:00 -01:00 (evening)

Although the plant would operate 24-7 it is anticipated that deliveries would take place within working hours:

- 07:30-18:00 Mondays to Fridays
- 07:30 -13:00 Saturdays

Recent correspondence from the applicant has requested that the delivery times start at 07.30 rather than the 08:00 start stated in the application details.

The proposed access to the site would be via two separate vehicular entrances onto Bridge Street, being at the south-eastern and north-eastern frontages of the site. Of the two entrances one would be prioritised for staff and visitors travelling in light vehicles such as cars, vans and motorcycles. The other entrance would serve HGVs entering and leaving the facility carrying waste or residual ash material.

In terms of HGV movements it is anticipated that there will be approximately 32 movements for waste imports on a typical weekday. Exports (of residual ash) are expected to number 4 daily movements. Therefore, on any typical weekday there would be approximately 36 lorry movements in and out of the site.

The application indicates that once operational, the ERF would provide direct employment for around 30 staff on a shift basis. Along with this it is anticipated that there would be ancillary employment opportunities through the requirement of a range of services such as haulage, engineering/maintenance, landscaping/gardening, cleaning and catering. Up to 200 jobs are expected to be created during the construction phase which the applicant has stated to be approximately 12 to 18 months.

Welfare facilities would be available for staff as part of the dedicated office/administration building which would also provide the education and visitor centre facilities.

The application identifies the well wooded slopes to the north of the site boundary which provides some screening of the application site. This would be retained and enhanced with the addition of locally characteristic tree and shrub species.

Publicity

The application was advertised by press and site notices upon submission of the application. The application was advertised by press notice in the Derbyshire Times on 8 January 2015. Notices of the provision of additional environmental information have also been published, on 24 September 2015 and 25 February 2016 respectively.

Site notices were put up near to the site entrance on 8 January 2015. A further notice was added near to housing on Furnace Hill Road on 25 February following a local representation that better publicity near to housing within the site vicinity was required. Further site notices were erected on 24 February 2016 at the site and Hetton Drive area.

The proposal has raised concerns by residents who live within the local area. A petition in objection was delivered to County Hall on 18 February 2015 comprising in excess of 193 signatures. There were also 8 objectors and 1 representation in support. The objectors in the main live around the Hetton Drive and Furnace Hill Road areas of Clay Cross, both of which are close to the proposed facility and the planning agent for St Modwen.

Further information under Regulation 22 of the (Environmental Impact Assessment) Regulations 2011 was requested to provide further clarification on a number of issues in relation the potential for air pollution and amenity issues around noise, dust and increased traffic movements. Other information relating to noise and Combined Heat and Power (CHP) was also advertised under Regulation 22 in February 2016

Summary of local residents' representations

- Health impact to residents from hazardous waste.
- Concern relating to vibration and noise impact from construction and operation especially at night time.
- Highway capacity and safety impact from increased traffic and implications for pedestrians because of existing highway junction layouts and lack of formal crossing areas.
- Lack of publicity undertaken by applicant.
- Development may adversely impact on the regeneration of Clay Cross that is underway.
- Presence of coal mining hazards on site.
- Land contamination and stability issues from previous uses. Dust/methane exposure/explosive/fire risk from intrusive site investigations. Pollutants could be released into surrounding water course.
- Claim that gasification produces greenhouse gas emissions.
- Concern relating to health statistics surrounding incinerators and health from emissions.
- Lack of an audible warning system for the public in the event of an emergency incident.
- No details on the grid connection for the electricity generation.
- Concerns about current flooding of the Clay Cross footpath No28 footpath and whether this is caused by the site.

Applicant Consultation

Further consultation was undertaken by the applicant in the form of a “public drop in consultation session” which is detailed below.

One of the key themes to emerge from the responses of the local community to the first consultation was that many expressed a concern that they had not

been given enough information and were not aware enough of the application and the process. This was raised with the applicant who agreed to carry out a public exhibition and drop in session in Clay Cross. This was held on 11 September 2015 in Clay Cross Social Centre. The session was advertised via a leaflet drop posted to around 350 homes and businesses near to the proposed site. Invitations were also sent to Clay Cross Parish Council (CCPC), North East Derbyshire District Council (NEDDC) and Derbyshire County Council (DCC), as well as the Clay Cross Town Centre Group. As well as this posters were put up around local businesses including in Tesco, The Clay Cross Leisure Centre and Clay Cross Social Centre.

An advert was placed in the Derbyshire Times on 4 September 2015 publicising the event. Along with this an interview with a member of the Clay Cross Biomass Limited team, which included information about the public exhibition, was broadcast on radio station Peak FM.

The session was open between 13:00 – 21:00 on the day. The exhibition itself comprised a number of display boards and banners and visual impressions of the proposal. There were also several members of the application team on hand to field questions from members of the public.

In total, 28 members of the public attended the exhibition and nine response sheets were filled in. Five people left their names and contact details in order to be kept informed of progress with the development.

Responses to Formal Publicity

The majority of public responses set out opposition to the facility. The principal issues identified include:

- The proximity of the proposed facility to nearby housing and schools.
- Increase in traffic levels, in particular HGV movements and the related pollution.
- Issues with traffic junction visibility, lack of pedestrian crossings/ footpaths.
- Operational hours of the facility leading to an increase in noise levels and disturbance.
- The potential for the proposal to put off investment in Clay Cross and jeopardise the regeneration of the area.
- Hazard of disturbing contaminants on the site through the construction phase.
- Pollution and perceived health impact on local residents and the local area.
- Size and visual impact of the building and height of the flue stacks.

The single representation in support of the application referred to:

- Positive regeneration/landscaping of a former industrial site.
- Positive design with features such as timber cladding and green roof.

Consultation Responses

The application was initially consulted upon in December 2014. A number of the consultees indicated that they considered the Environmental Statement should contain further information, and the Authority therefore sent a Regulation 22 request (dated 20 March 2015) under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The applicant responded with further information on 26 August 2015. This information was subject to a new consultation and was re-advertised. Following this stage further consultation responses were received. The application was again advertised under Regulation 22 on 25 February 2016 regarding noise and CHP information provided.

Clay Cross Parish Council (CCPC) - Objection

CCPC responded at the initial consultation and following notification of further information under Regulation 22. It cited “grave concerns” regarding the building and operation of the proposed ERF facility. CCPC opposes the application on a number of grounds:

- Design/visual issues

Appearance and design of development plus the visual appearance in that there would be two stacks of considerable size and height emanating from within the building to 40m and 30m both discharging particulates and visible plumes over a site destined to accommodate 980 new homes.

- Sunlight/daylight

Alleged loss of sunlight/daylight to the proposed new housing adjacent to the development.

- Overshadowing and loss of outlook

Alleged overshadowing and loss of outlook to the detriment of residential amenities over the aspects from north to east and the proposed 980 new homes.

- Noise

There would be extra noise and disturbance as a result of use and operation which would continually operate both day and night. Noise levels have been monitored at various locations. Some existing properties are no more than 100

metres from the proposed site boundary. The extra cumulative road traffic on the A6175 will also add to the noise.

- Dust, fumes, pollution and contamination

Concern that the effect of dust, fumes, pollution and contamination will have a detrimental outlook on the local residents, the ongoing regeneration of Clay Cross, school children locally and at Tupton Hall School which is at the forefront of the prevailing wind direction, local wildlife and the 'green buffer zone' directly north of the proposed site. The cumulative effect of pollution coming from the site including methane, leachates, traffic pollution and the importation of 'waste wood' which could carry lead paint, tars and preservatives are not in keeping with the proposed plans for the development of Clay Cross.

- Sustainability

States that the sustainability of the site would be at risk as the life of the plant is only rated as operational for 25 years and therefore there ought to be a plan for decommissioning, land decontamination and remediation within the proposals.

- Contamination

States that the proposed site has been many things in its time, from coal mine to landfill waste site to scrap yard and waste recycling all of which pose considerable risks to public health and wellbeing of the community. The report of Falcon Waste in 2013 identified £1.9 million to remediate the site whereas the new idea seems to be that the site should hardly be touched and the site should be spread liberally with concrete in an attempt to 'let sleeping dogs lie' and to attempt to harness the ever constant methane. Within the statement surrounding land remediation, it intimates that 3580 cubic metres of contaminated ground would have to be removed from site by lorry, but where to? Why contaminate another site?

- Public Right of Way

States that to the north of the site runs Clay Cross Footpath 28 which has been closed for many years due to flooding from the site and contamination of the water with petrol, diesel, oils and other contaminants; this has been qualified with a new Footpath Closure Extension which extended its closure to 29 February 2016 stating that it is due to 'the continued flooding of the footpath with contaminated water'.

- Housing

States that the attempt to meet targets and comply with the provision of new affordable housing and identifying an ideal brownfield site the Parish Council feels that this development, although admirable in its concept and its drive to produce renewable energy is not acceptable within this newly developing housing area and would be better positioned on an industrial estate using the steam to power industrial units and factories.

- Disabled access

On viewing the plans for the building and educational area it seems as though disabled access issues have not been considered.

- Cumulative impact

Alleged that the cumulative impact of traffic on the A6175 will be excessive considering the proposed Hilltop Opencast site, St. Modwen regeneration and housing project, persistent M1 closures resulting in gridlock in Clay Cross both on the A61 and A6175 and continuing access problems surrounding Furnace Hill Road/Market Street/Re Use Skip hire.

- Grid connection

Questions the effect of the proposed electricity grid connection which seems to be at the substation on the St. Modwen site and whilst this is close, what effect would this have on the development of housing?

- Technology

States that this technology seems to be in its infancy and wherever information is available it is sparse and unproven giving local people no reason to respect or trust developers who approach with planning applications purporting to be risk free and great for the local economy; or could it be that the developers see an area that has seen its fair share of dirt, dust and industrial decay thinking that 'they've seen it all before so they'll know what's coming'. If this application goes ahead then we will achieve a previous cumulative impact on top of another cumulative impact. Would the plant's effectiveness deteriorate over its life and would the contamination increase as a result of this?

- Waste input

Questions whether the proposed gasification plant would only burn wood or could it be used to burn other waste?

- Transport sustainability

The 'waste wood' would presumably come from within Derbyshire, if not, how far away would be deemed as environmentally sustainable considering that the carbon footprint of highly polluting diesel vehicles?

- Health and safety

When considering the process of gasification and the use of extremely high temperatures in the processing of inert and highly combustible materials it would seem that a greater risk is evident of explosion and/or fire during this process and that local residents are no more than 100 metres from the site boundary.

- Combined Heat and Power

States there is a lack of any firm commitment on CHP.

Overall, the Parish Council feels that this planning application should be refused as it would add little to the regeneration of Clay Cross and the health and wellbeing of its residents.

Public Health England

Dust

Public Health England identifies that the potential pollutants of concern for public health purposes would be dust and particulate matter generated during construction and receiving, handling, treating and transporting operations on site. PHE notes there will be the exportation of bottom ash from the site, which could be inherently dusty and a public health risk if not controlled adequately. Overall, it is reassured by the proposed control measures stated in the application documentation.

Emissions to Air

PHE acknowledges that the applicant has assessed the point source emissions to air from the proposed syngas CHP engine stack and combustion flare using an AERMOD dispersion modelling program. PHE do not dispute the modelling results that show that both the maximum long term and short term predicted environmental concentration (PEC) will have an insignificant impact on air quality.

PHE assumes that the applicant's environmental assessments (e.g. contaminated land, noise and air quality etc) have been undertaken to the satisfaction of the Environmental Health Department (Local Authority) and the EA, who are the lead authorities for nuisance, environmental health and environment pollution aspects.

PHE Conclusions

Based on the information contained in the application provided, PHE concludes that it has no significant concerns regarding risk to health of the local population from any environmental emissions from the development. PHE anticipates that it will be a consultee for any EA environmental permit consultation which will focus on the technical aspects of site operations and process emissions.

Notwithstanding this, PHE does note the close proximity of residential receptors to the proposed location and ask that public health local demographics are taken into account during consideration of the application. *"We encourage liaison with the local authority public health department who will be able to advise further on this".*

PHE assumes that all appropriate measures will be taken during construction and operation to prevent or control pollution, in accordance with the relevant sector technical guidance and industry best practice.

Coal Authority

The Coal Authority initially objected to the proposed development based on insufficient initial intrusive site investigation detail regarding the location of a mine entry, its condition and any necessary engineering aspects that may be necessary and/or inform the site layout of the development.

The Coal Authority did not consider that the ES adequately addressed the impact of coal mining legacy on the proposed development.

Between March and August 2015 the applicant met with the Coal Authority over its concerns. The initial recommendation was that the applicant should be required to carry out intrusive site investigation works to determine the location of the mine entry, assess its condition, determine its zone of influence and amend the layout accordingly. The applicant always maintained the view that revising the development layout to take account of the mine entry was not achievable given the constrained nature of the site.

The Coal Authority stated that it would generally expect the mine entry to be located and both a treatment scheme and any subsequent foundation solution to be agreed prior to determination. This would allow the planning authority to impose a more prescriptive condition on any consent granted. However, on the basis that the applicant is unable to revise the layout of the development proposed the Coal Authority would, in this case, be willing to withdraw its objection subject to appropriately worded pre commencement planning conditions being imposed on any consent granted. The condition(s) would require site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat the mine entry, it is recommended they be conditioned to ensure that any

remedial works identified by the site investigation are undertaken prior to commencement of the development.

Environment Agency (EA)

The EA has provided consultation responses in January/September 2015 and February 2016.

January/September 2015: No objection subject to conditions relating to land contamination investigation and remediation actions, groundwater and drainage. Without this contamination condition the EA considers the proposed development on this site poses an unacceptable risk to the environment and would object to the application. The EA also requests advisory notes relating to flood, river pollution, historic landfill, and groundwater.

17 February 2016

Following clarification sought by DCC regarding the CHP deliverability the EA provided the following comment. *"The application for an Environmental Permit made to the Environment Agency by Clay Cross Biomass Limited is not yet 'duly made', in that it lacks sufficient information for us to determine the application. We have requested further information from the applicant, with a deadline for submission of 26 February 2016.*

Some of the requested information relates to the opportunities for a combined heat and power scheme (CHP) that the proposed activity might present, and we will assess the cost benefit analysis (CBA) for those opportunities when we have the full information.

We are keen to see CHP developed wherever economically viable, and if the CBA in this case supports the development of CHP then we will address that development through permit conditions.

We will be in a position to provide additional feedback to you if requested, once we have reviewed the additional information required from the applicant."

4 March 2016

The EA state that Information submitted in support of the permit application confirms the figures for potential heat available for export, and that the plant will be 'CHP-ready' as a minimum requirement. It acknowledges that CHP would be an economically viable option, albeit dependent upon securing suitable customer(s) for the heat. During their determination of the permit application, they are likely to require the Applicant to carry out a more detailed analysis to confirm economic viability, and are likely to add an 'Improvement Condition' to the permit, requiring that the permit holder does all that they can to implement the CHP proposal.

It recognises that a permit condition cannot deliver a scheme without the co-

operation of suitable customers etc., and it will require that the permit holder actively pursues CHP opportunities, and is able to demonstrate that action. The EA states it would periodically review progress against that condition.

IT also states, having regard to previous comments made that there seems to be no capability within the proposed plant design to export heat as steam. Most practical CHP schemes are linked to a plant that includes a steam cycle, and heat is usually supplied as steam taken from one or more turbine stages. As this design does not include a steam cycle, it seems that the only available heat extraction would be from the reciprocating engines – cooling jackets and /or exhaust gases. Under those circumstances, they would expect the heat to be exported in the form of hot water that would be sufficient to support a domestic heating network.

It further states that the absence of steam would only be an issue in that it rules out any potential customers that would want steam, and limits the length of distribution pipe-work, due to heat losses. They also acknowledge that the application states that the heat capacity for export would be 8MW to 14MW, with an expected annual export of 64,000 MWhr. This would be a significant capability, and certainly sufficient for a considerable contribution to a domestic heating network whilst acknowledging such a network would have other dependencies, such as the need for standby boiler(s) in times of plant outage.

The EA has confirmed that following the additional information being received the permit application is now considered “duly made” as from 11 March 2016.

DCC Public Rights of Way (PROW)

Clay Cross Public Footpath No.28 runs some 15-20 metres outside the site's northern and western boundaries and has been the subject of a temporary closure order. PROW has no objection to the proposal recommending advisory notes to the applicant.

Given its location any diversion necessary would need to be undertaken under the Highways Act 1980 not under the Town and Country Planning Act 1990.

DCC Flood Team (DCCFT)

DCCFT provides information and “Green Category” Standing Advice relating to surface water flood risk, proximity to local ordinary watercourses, groundwater flood risk and Sustainable Urban Drainage Systems (SuDS).

DCCFT considers that flooding is unlikely in a 1 in 100 year event period but may be susceptible to surface water flooding to the west during critical storm periods in a 1 in 1000 year event period.

DCCFT strongly promotes Sustainable urban Drainage Systems (SuDS) to be incorporated within the drainage design supported by a full ground

investigation to fully explore the option of ground infiltration to manage the surface water in preference to discharging to a surface water body or public sewer system.

Derbyshire Highways

No highway related objections to the granting of planning permission, subject to relevant highway planning conditions. Following review of the application details and having regard to available accident statistics in the locality the Highway Authority has confirmed that they see no requirement for any vehicle routing agreement.

DCC Public Health

Having considered the consultation comments of the expert advisors PHE and NEDDC Environmental Health Officer (EHO), DCC public health does not raise any concerns or issues requiring further comment.

DCC Landscape Team, Conservation and Design

Following initial consultation officers identified the need for additional details with regard to the visual aspect of the proposal, principally relating to the need for more photo montages to gain a view of the facility from more locations since the facility is considered significant in the landscape. Regarding the site frontage, the development proposal was not considered to give rise to significant visual effects, particularly with appropriate mitigation.

Officers recommend a condition regarding a detailed landscape scheme including species, numbers and aftercare and re-emphasised that there is the need for a well-considered colour scheme to help mitigate any residual impact on the setting of the surrounding heritage assets, most notably those to the northern side of the site recommending this should be controlled by a suitably worded planning condition.

On 22 October 2015, Landscape, Conservation and Design at DCC followed up its initial comments with the following:

“The landscape plan for the proposed development of the Energy Recovery Facility is somewhat schematic and the submission of a detailed landscape scheme is something that should be conditioned as part of any planning approval. In developing a landscape scheme for the site, this should be mindful of the aims and objectives of Section 11 of the NPPF in “Conserving and enhancing the natural environment”. In this context I would be keen to see the use of native trees and shrubs and the development of native grassland mixes in association with the proposed wetland areas. In the context of paragraph 109 of the NPPF I would ask that the applicant look beyond the boundaries of the site to demonstrate how the site will assist in establishing “coherent ecological networks” by connecting to other areas beyond the site boundary. This is particularly pertinent to the mixed use development to the

north of the site and is something that might be picked up as part of any S106 agreement. For example the current footpath corridor to the north of the site might be improved and ecologically enhanced as part of the Green Infrastructure network connecting with the surrounding area.

A further point we discussed at the meeting that might be worthy of further exploration is the idea of further community benefits within the site or within the wider town. The applicant has made it clear that they are keen to develop a positive site frontage with Bridge Street and this is welcomed. However, I wonder if this concept could be developed further through the incorporation of some artwork particularly if this art could somehow link to the process being promoted through the development. I don't at this stage suggest what this might include but the applicant could think to employ the views of a recognised artist who may be able to advise on possible ideas. I would suggest that this artwork needn't be limited to the site but could be drawn into the wider town centre and again be the subject of a S106 agreement if we see some merit in the approach."

North East Derbyshire District Council (NEDDC)

NEDDC responded from a planning and planning policy remit to the consultation on 22 October and 16 November 2015. Comments were also received from NEDDC EHO in January and March 2016. On 7 March 2016 the Council Leader, in addition to the policy based objections of 16 November 2015 and 22 October 2015, formally set out the Council's objections to the proposed development. On 23 March 2016 another NEDDC planning policy response was received.

NEDDC Planning Comments

NEDDC objects to the application for the following reasons stated below:

- The Clay Cross Regeneration Framework 2009 (revised in 2013) is NEDDC's adopted vision for the town, and identifies Bridge Street as one of its action areas. The removal of the former spoil heaps on Bridge Street and the subsequent 'New Bridge Street' regeneration initiative delivered a new supermarket, health centre, bus station, parade of retail units, and improved public realm. This has resulted in a significant increase in the number of pedestrians and vehicles using Bridge Street and has opened up Bridge Street as a new gateway into the town. The framework proposes that the area maintains its commercial and employment role, but with an opportunity to build on the success of the New Bridge Street initiative and to diversify into areas of lifestyle retailing such as bathroom, kitchen, and DIY centres, furniture outlets, white goods sales etc. The framework also states that, to be successful, the area needs cleaner, denser land uses that employ more people in higher quality and skilled work. This proposal clearly does not sit comfortably within this vision for a modern business quarter.

- The ERF proposes two stacks of 40m and 30m, which is considered to be an intrusive element not only on Bridge Street itself, but also when viewed from surrounding areas. Not only would the stacks break the skyline in many directions, an impact that would be magnified by a plume of smoke when the plant is in operation, but they would also impact negatively on the settings for St Bartholomew's Church in Clay Cross (Grade 2 listed), and the Church of St Lawrence in North Wingfield (Grade 1 listed) and so fail to meet the statutory responsibility to preserve or enhance the setting of listed structures.
- The site sits adjacent to the former Biwaters site, which has outline planning permission for 980 homes, and a mixture of commercial and leisure uses, together with an extensive area of public open space. An ERF is not an appropriate use for a site immediately adjacent to what is in effect an urban extension of Clay Cross, with a potential future resident population of 2500-3000, together with current Clay Cross residents using the open space and other leisure facilities.
- Finally, NEDDC is working closely with Sheffield City Region and D2N2 LEPs to market the area to inward investors and developers for the delivery of new housing, employment accommodation and leisure facilities, and again this proposal conflicts with the improving image of Clay Cross and the surrounding area and would have a negative impact on the perception of potential investors if it goes ahead

NEDDC Planning Policy Comments

North East Derbyshire Local Plan 2005/Employment Development and Tourism

Regeneration of the former Biwaters Site, which lies to the north of the proposed ERF, is identified as a key element for the development and regeneration of Clay Cross since its closure in September 2000. In the North East Derbyshire Local Plan (adopted 28 November 2005) it is considered that the redevelopment of this site should be for a mixed use scheme, which incorporates employment development as well as residential and recreational use. It aims to build on the regeneration activities already underway.

Planning Policy "E5 Mixed Use Development: Former Biwaters Site, Clay Cross" placing emphasis on a mixed use development comprising: *"employment generating uses within Classes B1, B2 and B8 of the Town and Country Planning Act 1987 (Use Classes Order) and secondary uses (such as Leisure (D2) and a hotel (C1) with equivalent employment generating opportunities which are compatible with all other policies of the plan; and Residential development limited to the latter half of the plan period (2006-2011) the level of which should be justified by reference to the most recent annual residential land availability survey. Housing development should be*

located to maximise accessibility to existing and new local facilities and should make the best use of land through high development densities.”

Since the Local Plan was adopted, outline planning permission has been granted for a mixed development on the site.

Negotiations are continuing with the current landowner, with a view to a submission of a revised planning application with an amended mix of uses.
Clay Cross Town Centre

Between 2008 and 2013 the town centre health check shows that the number of units in the town centre has increased by 15, with a resulting increase in floorspace of around 7,000sq m, due to the new Tesco and Bridge Street development. Latest data show that vacancy rates have come down as well despite a previous increase to 2013. Recent surveys (Citizens Panel) show that town centre users are dissatisfied with road traffic, the quality of pedestrian environment, graffiti and emissions from traffic. Therefore, there are still efforts to make to support the ongoing regeneration activities for the town centre, in order to increase its attractiveness for visitors and customers.

Clay Cross Regeneration Framework:

In 2013, the Council approved a Regeneration Framework for Clay Cross, with the vision that *“Clay Cross will capitalise upon its unique location within the Sheffield City Region and proximity to the Peak District National Park to create a successful independent town.”* The framework identified five action areas:

- Town Centre: consolidating strengths.
- High Street: reinforcing gateways.
- Bridge Street Triangle: develop potential.
- The former Biwaters site: delivering 21st century communities.
- Coney green: growing employment opportunities.

The Initial Draft of the North East Derbyshire Local Plan (2011-2031) was published for consultation in February 2015. The status of the draft plan indicates a direction of travel but is not at an advanced enough stage to carry any material weight.

The draft Plan includes Policy LP21: Clay Cross, which focuses on delivering the above mentioned objectives of the Regeneration Framework. It states that *“Clay Cross will maintain its role as the main social and economic focus of the southern sub area of North East Derbyshire District.”*

Provision will be made for at least 735 more homes by 2031 and employment land in accordance with Policy LP16.

Sites for new housing will be allocated on a range of previously developed and Greenfield sites within and on the edge of the Settlement Development Limit.”

Amongst others the following key priorities and projects will help to deliver the Clay Cross Regeneration Framework:

- Support the reuse of previously developed land within and on the edge of Clay Cross where appropriate, including sites within the Town Centre and living above shops.
- Protect and enhance the church of St Bartholomew’s including views to and from the church.

North East Derbyshire Local Plan 2005 Built environment:

The National Planning Policy for Waste indicates that waste planning authorities (ie the County Council) should:

- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located; and
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies.

NEDDC goes on to state the NPPF (paragraph 120) does, however, require that *“to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.”*

The NPPF also sets out a series of Core Planning Principles. Amongst these is that planning should: *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”* Regarding to the dimensions of the planned ERF (approximately 105m in length x 71m in width with heights from 14m to 22m and height of stack with 46m) saved Policy BE9 Development in the Vicinity of a Listed Building is relevant: *“Development affecting the setting of a Listed Building will only be permitted if it preserves or enhances that setting, and includes where appropriate the retention of trees and other landscape features.”* This will be necessary to protect the special architecture or historic character and appearance of the setting of a listed building, i.e. the settings of St Bartholomew’s Church in Clay Cross (Grade II listed) and the Church of St Lawrence in North Wingfield (Grade I listed).

Taking into account all relevant planning policies (current Local Plan (saved policies), Initial Draft Plan, The NPPF and National Planning Policy for Waste) the planned ERF would lie directly adjacent to a significant mixed use development on the former Biwaters site and would possibly affect the ongoing efforts in redevelopment and regeneration of Clay Cross town centre.

16 March 2016 NEDDC EHO Response

The EHO initially provided comments in January 2016. Following further publicity under Regulation 22 of the EIA Regulations final comments were received on 16 March. These relate to:

Land Contamination and Ground Gas

The EHO notes in Section 5 of the Environmental Statement that both the Ground Sure Site Investigation and the ground gas investigation lack sufficient detail in order to allow the risk associated with the re-development of the site to be fully assessed at this time. The applicant in acknowledging these limitations and accepts that conditions are imposed in order to allow the outstanding contamination issues to be addressed as well as further ground gas monitoring being undertaken in order to allow the risk to be fully assessed. The EHO accepts this and considers that it would be reasonable to condition the requirement to carry out a further ground gas investigation and to update the gas risk assessment accordingly.

Having considered the risk associated with dealing with the known contamination by way of conditions the EHO has decided that, on balance the proposed approach would be acceptable. For the purposes of consistency the EHO accepts the condition wording proposed by the EA in its letter ref: LT/2014/118907/01-L01 to allow contamination and ground gas risk to be assessed and remediated as necessary.

Air Quality

Dust

The EHO identifies that Section 6 of the Environmental Statement offers an assessment of the likely dust impacts of the proposed scheme and specifies operation controls to minimise adverse impacts. He regards it is likely that many of these controls will be required by the Environmental Permit required for the operation of this site which will serve to enhance the controls available.

Vehicle Related Impacts

The EHO identifies that vehicle movements associated with the delivery of feedstock to the ERF would be limited to 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on a Saturdays and that no vehicle movements associated with the movement of feedstock or removal of ash/char are envisaged on Sundays

or Bank/public holidays. The EHO has requested that the hours of use are controlled to hours requested in the application.

The Transport Assessment (Chapter 9) indicates that the proposed ERF is anticipated to generate 18 Heavy Duty Vehicle (HDV) trips (36 movements) per day (Monday to Friday) and 26 vehicle trips (52 movements) for staff. The EHO advises that the criterion for assessment of air quality contained within the Design Manual for Roads and Bridges (DMRB) guidance focuses on roads with relatively high changes in flows or high proportion of HDV traffic. Affected roads are defined as those that meet any of the following criteria:

- Daily traffic flows would change by 1,000 Annual Average Daily Trips (AADT) or more; or
- HDV flows would change by 200 AADT or more.

Considering the DMRB guidance, the predicted impacts of vehicles associated with the proposed scheme is suggested to be insignificant.

The EHO considers that based upon the size of the vehicles proposed and the number of vehicle movements indicated, it is likely that the number of vehicle movements could supply the annual throughput predicted. The EHO did not consider that there would be any reason to doubt the conclusions reached in this respect and only if considerable changes were found to take place would the impact likely to be significant.

Air Quality – General

The EHO notes that a DMRB assessment has been undertaken by the applicant which indicates that the change in impacts, as a result of traffic exhaust emissions can be considered to be 'negligible' for both PM10 (dust) and NO₂ (nitrogen dioxide).

It is noted that pollutants (specified in the Industrial Emissions Directive) from the ERF have been assessed using atmospheric dispersion modelling which is considered to represent good practice in this regard. From this modelling there are no predicted exceedances of Air Quality Objectives or Environmental Assessment Levels and the environmental concentration of all modelled pollutants are predicted to be well below (less than 70% of) the relevant levels on the basis of which the effects of emissions are considered to be insignificant. The EHO sees no reason to doubt or challenge these conclusions.

The EHO notes that the maximum potential 'in combination' impacts of traffic and ERF process emissions, generated NO₂ and PM10 concentrations are considered to be 'insignificant' within the dispersion modelling exercise and can see no reason to doubt or challenge these conclusions.

Noise

The EHO notes that the ES includes a sound impact assessment which considers the potential for sound from both the construction and operational phases of the proposed development. The methodology used by the acoustic consultant establishes a baseline scenario and then offers a mitigation plan to offset any adverse impacts and the likely residual effects after measures have been employed.

Since the time of the application predicted sound impacts associated with the use of the facility proposed have been updated and revised by the acoustician working on behalf of the applicant.

Construction

The EHO considers that due to the nature of the construction works proposed it is likely that sound would cause some disturbance for those living nearby but that this will be temporary in nature and limited to the operational hours as described. The assessment indicates that sound levels during construction would remain within the 70 decibels criteria adopted within the assessment process. The acoustician notes that should the properties on the Biwaters site be built prior to the ERF, noise and/or vibration from construction operations would not exceed the derived limits used in the assessment.

The EHO acknowledges that construction sound impacts can be suitably addressed through a planning condition, by either providing a limit on sound levels, or requesting the provision of a construction management plan.

Operational Sound

The operational assessment of the proposed use has assumed that the proposed ERF would operate 24 hours a day, 7 days a week. Vehicle movements associated with the delivery of feedstock to the ERF would be limited to 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on a Saturdays.

The EHO acknowledges within the ES that noise could have significant adverse impacts at identified receptor points and the applicant has provided a mitigation strategy to deal with the resulting impacts.

With respect to the acoustic assessment submitted in support of the application the EHO had serious concerns about its findings and had fundamental concerns about whether or not sound from the proposed development could be controlled in such a way that it would not give rise to significant adverse aural impacts on nearby dwellings. At that time the EHO could not offer comments in support of the application and as a result raised concerns with the applicant's acoustic consultant.

The EHO entered into discussions with the acoustician about these concerns and it was agreed that in order to improve the sound impact assessment that a further background sound survey would be undertaken to update the original report findings in an attempt to demonstrate that the impact would be acceptable.

The survey findings were supplied to the EHO on 25 January 2016 which when considered against the original noise survey, suggested that sound impacts for the proposed development could meet a sound design criterion for all nearby dwellings (including the proposed dwellings on the Biwaters scheme (which benefits from an outline mixed use planning permission)).

Whilst the technical discussions indicated that the sound from the proposed development would satisfy an acceptable sound design criterion the findings of the background sound survey have not been used to update the original acoustic report and demonstrate the assumption that they had been considering. The EHO stated that the acoustician indicated that it was his clients desire to deal with residual sound issues after approval of the application via a 'condition to discharge'.

The EHO considers that his fundamental concerns with regard to the likely sound impacts of the proposed scheme have been substantially alleviated albeit that sound impacts will still need to be addressed and in addition, as is noted by the acoustician "At the detailed design stage, the client will consider various mitigation options to apply to the internal and external plant and possible changes to the building envelope, i.e. increased cladding, considered necessary to meet any reasonable noise limit conditions.

The EHO is satisfied that the application could be approved subject to a condition requiring the permission holder to submit a scheme to demonstrate that the combined rating level of sound from the scheme would not exceed the background sound level by more than 5 decibels.

Given that the background sound survey undertaken by the acoustician indicated that the background sound level is 32 decibels this would set a rating level of 37 decibels to be achieved. Compliance with such a sound rating level is suggested by the acoustician to be feasible within the constraints of this development and is an approach supported by the applicant.

The EHO offers a condition to facilitate the submission of a technical interpretive report what will address the agreement reached with the acoustician.

The EHO notes that the facility will also be subject to an EA 'WID' Environmental Permit and this should cover issues of noise associated with the operation of the plant.

Lighting

The EHO states there is confusion in the documents supporting the application with regard to how the site will be illuminated, and understands that there will be a mix of low height lighting and column lighting. It is suggested that the proposed light sources would not generate glare effects or light trespass offsite which the EHO is not able to verify from the details supplied. The applicant accepts that the scheme of lighting is likely to require approval subject to conditions which is considered necessary given the uncertainties associated with the proposed scheme of lighting. The EHO recommends a condition to allow for these impacts to be addressed.

General

The EHO states that a cumulative impact assessment has been completed by the applicant and no element of the proposed use would trigger appropriate thresholds for further consideration. The EHO concludes that the site is unlikely to have a cumulative impact with any other nearby development both current and proposed. The EHO agrees that this development should not give rise to any significant adverse impacts that I am able to comment upon either in isolation or as a cumulative impact.

The EHO notes in the ES that the applicant quotes "Government advice on waste planning makes it clear that it is important to avoid unnecessary or confusing duplication. For example, Paragraph 122 of the National Planning Policy Framework states that "...local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively." As a result the EHO states it is not appropriate to offer controls or recommend conditions which may duplicate controls of the process or activities that will be regulated by the EA under the site's Environmental Permit.

The EHO recommends planning conditions relating to lighting, noise and ground gas through site investigation.

Leader of NEDDC 7 March 2016

The Leader identifies that Clay Cross as “very demanding and fragile local economy” is one of the most deprived areas in North East Derbyshire referring to social and economic indicators demonstrating above national average

- unemployment rate particularly for young persons, unqualified residents of working age
- working age residents without a qualification
- residents in “elementary occupations”
- residents who are economically inactive, and
- 5 Lower Super Output Areas.

The Leader identifies a range of strategic plans and policies have been formally adopted by support the Regeneration of Clay Cross. These include:

- an adopted a NEDDC Growth Strategy (2014)
- an adopted a Housing and Economic Development Strategy (2015-202, and
- Developed a Regeneration Framework for Clay Cross

The Leader identifies the Biwaters site as an all these key documents Biwaters is identified as a key site and also as a 'transformational intervention project' - delivering the two key objectives of:

- Enabling Housing Growth: increasing the supply, quality and range of housing to meet the needs of a growing population and support economic growth;
- Unlocking Development Potential: unlocking the capacity of major employment sites;

which list Biwaters as a key opportunity for addressing a range of social and economic challenges facing the District. It is also stated the Biwaters development will also be a contributor to the County Council's A61 Strategic Growth Corridor Strategy, and to the growth objectives of both LEPs.

He identifies the ongoing regeneration of Clay Cross is at a critical point, following the successful delivery of two major development schemes (New Bridge Street and the Extra Care scheme on the former school site). He states the impact on Clay Cross generated by the investment to date has been significant, not least in terms of a greatly improved external perception. However, the social and economic indicators tell indicate that much more investment is needed to address the deprivation which Clay Cross continues to experience.

He refers to the Biwaters site having outline approval for 980 houses, 29,500sqm of B1/B2/B8 employment space, a local centre, and a new pub and hotel and that full planning approval was recently given for a Marstons pub adjacent to the A61, with construction anticipated to commence during March.

He goes on to say that this level of development directly adjacent to Clay Cross presents a significant opportunity to address the social issues set out above, and to move forward the regeneration of the town.

The Leader on behalf of the Council states that the waste to energy facility proposal would have a severe and detrimental impact on the continuing regeneration of Clay Cross. He further states St Modwen Developments Ltd (the developer) who are developing the Biwaters site have articulated clearly to NEDDC the negative impact on demand for the residential and commercial products being delivered by their development should the proposals be given the go ahead. He notes that the previous owner of the site failed in securing a development partner for the site and subsequently went into administration, an indication of the marginal nature and weakness of the local development market. The comprehensive redevelopment of the Biwaters site is essential to maintain the regeneration momentum as this key site will bring new homes, jobs, training opportunities and the associated prosperity on a major new development.

In terms of wider impact on development across the town, a recent independent options appraisal for a residential site (not Bi Waters) in Clay Cross (Tibbalds, 2014) noted that whilst housing values have improved 'considerably' since 2013 on a national scale, values in the Clay Cross area have increased marginally, and that the town is mostly low value. This marginal viability of the Clay Cross housing market makes the area even more sensitive to development proposal (such as the ones proposed on Bridge Stand at Hilltop) that may impact on the attractiveness of sites to house builders, developers, and potential occupiers.

In conclusion he states the redevelopment of the Biwaters site is a strategically important development, and features prominently in a range of local and sub-regional economic development policy documents and plans. Approval of either or both of the applications (Hill Top surface coal extraction being the other) referred to above is very likely to derail the hard won regeneration achievements to date and undermine current proposals and plans in Clay Cross currently being negotiated. As such he "urges" DCC to recommend refusal.

Additional Planning Policy Comments 23 March 2016

Summary of Policy Concerns

“The Council is concerned that the proposal for a Waste to Energy Recovery Facility in this locality would introduce a large and incongruous structure in a relatively sensitive location that would undermine the planning strategy and regeneration initiatives that have been developed for Clay Cross in recent years, focussed on the Town Centre and former Biwaters Site. Whilst it is acknowledged that the site is located on an existing employment area that was previously used as a waste transfer site, the sheer scale of development proposed here would be significantly different in character and appearance, introducing a dominating feature in the townscape that if approved has significant potential to compromise both past and planned investment in the locality contrary to the overall vision and economic, social and environmental ambitions for Clay Cross. The scheme is fundamentally at odds with a range of national and local planning policies which seek to secure sustainable economic growth and the delivery of homes, jobs, vibrant centres, good design and social cohesion.”

Overall, the NEDDC Leader's conclusion is:

It is considered that the proposed ERF would

- Compromise delivery of a key mixed use site in a fragile market area that is crucial to the Council's growth aspirations and is allocated in both the Adopted Local Plan and highlighted as a key strategic site in the emerging Local Plan.
- The scale and design of the proposals does not respect the character of the local area and would be a dominant feature in the landscape affecting views of the town and setting of listed buildings and the overall amenities of local residents.
- The proposal is therefore contrary to Policies E5, E7 GS1, GS5, BE1 and BE9 of the Adopted Local Plan (2005); Policy LP21 of the emerging Draft Local Plan (2015) and would fundamentally undermine the regeneration initiatives focussed on Clay Cross as set out in the Clay Cross Regeneration Framework, the principles of which are embedded in the emerging Local Plan.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the saved policies of the adopted Derby and Derbyshire Waste Local Plan (WLP)

and the adopted North East Derbyshire Local Plan (2005). The NPPF (March 2012), the National Planning Practice Guidance (March 2014) and National Planning Policy for Waste (NPPW) are also material considerations.

Both Development Plans predate the NPPF and therefore the weight attributed to the relevant saved policies may need to be moderated, in line with their degree of consistency with the NPPF and NPPW.

The proposal has to be considered against key planning documents. At the local level the development plan comprises:

- The saved policies contained within the Derby and Derbyshire Waste Local Plan (2005)
- North East Derbyshire Local Plan (2005)

The NEDDC emerging Plan is in its early stages .with the initial Draft Local Plan (2011-2031) published for consultation in February 2015. The status of the draft plan indicates a direction of travel but is not at an advanced enough stage to carry more than limited weight according to the latest (23 March 2016) NEDDC response.

At the National level planning policy is set out in the National Planning Policy Framework (NPPF) together with the National Planning Policy for Waste (NPPW). Other statements and guidance can be found in the National Planning Practice Guidance (NPPG) along with relevant European guidance and legislation.

National Planning Policy Framework

The NPPF replaced a suite of national planning policy documents, aimed at streamlining planning policy. It is supplemented by guidance in the form of the NPPG. It does not specifically contain policies that relate to waste infrastructure but it is however a material consideration in all planning decisions.

At the heart of NPPF is a presumption in favour of sustainable development, which should be taken as a 'golden thread' running through both plan making and decision taking. For decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 1. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or

2. Specific policies in the framework indicate development should be restricted

In terms of sustainable development, NPPF identifies three key dimensions, economic, social and environmental. The planning system therefore needs to respond and perform to a number of roles:

- An economic role:
Contributing to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- A social role:
Supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generation; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support health, cultural and social well-being and
- An environmental role
Contributing to protecting and enhancing our natural, built and historic environment; and as part of this helping to improve biodiversity, use of natural resources in a prudent manner, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

Derby and Derbyshire Waste Local Plan (DDWLP)

The DDWLP was adopted on 2 March 2005 to cover the period up to 2015. It therefore predated both the NPPF and the NPPW. Derby and Derbyshire are currently working towards a new local waste plan that will cover the period up to 2030. The draft plan, although having been through a number of iterations is not currently at an advanced enough stage to be a material consideration in this application. The local waste policy context is therefore provided by the DDWLP, specifically:

Policy W1b: Need for the development states that:

“Waste development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management.

Waste development catering primarily for the needs of other areas will be permitted only if:

The development would satisfy a need which could not realistically be met closer to the source of the waste; and

The development would contribute to an integrated system of waste management.”

Policy W2: Transport principles, presumes against developments which would likely result in an overall significant increase in the number or distance of waste related journeys for people or materials.

The plan acknowledges that the issues to be considered when assessing a waste management proposal are not always easy to resolve and as such sets out Policy W4: Precautionary Principle which states that:

“Where there is a reasonable cause for concern that a proposed waste development presents a threat or serious or irreversible damage to the environment or to the use or enjoyment of land, the development will not be permitted unless:

Conditions can be imposed or legal agreements made to ensure that precautionary measures are taken to minimise and seek to prevent such damage; and

The risk of such damage is outweighed by the potential benefits of the development.”

Policy W5: Interests of Environmental Importance, seeks to provide appropriate protection. The policy states that:

“Proposals for waste development which might affect identified interests of environmental importance will be assessed in light of:

The level of protection merited by the character and status of the interests; and the likely impact of the development on the interests.

Waste development will be permitted only if, in the context of the assessment, the development would not materially harm the identified interests.”

Policy W6: Pollution and related nuisances: *“waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to:*

- *People or communities;*
- *The site of the development*
- *Nearby land uses; or*
- *The wider environment”*

Policy W7: Landscape and other visual impacts establish relevant criteria and presumes against development that would have an adverse impact.

*“Waste development will be permitted only if:
The appearance of the development would not materially harm the local landscape or townscape and would respect the character and local distinctiveness of the area; and
The development would be located and designed to be no larger than necessary and to minimise its visual impact on or to improve the appearance of the townscape or landscape.”*

Policy W8: Impact of the transport of waste, seeks to protect the environment, people and communities from adverse impacts arising from the movement of waste to and from the site using an adequate road network and subject to road safety.

Policy W9: Protection of other interests states that:

“Waste development will be permitted only if the development would not affect other land uses to the extent that it would materially impede or endanger the social or economic activities or interests of the community”

Policy W10: Cumulative Impact, establishes the criteria to assess whether the effect of the development in combination with other development would have an unacceptable level of cumulative impact on the local community and environment of those areas.

The WLP went on to outline eight policy objectives:

1. To permit waste development which is guided by the principles of sustainable waste management, particularly:
 - the concept of waste being a valuable resource;
 - consideration of the Best Practicable Environmental Option for each waste stream;
 - the key considerations: the movement of waste management up the waste hierarchy, the proximity principle and self-sufficiency.
2. To permit an adequate supply of appropriate sites and facilities to cater for the needs of the plan area and its communities and for the needs of the waste collection and disposal authorities and the waste management industry.
3. To permit development which contributes to the establishment of an integrated approach to waste management.
4. To permit development which: makes good use of existing infrastructure or of derelict, despoiled or under-used land and buildings; contributes to the regeneration of the coalfield and deprived areas of Derby; restores rail and water transport routes; contributes to highway safety; brings other physical benefits to the local environment.

5. To permit development which is in locations which reduce the need to travel and enables the movement of freight by rail and water.
6. To refuse development which would have material, adverse impacts on people or communities, including impacts on their health and on their enjoyment of the amenities of their locality.
7. To refuse development which would harm the open character of green belts.
8. To refuse development which would have other material and adverse impacts, including impacts on greenfield land, the best and most versatile agricultural land, the countryside, valued landscape and landscape character, biodiversity and nature conservation, interests of heritage importance, existing and potential transport routes, water conservation and resources and air quality.

North East Derbyshire Local Plan

The local policy context is provided by the North East Derbyshire Local Plan (NEDLP) which was adopted in November 2005. It covers the period 2001-2011. The plan therefore predates national planning policy such as the NPPF. Since the adoption of NEDLP in 2005 the NEDDC has been working towards a Local Development Framework. During this time the Government has introduced a new planning system for England, based around NPPF and other key national policies and frameworks (outlined in earlier sections). As such NEDDC has begun work on a new local plan to reflect the changes, the North East Derbyshire Local Plan 2011-2033.

Adopted NEDLP

The NEDLP shows the application site as within:

- the settlement development limits for Clay Cross (covered by Policy GS5); and
- an existing employment area (covered by Policy E6)

Bridge Street is affected by Policy T1 (Clay Cross diversion). Land to the north of the site is affected by policy E1 and E5 (Land off Derby Road and adjacent to former Biwaters allocated for mixed use development) to the north and north east respectively.

Saved policies from the NEDLP identify the application site as an existing employment site, where the re-use for employment uses is generally acceptable (Policy E6 and E7) provided that the effect on the appearance and character of neighbouring uses and surrounding environment is acceptable and a high standard of design is achieved.

Policy GS1 Sustainable Development requires development to have regard to the need to maintain or improve the quality of life of communities, maintain economic growth and enhance the environment.

Policy GS5 Settlement Development Limits provides for development that would not be detrimental to the character and appearance of the site and its surroundings and would not have a detrimental effect on the amenities of neighbouring land uses.

Policy E5 relates to the redevelopment of the former Biwaters site for mixed use.

Policy T1 – makes provision for the construction of the A6175 Clay Cross diversion as part of the overall Clay Cross town centre redevelopment.

Policy BE1 - makes reference to general design principles requiring development to be of a suitable density, scale, massing, height, layout and use materials that:

- Respect the character and appearance of the surrounding area; and
- Contribute towards providing a safe and secure local environment

Policy CSU7 – makes provision for supporting renewable energy installations subject to criteria relating to sensitive locational criteria, environmental controls and impact on the landscape.

Clay Cross Regeneration Framework

Another consideration for the development is the Clay Cross Regeneration Framework. Originally published in 2009 it was updated by NEDDC in 2013. Whilst it is not a formal planning document and not forming part of the Local Plan it does have a role with NEDDC in terms of wider economic development and its regeneration vision for Clay Cross. NEDDC confirmed that it is an economic development document, one that they refer to as a guide. It doesn't have adopted Policy status but is a useful supporting document on the wider regeneration of Clay Cross.

The principal vision in the framework is that:

"Clay Cross will capitalise upon its unique location within the D2N2 and Sheffield City Regions and its close proximity to the Peak District National Park to create a successful independent town."

Underpinning this vision are several Regeneration Objectives. These are:

- Empower and Engage the Local Community;
- Deliver Urban Quality;
- Create Living Neighbourhoods;
- Enable a Sustainable Economy.

The Framework also has several Connecting Themes. These are:

- Confident Clay Cross
- Quality Clay Cross
- Living Neighbourhoods
- Healthy Landscapes
- Doing Business

Finally, the Framework focuses upon several action areas in the Clay Cross. These are:

- The Town Centre
- High Street
- Bridge Street Triangle
- The former Biwaters site
- Coney Green

Of particular importance to this application are the action areas of the Bridge Street Triangle and the former Biwaters site, both within close proximity. In terms of the Bridge Street triangle the framework outlines:

“Maintaining an employment role, the area can build a reputation focused on manufacturing, servicing, and potentially the creative industries”

Employment and public realm improvement are key policies within the framework.

The Framework states, in terms of the Biwaters site which sits immediately to the north of the application site, has outline planning consent for a mixture of residential and employment development, extensive areas of open space, a hotel and local centre. A range of different partners will deliver these components and set high residential design standards for Clay Cross, creating a well-connected urban extension. A new road (A6175) through the site will link the A61 with Market Street at Coney Green, and at its midpoint will connect with Bridge Street. This new road will provide the main link for through traffic travelling east towards the M1 and for service vehicles to access the employment areas of the town.

North East Derbyshire Housing and Economic Development Strategy 2015 - 2020 and Bolsover and North East Derbyshire Joint Growth Strategy (2014)

These documents, whilst not forming part of the adopted Development Plan have been adopted by North East Derbyshire Council as a strategic plan to support regeneration of Clay Cross and other three market towns. Both documents contain objectives and priorities which would lend support to the waste to energy plant proposals in terms of its job creation and regeneration potential / benefits which are referred to later in the socio economic and draft heads of terms relating to community benefits.

The North East Derbyshire Housing and Economic Development Strategy 2015-2020 (HEDS), sets out a strategic framework for meeting the housing and economic development needs of the District and provides a range of spatial priorities and targets for four 'Transformational Sub-Areas', which includes a South Sub-Area covering the town of Clay Cross. Profile data for the Sub-Area, indicates that the area has 4 Lower Super Output Areas (LSOAs) in the bottom 20% in the country in the Index of Multiple Deprivation (IMD), which includes the wards of Clay Cross North and Clay Cross South. Unemployment rates in these Clay Cross wards is also higher than the national average, with youth and long-term unemployment being particularly problematic. Skills and training levels within the area are relatively low, which includes the wards in Clay Cross where 1/3 of residents have no qualifications.

The HEDS sets out 8 strategic objectives for the District and how these will be addressed to deliver employment, training, jobs and decent housing which meet local needs. A number of the objectives are particularly relevant to the planning application and includes:

Objective 1: Supporting enterprise: maintaining and growing the business base.

Objective 2: Maximising employment, skills and training opportunities.

Objective 3: Unlocking the potential of major employment and housing sites.

Objective 4: Realise the Vitality and Viability of Town Centres.

Objective 6: Maximising affordable housing to rent and buy through new build and making best use of existing stock.

Objective 7: Enable people to live in and sustain healthy homes.

In June 2014, Bolsover District Council and NEDDC published their Joint Growth Strategy (JGS). The JGS sets out an approach and priority actions that both District Councils will take to enable the growth of their local economies. The JGS sets out a number of key issues that need to be addressed and includes:

- The need to meet challenging housing delivery targets to meet population and housing projection growth levels;
- The need to unlock development and bring forward strategic and major sites for development to transform economic prospects;
- The need to support local regeneration of towns and villages to fulfil their role as service centres;

- The need to ensure that a package of suitable support is provided to new and existing businesses to enable them to grow;
- The need to bring forward sites in Council ownership; and
- The need to support the local economy by increasing the range of higher skilled jobs.

The JGS indicates that the key challenge for both Councils is to accommodate growth and development pressures in a sustainable way that protects environmental quality and the character of areas, whilst aligning resources and priorities to maximise returns. For Bolsover and North East Derbyshire's economies to continue to grow, there continues to be a pressing need to broaden the economic base. The evidence shows that action is needed to build on the competitive advantage of both Districts, generate growth and prevent further decline across both Districts. Creating new businesses and expanding existing ones, the provision of higher skilled, higher paid employment and delivering housing and places that attract and retain workers are set out as key priorities.

The JGS sets out a number of strategic priorities, which includes the need for the District Council to support enterprise and maintaining and growing the business base. A number of objectives are set out to achieve this priority which includes identifying and supporting businesses; encouraging competitiveness, creativity and enterprise; and accelerating new business start-ups.

The strategy recognises that the failure to unlock the job generating capacity of major employment sites will hamper local and national economic growth. The main reasons for this lack of development includes market viability, a lack of appropriate infrastructure on sites and a lack of available finance to be able to implement necessary improvements. Viability for housing growth is highlighted as a challenge for North East Derbyshire, due to lower value areas in terms of house, rental and land values in parts of the District. The need to unlock major employment sites to meet growth requirements is set out as a key strategic priority, to address the imbalance between the number of residents and the relatively low number of jobs. The JGS indicates that the focus will be on existing large sites. The Biwaters site at Clay Cross is listed as one of the key sites. A number of objectives are set out to deliver the priorities, which includes the need for the District Councils to continue to work in partnership with the public and private sector to develop, manage and enhance key strategic employment areas; and the need to work towards maintaining an appropriate supply of suitably located employment land and premises.

The following European and national instruments have been considered in the officer determination and are considered relevant as part of this proposal:

European Community Directives

- Waste Framework Directive 2008/98/EC.
- Waste Incineration Directive 2000/76/EC.

National Legislation and Statements

- The Climate Change Act 2008.
- The UK Renewable Energy Strategy and Low Carbon Transition Plan (July 2009).
- 2020 UK Renewable Energy Roadmap (July 2011).
- The Roadmap Update (November 2013).
- The Annual Energy Statement 2014.

National Policy Guidance

- NPS EN-1 Overarching National Policy Statement for Energy (July 2011).
- NPS EN-3 Renewable Energy (July 2011).
- Waste Management Plan for England (December 2013).
- National Planning Policy for Waste (October 2014).
- National Planning Policy Framework (NPPF) (March 2012).
- National Planning Practice Guidance.

Waste Framework Directive

The EU Waste Framework Directive provides the legislative framework for the collection, transport, recovery and disposal of waste, and includes a common definition of waste. The directive requires all member states to take the necessary measures to ensure waste is recovered or disposed of without endangering human health or causing harm to the environment and includes permitting, registration and inspection requirements.

The objectives of the Directive can be summarised as encouraging a reduction in waste production, an increase in the reuse and recycling of waste, and a reduction in the amount of waste going to landfill, together with the management of waste close to the source (the proximity principle) and the establishment of a sustainable and integrated waste management system.

The Directive requires member states to draw up management plans and take appropriate measures to encourage firstly, the prevention or reduction of waste production and its harmfulness, and secondly, the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials, or the use of waste as a source of energy. The “waste hierarchy” set out in Article 4 of the Directive provides the following priority order of waste prevention and management:

- a) Prevention;
- b) Preparing for re-use;
- c) Recycling;

- d) Other recovery, e.g. energy recovery; and
- e) Disposal.

The Directive (at Article 16) also applies the Proximity Principle. This involves the underlying principle of waste being managed close to its source. However Article 16 makes clear that the principle does not require each Member State to possess the full range of final recovery facilities, and so by extension, the Directive does not require areas of individual local authorities to do so either. The Directive requires mixed municipal waste to be recovered at 'one of the nearest' facilities allowing for pragmatic application. There is no general Directive requirement that facilities shall only process waste from a prescribed local area.

The Directive requirements are supplemented by other directives for specific waste streams. The Directive requirements, including the application of the waste hierarchy, are transposed into national law in the Waste (England and Wales) Regulations 2011.

National Policy Statements

The National Policy Statements (NPSs), issued by the Department of Energy and Climate Change (DECC), principally relate to Nationally Significant Infrastructure Projects. However, both EN-1 and EN-3 state that NPSs are likely to be a material consideration in decision making for applications that fall under the Town and Country Planning Act 1990.

With regard to the need for new energy infrastructure projects *'the Government considers that without significant amounts of new large scale energy infrastructure, the objectives of its energy and climate change policy cannot be fulfilled'*.

As part of the UK's need to *'diversify and decarbonise electricity generation', the NPS state that the Government is committed to increasing 'dramatically the amount of renewable generation capacity' and that 'the recovery of energy from the combustion of waste will play an increasingly important role in meeting the UK's energy needs'*

Waste Management Plan for England (December 2013)

The Waste Management Plan provides a guide to sustainable waste management which promotes the waste hierarchy (as required by European Directive and now enshrined in National law through the Waste (England and Wales) Regulations 2011). The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery (including energy recovery), and last of all disposal by landfill or at sea.

The first two tiers (Prevention/Preparing for reuse) are aimed at developing strategies and initiatives prior to waste being collected with the third and fourth tiers (recycling / other recovery) deal with what can be done with the waste streams that are collected. The first two tiers therefore have no significant bearing on the proposed development. The waste hierarchy favours recycling as the most desirable tier for waste requiring re-processing, with 'other recovery' being favoured for dealing with residual wastes that cannot be recycled. 'Disposal' is the least favoured tier. In this case the feedstock would be residual waste that exists after recycling from which energy can be recovered and the process would rank as 'other recovery', rather than 'disposal'.

The plan states that *'the Government supports efficient energy recovery from residual waste – of materials which cannot be reused or recycled - to deliver environmental benefits, reduce carbon impact and provide economic opportunities'*.

With regard to Refuse Derived Fuel (RDF) the plan states that this is mainly exported to northern continental Europe and Scandinavia for energy recovery with exports increasing significantly in recent years in response to the rising costs of landfill in the UK.

The National Planning Policy Framework

The NPPF was published by the Department of Communities and Local Government in March 2012. Whilst it does not contain specific waste policies, it states that 'local authorities preparing waste plans and taking decisions on waste applications should have regard to policies in this Framework so far as relevant'.

At the heart of the NPPF is a 'presumption in favour of sustainable development', which should be seen as 'Core to both 'a golden thread running through both plan-making and decision-taking'.

The NPPF states that:

- the purpose of the 'planning system' is to contribute to the achievement of sustainable development'; and
- the UK Government is committed to securing 'economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future'.

The NPPF does not define sustainable development but emphasises that it has three dimensions: 'economic', including the provision of infrastructure; 'social'; and 'environmental'; that provides for the prudent use of natural

resources, the minimisation of pollution and the mitigation of climate change predicated on the transition to a low carbon future.

The three dimensions of sustainable development should not be viewed in isolation 'because they are mutually dependent'. The UK's future prospects for growth and competitiveness will be intrinsically linked to a successful transition to a low carbon economy.

The NPPF provides a set of core land-use principles which should 'underpin both plan-making and decision taking'. The most relevant Core Planning Principle in this case is that the planning system should 'support the transition to a low carbon future in a changing climate...and encourage the reuse of existing resources, and encourage the use of renewable resources (for example, by the development of renewable energy)'.

In relation to climate change, the NPPF identifies the key role the planning system has in supporting the delivery of renewable energy which, in turn, will help minimise vulnerability and provide 'resilience to the impacts of climate change'. The NPPF sees this as being 'central to the economic, social and environmental dimensions of sustainable development'.

The NPPF calls upon the planning system to help secure 'radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development'.

The NPPF states that good design is a key aspect of sustainable development. Local planning authorities should not refuse planning permission for buildings or infrastructure that promotes high levels of sustainability because of concerns about incompatibility if those concerns have been mitigated by good design.

The NPPF expects applicants to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. 'Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably'.

The NPPF calls upon the planning system to contribute to and enhance the natural and local environment. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm, resulting from a development, cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The decisions of local planning authorities should aim to ‘avoid noise from giving rise to significant adverse impacts on health and quality of life’ and aim to ‘mitigate and reduce to a minimum any other adverse impacts’.

The NPPF states that when considering impacts on the significance of a designated heritage asset, where a proposal will lead to ‘less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal’.

National Planning Practice Guidance

The online Planning Practice Guidance reinforces the NPPF in stating that the planning system ‘has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable’. It reaffirms that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply and stimulate investment in new jobs and businesses.

National Planning Policy for Waste (October 2014)

The National Planning Policy for Waste (NPPW) sets out objectives for sustainable waste management, and guidance for determining planning applications. The NPPW links itself to the Waste Management Plan for England, emphasising the pivotal role planning can play in providing a more sustainable and efficient approach to resource use and management. The key points relating to the Proposed Development are:

- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;
- the positive contribution that waste management can make to the development of sustainable communities; and
- helping secure the disposal of waste without endangering human health and without harming the environment.

The NPPW sets out the policy considerations for the location of waste management facilities, and advises that:

‘Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customer’.

It also advises that waste planning authorities should:

“Give priority to the re-use of previously-developed land, sites identified for employment uses, and redundant agricultural and forestry buildings and their curtilages”.

The NPPW goes on to advise on the physical and environmental constraints on the type of development, the capacity of the transport infrastructure, and the cumulative impact of existing and proposed waste facilities.

It is envisaged that waste planning authorities should consider

“The cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.”

The NPPW also sets out further issues to be considered in determining planning applications for waste management facilities. It states that the waste planning authority should ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located

Summary of Advanced Thermal Technologies

Prior to the consideration of the main issues raised and material planning considerations to be considered the following provides an overview of Advanced Thermal Technology

In considering this application it is important to highlight the differences between the proposed technology to be utilised in this scheme and conventional (or historic) waste incineration.

Advanced Thermal Treatment technologies (ATT) are primarily those that employ pyrolysis (thermal degradation of a substance in the absence of oxygen) and/or gasification. Gasification of solid materials is not a new concept; it has been used extensively to produce fuels such as town gas. It is only in recent years that these systems have been commercially applied to the treatment of municipal solid waste. The usage of ATT for gasification of waste is relatively new in the United Kingdom but large scale plants have been in operation in Europe, North America and Japan for several years.

The actual plant design and configuration of these facilities differs considerably between the various providers although in general, an ATT plant will typically consist of the following key elements:

- Waste reception, handling and pre-treatment.
- Thermal treatment reactor.
- Gas and residue treatment plant (optional).
- Energy recovery plant (optional).
- Emissions clean up system.

Gasification, as such, sits between pyrolysis and combustion in that it involves the partial oxidation of the source material. This means that the oxygen is involved at amounts that are not sufficient to allow the material (e.g. waste for fuel) to be completely oxidised and full combustion to occur. The temperatures employed are typically above 650 degrees centigrade.

The process is largely exothermic (i.e. releasing energy, usually in the form of heat) but some heat may be required to initialise and to sustain the gasification process. The main product is known as a “syngas”, which contains carbon monoxide, hydrogen and methane. The other significant product of gasification is a solid residue of non-combustible material (ash) which contains a relatively low level of carbon.

Energy is recovered in one of two ways:

- The syngas is combusted and the hot gasses are fed through a heat exchanger where steam is produced. This is used to generate energy in a steam turbine.
- The syngas is refined to produce a high quality fuel which is typically used in a gas engine to produce electricity.

In simple terms, gasification turns waste into a useful fuel by heating it under controlled conditions. In contrast to incineration, which fully consumes the input waste, with energy capture as a potential by-product this process deliberately limits the conversion so it converts the waste into syngas that can be further processed for energy.

A stated advantage of technologies such as gasification, is that they convert solid material into gasses and vapours which are less costly to handle, transport and store. The gasses will burn in boilers, gas turbines and reciprocating engines, increasing fuel flexibility and security. Another aspect of the technology is that capturing and combusting the methane (CH_4) and carbon monoxide (CO) in syngas makes a useful source of energy which in combustion will produce mainly water (H_2O) and carbon dioxide (CO_2). Carbon dioxide is much less potent as a greenhouse gas, gram for gram, than methane is. The disadvantages of technologies such as gasification are that they require heat input to drive chemical reactions that produce the syngas, thus some fuel must be fed back into the process.

In the United Kingdom, all waste incineration plant and ATT plant treating waste must comply with the Waste Incineration Directive (WID). The WID sets stringent emission controls with the objective of minimising the impacts from emissions to air, soil, surface and ground water on the environment and human health resulting from the processes. The WID also covers the combustion of syngas produced from ATT processes treating waste.

The key requirements in the WID for the operation of a facility are:

- A minimum combustion temperature and residence time of the resulting combustion products. For Municipal Solid Waste, for example, this is a minimum requirement of 850 degrees centigrade for 2 seconds.
- Specific emission limits for the release to atmosphere of the following:
 - sulphur dioxide (SO₂)
 - nitrogen oxides (NO_x)
 - hydrogen chloride (HCl)
 - volatile organic compounds (VOCs)
 - carbon monoxide (CO)
 - particulate (fly ash)
 - heavy metals
 - dioxins.
- A requirement that the resulting fly ash which is produced has a total organic carbon content of less than 3%.

Identification of Issues

The main issues and material considerations to be considered include the following:

Need

Location

Sustainability and economic impact

Environmental impacts

Need for Development

A main objective of European and national legislation and guidance on waste management is to reduce the volume of waste being sent to landfill. For some forms of waste, such as paper, wood and plastic, there are a growing number of facilities being established to recycle that material. However, problems remain, with residual waste that cannot be managed in these facilities. This is the waste that is left over when all the recycling now possible, at not excessive cost, has been already undertaken. Generally this means the environmental costs of further separating and cleaning the waste are greater than any potential benefit of doing so. The residual waste, could either go to energy recovery or as a last resort, landfill. Energy recovery from residual waste has a lower greenhouse gas impact than landfill. It is therefore higher than landfill

in the waste hierarchy and the preferred option for managing residual waste in terms of minimising potential climate change impact.

The proposed gasification technology in this case, requires waste material that has specific properties and will therefore require pre-treatment before delivery of the waste to the site. The material is stated to be residual waste. Should the application be granted planning permission then this aspect of the input material would be a conditioned accordingly.

It is stated that specific material comprises only waste wood grades A-C in accordance with the Wood Recyclers Association (WRA) grading system, which has been processed and chipped prior to arrival at the facility. The material, to be processed off site is stated to be derived from the wood fraction within retailing, packaging, secondary manufacture, pallets, construction and demolition, transfer stations and recycling centres. Although it is acknowledged that any Environmental Permit can control the waste input it is considered that control through the planning system is also necessary since the permit could be modified in the future to alter the waste stream which may have different impacts which have not considered as part of this application. If the material imported is not residual then the sustainability credentials of the waste plant are diminished.

Policy W1b of the WLP is a relevant consideration here, which states that waste development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management. The policy goes on to state that waste development catering primarily for the needs of other areas will be permitted only in certain stated circumstances.

As part of the background evidence to the proposed Derby and Derbyshire Waste Local Plan (2011-2030) the technical evidence paper titled "Towards a Statistical Basis for the Waste Plan" which was published jointly by this Council and Derby City Council in March 2013 to assist in preparation of the Derby and Derbyshire Waste Plan, indicates that approximately 22,427,000 tonnes of commercial and industrial waste (C&I) will arise over the new Waste Plan period. The study finds that from 2019-20 onwards the amount of existing capacity available to handle C&I waste in Derby and Derbyshire becomes limited and there will be increased need for facilities in the plan area to manage this waste as an alternative to landfill.

The most conservative current estimate provided by the Derbyshire Waste Partnership (Waste Forecasting Report 2013-2026, March 2013) suggests that that over 1 million tonnes of C&I waste arisings are generated annually in the County. If indicative recovery targets are to be met, a minimum of 680,000 tonnes per annum of effective treatment capacity will be required. This scheme would process a gross figure of approximately 80,000 tonnes

annually and would contribute to meeting Derbyshire's need to divert waste from landfill. In addition, provided that recovery schemes do not undermine recycling efforts, the reduction of any remaining residual landfilling (i.e. beyond the diversion target) would be in accordance with the waste management hierarchy.

The emerging new waste plan will be seeking to extend the current waste management facilities in the County to increase the amount of waste which is reused and recycled whilst further reducing the volume of waste sent to landfill and it is considered that there remains a need (in principle) for new facilities to fulfil these requirements. This is further supported by recent evidence (Residual Waste Infrastructure Report – High Level Analysis, Eunomia (2011)) that suggested that there is *“currently around 13 million tonnes of residual waste treatment capacity either ‘operating’ or ‘under construction’ in Great Britain, estimating around 22 million tonnes capacity gap (per annum) between residual waste arisings and the amount of treatment infrastructure capacity either ‘operating’ or ‘under construction’.”* The report also suggests that this capacity gap will decrease to just under 11 million tonnes (per annum) by 2020 if the waste treatment capacity that has planning consent (around 12 million tonnes) reaches financial close and begins construction.

Accordingly, I consider that the proposal would provide such a facility.

Location of the Proposed Development

The application site is located on the northern fringe of Clay Cross, which extends around 2.44 hectares of previously developed land. The use of the site has in the past few decades been dominated by waste management uses. Up until 1992 the site had been used as a scrap yard and prior to that was recorded as a refuse tip in the 1970s. Since the 1990s the site has been disused. It is currently clear of any previous structures apart from self-regenerated flora. The area around the site is a mixed planning use. Along Bridge Street there are B1, B2 and B8 (light industrial, general industrial and storage/distribution) businesses along with some housing.

Since the approvals for waste management uses the surrounding area has seen redevelopment in the form of housing off Bridge Street and the granting of outline planning permission for the formerly Biwaters mixed use development site to the north and east of the site. Impacts from the development on nearby businesses and residential properties are all issues for consideration. Having said this, the site has an historic and formally established waste use. This is a fall-back position and it is a material planning consideration in the determination of the application. The site is located on employment land in the development plan and could be the subject of a B2 general industrial future use if approved on the site. This could have similar impacts regarding design, scale, noise and transport implications at this waste application. The impacts of such a use could in principle be greater than the

impacts of this waste application since it is not so much the type of use of the land, rather the impacts arising from such a use.

The sustainability of the development and its benefits are considered material given the location of the development. This is discussed in more detail later.

Sustainable Energy and Waste Management

The Planning Statement provides an assessment of the proposal in the context of current international, national and local policy, and for the evaluation of the proposed development, in particular, the merits of the proposal against the provisions and requirements of the EU WFD 2008/98/EC, the NPPW, the Waste Management Plan for England and the NPPF (in terms of the presumption in favour of sustainable development in general).

An important consideration in the assessment of the sustainability of waste management proposals is the source and type of waste to be managed and how it is to be treated. The applicant considers that the proposal represents a sustainable waste management development, being a form of renewable energy generation, and that it would conform to the waste hierarchy. It would direct waste away from landfill, produce a beneficial product in the form of electricity and also potentially in the form of piped thermal energy. It is evident from Government guidance that energy from waste is seen as an important development for now and the future with similar support given to the recovery of renewable energy schemes.

The Government sees a long term role for energy from waste both as a waste management tool and as a source of energy, and acknowledges that to be consistent with the first principle, this needs to be based on energy from waste that at least constitutes recovery not disposal. This is an important consideration and to be classed as 'recovery' within the meaning in the WFD, an energy from waste 'recovery operation must be one *"the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy"*. Annex II of the Directive sets out a non-exhaustive list of recovery operations, which include "use principally as a fuel or other means to generate energy", numbered "R1". (R1 is the definition in the WFD for a 'recovery' operation. For Non-municipal waste incinerators, designation as R1 depends on criteria set by the EA).

The applicant has been asked to confirm why it considers that the facility should only be Combined Heat and Power Ready (CHP-R) as opposed to fully delivering CHP from the outset. They confirmed that the facility would be CHP-R as *"suitable infrastructure would be in place within the ERF building to allow it to be connected to a heat network, should one be identified in the future"* They acknowledge that in the context of the facility there is the

potential for heat supply to the nearby development land (known as the former Biwaters site) where there is outline planning permission for a range of residential and commercial use.

The applicant acknowledges that *“locating the proposed facility close to the development that is planned, but not yet under construction makes the site eminently suitable for the export of heat”* and also confirms that section 4.6 of the National Policy Statement (NPS) EN-1 paragraph 4.6.5 recognises that *“retrofitting a district heating network to an existing housing estate may not be efficient.”*

The applicant made reference to outdated guidance in Waste Strategy 2007 which has now been superseded by Waste Management Plan for England 2013 (WMP 13). WMP 13 outlines that “Any given technology is more beneficial if both heat and electricity can be recovered. Particular attention should therefore be given to the location of the plant to maximise opportunities for heat use.”

The Defra document, Energy from Waste – A guide to the debate, 2013 is also in full support of full CHP where it is technically viable. A key principle underpinning the guide states that:

“Energy from Waste should seek to reduce or mitigate the environmental impacts of waste management and then seek to *maximise* the benefits of energy generation.”

The guide also clearly makes the case that the emphasis should be on ensuring that existing plants that are CHP-R move as rapidly as possible to full CHP. Allowing therefore a facility to be CHP-R where there is a clear opportunity to be full CHP therefore appears to go against this aim. The guide goes on to advise:

- “A key consideration therefore needs to be focussing on development of energy outputs beyond electricity, both for new plants and ensuring existing plants that are ‘CHP ready’ become ‘CHP in use’
- There is therefore a consistent rationale across both waste and energy policy for steering waste towards the most efficient plants and increasing focus on these outputs (and by implication moving away from an electricity only energy from waste model).
- Ensuring sites for energy from waste are available that allow potential connection to heat customers is an essential part of maximising the benefits.

The updated national planning policy “Planning for Sustainable Waste Management” reflects this and encourages local authorities to consider siting,

through their local plans, energy from waste facilities in areas which allow them to use heat as an alternative or additional energy output to electricity.”

The position of CHP R would not appear to be in line with the EA's guidance. The EA's "CHP Ready Guidance for Combustion and Energy from Waste Power Plants – Feb 2013" sets out three Best Available Techniques (BAT) tests. The first BAT test concludes that "The Environment Agency considers that BAT for energy efficiency for new combustion power plant or EFW is the use of CHP in circumstances where there are technically and economically viable opportunities for the supply of heat from the outset" It goes on to state that the EA would only consider CHP Ready (CHP-R) in cases where there are no immediate opportunities for the supply of heat from the outset. The opportunity in terms of the situation of this development site is clearly there from the outset as per the guide. Much of this of course crosses into the EA's permitting process, but it is also relevant to planning sustainability and will also be considered as part of the permit determination process which is ongoing at the time of this report. It is noted that the permit application is considered duly made as of 11 March 2016.

The Department for Energy and Climate Change (DECC) also has a CHP project development guide. Within this are various steps that applicants should take to look at outlets and cost feasibility etc. The guide, like the EA advice also advocates that CHP where clearly feasible should be considered from the outset by stating "Any new industrial or commercial development can gain substantially by incorporating CHP as an integral part of the energy supply arrangements rather than installing it as a retrofit option at a later date".

The applicant states that they cannot insist that adjoining areas accept a heat off take, however given that St Modwen (who are developing the former Biwaters site on the land adjoining) have objected to the proposal indicates that at this particular time there is limited opportunity for CHP linkage into the Biwaters site. Having said this it is noted that the detailed siting/design reserved matters for the commercial and residential parts of the site have not been approved or to date submitted for consideration by the district planning authority. The District refer to a prospect of further application(s) being submitted on the Biwaters site also and this as well as future reserved matters to be approved represents an opportunity for the developers of both the energy plant and the Biwaters site to explore with the District the provision of CHP.

The application makes reference to Government policy around environmental sustainability and the credentials of the proposal. Although the gasification process does not use fossil fuels to create energy in the same way as coal-fired power stations, I do not regard this proposed system as fully renewable (as in solar or wind power) in its energy source. However, I would not dispute that it might displace some direct fossil fuel consumption and would utilise an

element of the wood waste stream that currently cannot be easily or economically recycled. The NPPW and the Waste Local Plan both outline the need to move waste management up the waste hierarchy. It is unclear from the application whether in the longer term any other, potentially more sustainable options for the proposed waste wood stream may become available.

The facility would generate approximately 10MW of electricity for export to the National Grid. It is also claimed that up to 80,000 tonnes of residual C&D waste wood per annum would be diverted from landfill. Landfill across the country is declining, largely due to the increase in the landfill tax which is now £82.60 per tonne (as of April 2015). At these rates it could be concluded that instead of the material finding its way into landfill the material would be likely to be added to the export waste market to spare European capacity where “door to door” costs of 30-50 Euros per tonne are not uncommon¹ (approximately £22 - £36 at current exchange rates). While there is no obvious economic advantage to landfill this material or export it, it is the case that wood waste has been collected by operators in the UK (and in Derbyshire) which has proved problematic to recycle or find secondary markets for.

I am aware that the applicant has been actively seeking to secure the roll-out of CHP uptake in nearby locations, I also consider that at this stage negotiations are naturally commercially constrained. This may progress if planning permission is granted, however at this stage it only represents a CHP “opportunity”.

Whilst it is disappointing that the development can only, at this stage, be CHP ready not full CHP it is recognised that commercial reality requires a willing receiver of any heat/electricity as part of a district system. The adjoining developer at Biwaters has objected to the proposal as has North East Derbyshire District and Parish Council citing in the main economic impact on the regeneration of the town. This economic concern is considered in more detail below.

Given the potential for the development to provide sustainable energy in the form of heat and the acknowledgement by the EA that this matter is to be revisited as part of the Permitting process officers have been pragmatic and are satisfied that the plant being CHP ready for heat offtake being taken up, as well as the community benefits offered, as well as an analysis of the economic argument put forward by St Modwens and the District/ Parish Council is an acceptable compromise that allows officers to accept the current situation regarding CHP non-deliverability from the outset.

¹ Source: Tolvik Consulting (2011) UK Waste Exports: Opportunity or threat?

In terms of the need to drive waste management up the waste hierarchy, it is unclear whether or not in the longer term the waste wood that forms the feedstock for the proposed plant could be economically viable for recycling or re-use. This, and CHP delivery issue are discussed below and are the subject of suggested conditions.

Operational Life

The operational life of the gasification plant can be divided into two phases; the construction phase (typically 12-18+ months) and the commercial operation of the ERF.

The Defra publication “Energy from Waste. A guide to the debate” (2014) acknowledges that plant is built with a minimum planned lifetime typically between 25 – 30 years. Whilst there is a difference between the physical life and planned life of plant, nevertheless, the options and technology for waste management may significantly change, so there may be limitation in the efficiency and performance of ATT against possible improvements to the economics of sustainable waste management markets. In response to this issue, should planning permission be granted, I have recommended a condition to initially control the lifespan of the plant use under the permission to be granted to a 25 year period from its first commercial use. This would ensure that the planning authority could examine whether the further use of gasification as a waste use is appropriate at the location having regard to environmental considerations and delivery if the waste hierarchy in Derbyshire at that time. This provision would enable the County Council to evaluate the sustainability of the proposal more fully in terms of both the present situation and future circumstances.

Environmental Impacts

I now turn to the broad issues in determining this application and the overall environmental acceptability of the proposal on the locality in which this particular application site is situated.

The planning application is accompanied by an ES which has assessed the following topics:

- Air Quality
- Land Quality
- Noise
- Transport
- Landscape and Visual Impact
- Cultural Heritage
- Geology and water
- Ecology
- Ground Conditions.
- Cumulative Impacts

The following assessment addresses individual topics reported in the ES. Each heading contains a summary of the conclusions of the ES followed by the Officer assessment.

It is noted that the EA, Public Health England and the Environmental Health Officer have not objected, subject to the EA permitting controls and appropriate planning conditions being in place.

Air Quality

The impact of emissions from the gasification is a main concern of the objectors, in particular that the emissions could have an impact on the nearest residents of Clay Cross. Emissions into the atmosphere from energy from waste plants have for a number of years been controlled under the Waste Incineration Directive (2000/76/EC). There are stringent limits for a number of potential pollutants, as well as demanding operating requirements which help to minimise pollution, that apply to all plants thermally treating waste whatever the technology. These requirements have been recast virtually unchanged into the Industrial Emissions Directive (2010/75/EU).

The Town and Country Planning system is concerned with control of the development of land. The regulator of waste management processes is the EA and, in the assessment and determination of such proposals, the two regulatory regimes complement each other. The applicant on 24 November 2015 submitted an application to the EA for an Environmental Permit. In assessing the Environmental Permit application, the EA will address the essential issues relating to emissions/health impacts which objections relate to.

The NEDDC EHO identifies that Section 6 of the Environmental Statement offers an assessment of the likely dust impacts of the proposed scheme and specifies operation controls to minimise adverse impacts. He regards it is likely that many of these controls will be required by the Environmental Permit required for the operation of this site which will serve to enhance the controls available. It is noted that Public Health England raises no objection regarding the proposal in view of the EA permit regime.

Officers are also satisfied that, if issued, the Environmental Permit will control any emissions to air and is not a matter that the land use planning system should attempt to control as well. The NPPW under section 7 is very clear that waste planning authorities should not concern themselves with the control of processes that are a matter for the pollution control authorities (in this case the EA) There is no evidence to assume that the controls under the Environmental Permit will not be appropriately considered and, if issued by the EA, appropriately monitored.

In the ES the air quality assessment for the proposed development considered the following:

- Potential construction phase dust emissions for the proposed ERF;
- Traffic exhaust pollutants (PM₁₀ NO_x) from construction and operational phases;
- Potential fugitive emissions of dust as a result of handling of waste wood; and
- Combustion pollutants (Specified in the Industrial Emissions Directive) from the syngas CHP engines stack and combustion chamber flare.

The assessment methodology is based upon a comparison of the baseline situation (both current and projected without the development proposals) against the air quality impacts resulting from the “with development” proposal scenario.

The potential for dust effects has been assessed using Institute for Air Quality Management ‘Guidance on the assessment of dust from demolition and construction’. The assessment of risk is determined by considering the risk of dust effects arising from four potential activities:

- Demolition;
- Earthworks;
- Construction; and
- Trackout.

The significance of the potential impact is based on a risk assessment matrix with descriptors of ‘negligible, slight, moderate or substantial adverse’.

The ES identifies sensitive receptors. In terms of human receptors this includes the existing residential areas and proposed residential areas within a 25m resolution grid. It also includes the nearby hospital and various locations along the High Street and Bridge Street. In relation to traffic exhaust emissions, receptors located in proximity to the road links used by traffic associated with the development have been considered.

In terms of Designated Ecological Sites the ES identifies a list of potential ecological receptors based on H1 guidance². They include areas such as South Pennine Moors, St Lawrence’s Churchyard, Padley Wood, Far Tupton Wood, Bridge Street Grassland and Oak Coppice and pond amongst others.

In terms of the issue of suitability of the location for this technology raised by NEDDC, the NPPW at section 1 outlines that waste management should be

² The H1 Environmental Risk Assessment framework consists of an overview guide and a set of supporting technical annexes for specific risk. It is part of the EA’s permitting and Environmental Management

considered alongside other spatial planning concerns, such as housing and transport recognising the positive contribution that waste management can make to the development of sustainable communities. As I have no reason to believe that air quality issues will not be properly regulated by the EA permit should it be issued and as such the location is consistent with the policy as set out in NPPW.

The local Waste Plan in Policy W5, section 4.11.11 reiterates this point by stating that “*the Environment Agency and the city and district councils are responsible for protecting people and their surroundings from the effects of air pollution*”. It goes on to state that permission for development should not be granted without due regard to the above. As previously mentioned the EA through the permit process will provide this check. The same is true for Policy W6, section 4.16.8 which states that gases should not be emitted in quantities which would harm the health of people, livestock or wildlife. The EA permit, should it be issued will provide for this assessment.

Given the assessment within the ES and that the applicant has submitted a full permit application to the EA officers are satisfied that there is no sustainable reason for refusal to be made regarding air quality issues. Having stated the above it is considered that the development accords with Policies W5 and W6 of the DDWLP, NPPF, Paragraph 120, and NPPW 7, Appendix B (g) and GS1 and GS5 of the NEDDC Local Plan.

Assessment of Operational Effects

The emissions from the gasification plant have been assessed using an air quality (combustion pollutants) assessment atmospheric dispersion model. The combustion emissions from the syngas CHP engines would be discharged via a single elevated stack. A further combustion chamber flare stack would treat recovered waste waters and tars. The ES presents the maximum ground level process contribution for long term average impacts. It is therefore concluded that concentrations would be less at all other locations. The proposal therefore accords with DDWLP Policies W5 and W6. NPPF, Paragraph 120 NPPW: 7, Appendix B (g) and GS1 and GS5 of the NEDDC Local Plan.

Emissions and Health

There is often a perception within communities in the locality of a proposed waste facility, that it would cause significant risks to human health. Indeed this reflects many of the views that have been received from the local community. However, there has been a lack of any firm evidence to back such claims up. As Government advice indicates, the potential hazards particular cases can present, are usually manageable so as to prevent any occurrence of substantial health risks. Potential hazards to health and to the environment from waste to energy facilities typically concern emissions to air from the process itself and emissions through the traffic that is generated. The statutory

Environmental Permit regime, which is governed by the EA as pollution control authority, complements the control over waste development provided by the Town and Country Planning system. It enables process controls to be imposed in order to limit emissions to acceptable levels for human health, and as well as for environmental receptors. The Agency would generally take a precautionary approach to specific hazards, and have would regard to any significant cumulative effects from combination or interaction with other sources of emissions. If the Agency concludes in any case that emissions from a controlled process will not be sufficiently controllable by Permit requirements so to prevent them causing harm to human health, it refuses to issue a Permit.

As is mentioned above, the applicant in this case has submitted detailed information on emissions and air quality impact as part of the accompanying ES. The Agency is also in the process of considering an application for an Environmental Permit, and Public Health England (PHE) will provide comments to the EA for this, on the specifics of proposed facility. Whilst the County Council as planning authority and the Agency as pollution control authority have powers and duties that complement each other, the operational regulation of waste to energy facilities is the responsibility of the EA.

It is reasonable to predict that consideration of emissions air quality and health will not cause an impediment to the granting of an Environmental Permit for the proposed facility, since (a) the conclusions of all the relevant studies referred to in the ES are that the proposed development will have no significant effects on air quality during normal operating conditions, abnormal operating conditions or due to road traffic and that no significant cumulative effects are forecasted to occur, and (b) none of the statutory consultees in responding regarding the planning application have disputed the findings of the ES.

The NPPF advises that:

‘... local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.....’

In the same vein, the National Planning Policy on Waste 2014 states:
“...Impacts to the local environment and amenity should be considered but it is not necessary to carry out detailed assessment of epidemiological and other health studies on the basis that these controls would be provided through the pollution control regime.”

“Planning authorities should - concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.”

The National Planning Guidance further expands on this by stating *“The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body.”*

The above quoted advice confirms that the County Council should not seek to control processes or emissions itself where these are subject to approval under pollution control regimes, but rather should be satisfied before granting any permission (without having to resort to *“detailed assessment of epidemiological and other health studies”*) that the complimentary permitting regime can adequately address those issues. Since advice is sought from the Agency through consultation on all waste facility planning applications, this consultation process can serve to provide the necessary satisfaction.

For this proposal any Permit will have to be consistent with the Waste Incineration Directive (or ‘WID’).

Information on the WID is set out in Environmental Permitting Guidance on the Waste Incineration Directive (updated March 2010). The specific aim of the WID is to prevent or limit, as far as practicable, negative effects on the environment, in particular pollution by emissions into air, soil, surface and groundwater, and any resulting risks to human health, from the incineration of waste. The WID seeks to achieve this high level of environmental and human health protection by requiring the setting and maintaining of stringent operational and technical requirements and through the setting of specific emission limit values for facilities.

The WID requires that incineration plants shall be designed, equipped, built and operated in such a way as to prevent emissions into the air giving rise to significant ground-level air pollution; in particular, exhaust gases may only be discharged in a controlled fashion and in conformity with relevant air quality standards calculated in such a way as to safeguard human health and the environment.

The WID covers the site and the entire incineration plant and imposes stringent requirements the types of wastes permitted at the plant, their delivery

and reception; combustion, abatement plant, residue handling, monitoring equipment and emission limit values. The WID also requires that the above requirements are achieved under the most unfavourable conditions, i.e. at the edge of the operational process design envelope.

There are European Community prescribed Emission Limit Values (ELVs) for incinerators, and the WID requires all plant to be designed, equipped, built and operated in such a way as to meet these ELVs. In terms of air quality the objective is that all people should be effectively protected against recognised health risks from air pollution.

It is common for the County Council to ask potential developers to “twin track” their EA permit applications to help provide a greater degree of confidence at the time of the planning decision that all pollution issues for the particular site and specific technology can be adequately addressed by the permitting regime. This is perhaps most important where an applicant is proposing to utilise a new, or uncommon technology in the design of their proposal.

“Twin tracking”, may also enable the Council to place greater confidence in the reliability and thoroughness of the content of the applicable ES, by clarifying, in advance of determination of the planning application, the view of the EA on the proposed technology in the given case, and the detailed operation of the permitting requirements.

While this applicant has not obtained a full WID permit at this time, it is understood that this is progressing so it is appropriate to draw confidence from the following factors:

- the plant will only be operable if a permit which reflects the WID; requirements summarised above is granted;
- The technology proposed to be utilised is not unique; and
- The EA has recent experience of directly comparable schemes which have been fully through the permitting process.

In summary therefore, the County Council can be satisfied that the scheme will not have a significant impact on health since there is more than reasonable confidence that operational emissions will be adequately addressed by the environmental permitting regime. This understanding is triangulated by evaluation of the ES by the County Council, and the totality of consultation responses from the EA, Public Health England and the NEDDC EHO on the planning application and ES.

This analysis therefore accords with DDWLP, Policy W6. NPPF: sections 122 and NPPW: section 7

Operational Effects on Habitat Sites

Land Quality

The ES sets out a section on land quality. This looks at the proposed development in terms of impacts on sensitive receptors and makes an assessment based on the previous industrial uses of the site. The ES identifies the site as unoccupied comprising a typically flat topography which is predominately unsurfaced with some hardstanding in the south west part. The ES presents an assessment of historical land uses for the site which has most recently been occupied as a waste transfer station and scrap yard. Historically the application site has comprised the storage of spoil across the eastern third of the application site, with the site subsequently used for many years as a refuse tip prior to use as a scrap yard. There have been recorded incidents of pollution occurring on the site, for example in May 1997 a minor pollution incident was recorded where landfill leachate impacted the stream adjacent to the northern boundary. The surrounding historical land uses have included mixed industrial (brick yard, iron works, engineering works) mining and refuse tipping which have in the past crossed onto the application site. Three key elements of the proposed development are identified that are relevant to assessing environmental effects:

- Relatively shallow construction earthworks to comprise changes to existing site levels. This would involve the movement of any above level spoil heaps and cut into the made ground which is understood to have potential contamination due to previous historic use;
- Construction works involving excavations for strip foundations, shallow or deeper piles below the proposed formation levels to allow the construction of foundations and associated site infrastructure including drainage and other services; and
- Change of end use from a disused industrial land use with minimal hardstanding to a new industrial land use with predominately hard surfacing.

The ES includes an EIA of the geology and soils resource as well as a contaminated land risk assessment. It also outlines a study of groundwater and aquifers.

The study of ground conditions concludes that the whole of the application site consists of made ground and outlines what this consists of:

- Made Ground – comprising colliery spoil, construction waste, industrial and domestic waste, weathered mudstone, brick, concrete, clay, ash, slag, textiles, carpet, paper, wood, foundry sand, metal, plastics, ceramics, tyres, beds, mattresses, cable and other domestic type waste. These deposits were interpreted as mixed wastes from the former stockpiles, backfilled pond and refuse tip.

- Natural Strata – stiff to very stiff highly weathered Pennine Lower Coal Measures Formation, comprising clays and weathered mudstone/siltstone, proven to 14.1m bgl.

The thickness of the made ground across the application site (all types) generally ranged from 10.3 – 11.7m thick. Made ground 4.7 – 5m thick was identified in the south-west corner of the application site.

The applicant acknowledges that the site due to former uses is heavily contaminated and would require a significant amount of remedial work to accommodate the proposed ERF and other buildings. In order to do this the ES outlines that an additional study would be carried out prior to construction in order to fully determine the specific mitigation measures required with regards to potential contamination risks at the application site. This would involve:

- Completion of a Phase 2 ground investigation, to include soils, groundwater and leachate analysis, groundwater and ground gas monitoring (minimum of 3 visits), updated Conceptual site model CSM), Detailed Quantitative Risk Assessment DQRA and recommendations for any further investigation work/preliminary remedial recommendations.

In addition, it is stated that the following studies would be carried out prior to finalisation of the detailed design of the development and prior to commencement of construction works:

- Completion of Piling Risk Assessment to further assess the potential risk to controlled waters from selected piling methods, where these are required for geotechnical reasons.
- Development of a remediation strategy and/or earthworks strategy would be required that specifies how the areas of shallow made ground and any chemically or geo-technically unsuitable materials are to be remediated or managed.
- A soil management plan would be prepared as part of the Construction Environmental Management Plan (CEMP) detailing methods of soil handling and storage and how this would be undertaken using best practice guidance contained within the Defra Construction Code of Practice for the sustainable use of soils on construction sites (Defra, 2009). This would ensure no loss of quality of any (clean) soil due to the process of handling, storage and its re-use on site.
- The development of a Materials Management Plan (MMP) in accordance with the code of practice for the definition of waste or regulation through an Environmental permit/exemption as necessary
- The development of a Construction Environmental Management Plan (CEMP) would be required for the redevelopment works.

The ES comprehensively sets out both the existing condition of the land and a clear proposed strategy to remediate site contamination as part of the proposed construction. It is clear that the site is blighted by a great deal of mixed contamination from the previous land use and that the applicant acknowledges this. Officers are therefore satisfied that the applicant will improve the land quality by dealing with the land contamination issues.

Mine Entries

There is one recorded mine entry indicted within the application site. The ES identifies that it comprises a shaft located in the south-eastern corner of the application site and this information was sourced from two mine plans. As part of a report within the ES the review of the mine shaft outlines:

“We can confirm that there are two mines shafts beneath the site. However, one of these is apparently a staple shaft (that is to say a shaft that only extends between various working levels underground) between the cannel (aka the yard) and Blackshale coal seams and did not extend to the surface. Consequently, of the two, only the one shaft extends up to the surface poses a direct risk of collapse subsidence to the site.”

Whilst acknowledging the mine shaft issue the applicant always maintained that further investigation and mitigation would be carried out at the assessment and ultimately construction stage.

The Coal Authority initially responded to the consultation in December 2014 with a “fundamental concern” with regards to the application and the mine shaft issue. It identified that the site falls within a “development high risk area” It acknowledged that the ES has obtained up to date information but was concerned that this information did not include an intrusive site investigation to locate the mine entry and assess its condition. The Coal Authority considered this imperative and outlined that it should have been undertaken to inform the site layout and detailed planning application submission, indeed it pointed to the fact this was outlined to the applicant at the pre-application stage.

On the basis of the coal mining legacy the Coal Authority fundamentally objected to the planning application. It outlined that the applicant needed to undertake an intrusive investigation to locate the mine entry, assess its condition and determine what mitigation measure are required. Once this is complete the applicant could then revise the layout and design to avoid any built development being erected over the mine entry or within its zone of influence. The applicant was always of the opinion that the shaft is “not fundamental as the design can be amended to suit once it is located” this would not seem appropriate however as any design alteration as describe could impact on wider planning acceptability considerations around building locations etc.

Given the above, DCC requested the applicant in March 2015 as part of a Regulation 22 request to provide further information in support of the Environmental Statement. The applicant met with the Coal Authority in May 2015 and held further discussions. Following this the applicant submitted a mining risk assessment. The information within this report is based on:

- A Groundsure Report on site conditions with historical ordnance survey mapping dated August 2013.
- Abandonment Plans nos 1331 and R259B.
- Coal Authority non-residential coal and brine report.
- Coal Authority Mine Entry Data sheet.
- A ground Sense Ltd brief report on geo-environmental desk study, ground investigation and likely development issues.
- BGS website.

Crucially the report maintained the view that due to the constrained nature of the site the full assessment of the mine entry could not dictate the overall layout of the proposed site, i.e there is not sufficient space to redesign around the shaft. The Coal Authority acknowledges this in the Regulation 22 response and as such withdrew its fundamental objection. The position is now that the Coal Authority could withdraw its fundamental objection as long as pre commencement conditions are imposed should the application be granted. In principle this would involve an intrusive site investigation (a scheme) to be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues. Should those investigations confirm the need for remedial works then they would be undertaken prior to commencement of the development.

The development is consistent with the core planning principles as set out in paragraph 17 of the NPPF. One of the principles is to encourage the use of previously developed land provided that it is not of high environmental value. As set out and as consistent with the assessment of the ES the site would currently be considered as having low environmental value.

Similarly, section 4 of the NPPW sets out a priority for the re-use of previously developed land.

Given that the Coal Authority has withdrawn its objection subject to conditions officers are satisfied that the Coal mining legacy issues have been dealt with appropriately.

Landscape and Visual Impact

The ES outlines the proposal in terms of landscape and visual impact. To do so it identifies a scope and set out a number of areas that the scope covers, namely:

- Method statement
- Landscape Planning Context
- Summary of the development proposal
- Landscape effects
- Visual effects

The method statement identifies the source of the guidance used, Guidelines for Landscape and Visual Impact Assessment, 3rd edition (GLVIA 3) and components of Landscape Visual Impact Assessment (LVIA).

The LVIA describes the character of the surrounding landscape at the national, regional and local scales. It identifies that the site is located within the '*Coalfield Village Farmlands*' Landscape Character Type as defined in the '*Landscape Character of Derbyshire*' (DCC, 2014) publication. This is a landscape typically characterised by an undulating landform, pastoral farming with occasional arable crops, relict ancient semi-natural woodland, scattered trees, and towns and villages along ridge lines, many of which expanded as a consequence of past mining development. The LVIA concludes that the current value of the landscape resource (site and wider landscape) is low. The Planning context within the ES sets out relevant sections of NPPF, the Derbyshire Minerals and Waste Development Framework, The Derby and Derbyshire Waste Local Plan, the Clay Cross Regeneration Framework and the North East Derbyshire Local Plan.

In summary the landscape planning policy context requires consideration of good design as a key aspect of sustainable development, both into its siting and landscaping treatments to ensure that development is not detrimental to the character and appearance of the site and its surrounding environment. The North East Derbyshire District Local Plan map identifies the application site within the "Settlement Development Limits – GS5" for Clay Cross. The Clay Cross settlement development limit is located at approximately 0.1km to the north, north-west and north-east of the application site and includes an area of employment land north of the application site, including the former Biwaters mixed use site north-east of the application site. The application site itself is defined as an existing employment area.

It is acknowledged that the proposed structures are large. The development includes a new 7,500m² purpose built admin building that will completely house all of the process operations, with an additional smaller element of 356m² on the front elevation of the building for the reception and offices. The main building would have a stepped profile and be 22m in height at the maximum curved ridge to the north, falling to 18m and then stepping down to approximately 14m along the main section. The front entrance is lower at around 7m high. There would also be two stacks, both 4m in diameter. The main stack would be 40m in height with a smaller 30m high combustion chamber/flare stack.

The overall aim of the building design is to create a modern industrial unit which acknowledges the overall massing but seeks to form a high quality new urban development along Bridge Street that is attractive to residents, visitors, employers and investors.

It is proposed that the main industrial building will be steel clad and finished with a banded colour scheme intended to help break up the mass of the building to more distant views from the surrounding area. The office building is lower in height than the main building and proposed to be constructed from polished, charcoal-coloured concrete blocks with glazed panels, timber cladding and a 'green' roof to create a modern, contemporary addition to the main building.

The Regulation 22 request included additional information on the LVIA as requested by DCC Landscape Team and other consultees. The request predominately involved further information to include additional photomontages and visual impressions indicative of how the site is to fit not just within the immediate area but also as an integral part of the local area. The scoping opinion for the ES was clear that photomontages should clearly and accurately demonstrate the nature and scale of the likely impact. The suitability of the building colour scheme and the visual impression of both the stacks was also requested.

The main residential views of the proposed development are from the edge of North Wingfield (Hepthorne Lane) to the east of the site as represented by viewpoints (VPs) 8 and 7. Both of these viewpoints are at a similar level to the site and as such the development has greater scope to be absorbed within and become part of the general fabric of the town at these locations, provided an appropriate architectural response is achieved. With the foreground to these views soon to be dominated by the redevelopment of the former Biwaters site, officers are inclined to agree with the assessment that the visual effects are not significant from either of these locations. The view from St Lawrence Church and churchyard is similar but again officers consider any adverse effects to be satisfactorily mitigated by existing vegetation around the site boundary and trees within the churchyard.

It is clear that Clay Cross generally is an area that has undergone and continues to undergo a great deal of transformation and regeneration. The proposed redevelopment of the former Biwaters site is a clear example of how the area will continue to visually change. Taking all of this into account, I am satisfied that overall the facility will fit into its surrounds.

Design Considerations

The architectural merits of the building are a material planning consideration given the location of the proposed development near to the town centre,

existing and proposed residential development and the Clay Cross Regeneration Framework.

The applicant received pre-application advice from DCC on 24 February 2014. This advice outlined the following in terms of proposed design:

- The proposal is in an area of regeneration, adjacent to approved mixed use development and could be a real driver in setting the quality of development in the area;
- The current proposal is an unimaginative large standard industrial double roof building with a late 1980's/90s-esque reception building attached to the front;
- The large mass of the building should be designed to be as recessive as possible. Consideration of darker cladding and a softer roof profile with an entrance building of high architectural design quality should be considered; and
- Main aspects to be developed include the enhancement of local character and environmental sustainability.

The applicant received pre-application advice from DCC on 24 February 2014. This advice outlined the following in relation to landscape:

- The general nature of the site is that of a derelict industrial plot, but it is bordered by vegetation along its north-west and north-east boundaries
- The site is visible from a number of locations and occupies a prominent position on Bridge Street (A6175);
- There is not support for the assertion that poor quality development in the immediate area is a mitigating factor, as it is considered that this is a significant new building in an edge of settlement location that needs to stand on its own merits; and
- There is support for new planting, including long-lived species and any planting should take account of the "Landscape Character of Derbyshire" publication by DCC.

As well as pre-application advice from the County Council an OPUN Design Review Panel was also held on 19 March 2014. The panel made a number of recommendations as set out in the ES, chapter 7, sub section 7.24.

The LVIA acknowledges the role the development has with respect to its frontage with Bridge Street and the potential impact on landscape character and views predominantly to the north of the site. The design response has been to create a relatively open frontage to Bridge Street with the removal of security fencing and the development of landscaped areas. This approach is welcomed allowing the building and reception area to make a positive frontage to Bridge Street and reducing the overall industrial appearance of the site.

I am satisfied that the LVIA detail within the ES adequately addresses the associated landscape and visual impacts of the proposal. I do not agree with

the judgement in the ES that states there will be no overall effect on the landscape resource, given that the proposal is a large structure with associated external plant, including the stacks and potential plume(s). The building is large in mass and height albeit to the rear of the site. However, this part of the site would be visible, although partially screened by landscape planting, when viewed from the proposed mixed use development to the north. Whilst visible the unacceptability of the visual impact is a subjective matter and on balance is not considered to be unacceptable overall. Regarding scale and mass it is noted that the site is located on employment land and a general industrial use (B2) could have similar proportions. In design terms the acceptability of the scale and mass of the building in this location is the issue not the use of such a building.

It is considered the overall appearance of the development, including the landscaping proposed, will be an improvement to and be beneficial overall in transforming an area of previously derelict land, blighted by contamination and degradation. I also consider that the development would enhance the frontage of the A6175 leading through the Clay Cross settlement. It is noted that the redevelopment of the former Biwaters site and Derby Road site will alter the Clay Cross settlement boundaries regardless of development at the application site.

On that basis, the proposed development, on balance, is compliant with Policy W7 of the Waste Local Plan. The scale and proportion are appropriate for a development of this type and take account of the surrounding land uses. As per Policy W7 (4.20) of the Waste Local Plan I also believe that the appearance of the development would not on balance, materially harm the local landscape or townscape and would respect the character and local distinctiveness of the area.

Having said this, there are concerns, also referred to by objectors. regarding the alien introduction of significant tall chimney stacks in the area including, depending on weather conditions, any visible plume, implying a significant industrial operation would have a material impact on the longer views of the site from the surrounding area which is not considered wholly appropriate in the urban setting. The scale and mass of the stacks represent an incongruous feature in the area a view referred to by the district/ parish council and objectors. The latest comments from the District, as stated above, consider there is a policy conflict regarding the scale of the building and chimney stacks. The significance of the impact of the stacks and any material harm arising is a subjective planning matter that could be considered acceptable or not depending on the view of the observer and should be considered in the overall planning balance of other more positive aspects of the development.

It is also, on balance, compliant with the requirements of NPPW under section 7 that states facilities should be well-designed so that they contribute

positively to the character and quality of the area in which they are located. The NPPW under section 4 also outlines that siting of facilities should look to co-locate with complementary activities, especially as they relate to potential energy consumers. There are clearly opportunities for this on this site and therefore any visual impact is offset by the proximity requirement for the facility to be close enough to potential CHP customers.

The core planning principles in NPPF, paragraph 17 state that high quality design and a good standard of amenity should be obtained. It also promotes mixed use developments and this site sits within a mixed use, urban setting. As per section 65 of NPPF the sustainability of the site overall is a key aspect to the acceptability within the setting. I am not convinced that any negative visual impact from nearby heritage assets or otherwise is sufficient enough to outweigh the environmental (in terms of non-fossil fuel energy generation) and economic benefits of the proposal.

Overall, and on balance, it is considered that the proposed development would not have a significant adverse visual impact on the nearby existing and proposed residential areas or businesses in the vicinity or the regeneration of the wider area complying with national and local plan policies

Noise

The ES sets out a noise assessment and considers the potential for noise from both the construction and operational phases. The methodology sets out a baseline scenario and then a mitigation plan to offset any adverse impacts and the likely residual effects after measures have been employed.

Operational

The operational assessment has assumed the proposed ERF would operate 24 hours a day, 7 days a week. Vehicle movements associated with the delivery of feedstock to the ERF would be limited to 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on a Saturdays. No vehicle movements associated with the movement of feedstock or removal of ash/char are envisaged on Sundays or Bank/public holidays.

The assessment is based on the premise that the area is not particularly “noise sensitive” as the proposed ERF would be located in an already industrialised area with several factories/industrial units already lying between the development and the nearby sensitive receptors. There is also a 24 hour Tesco superstore nearby with a delivery access road directly adjacent to one of the receptor locations.

The operational assessment has shown that noise level generated by the proposed facility would lead to complaints at Hetton Drive and a cumulative effect at Brassington Street at night leading to a moderate impact. The applicant has responded to this outcome by proposing in the ES:

- The predicted noise rating noise level at Hetton Drive reduced by 4dB to a level where predicted internal noise levels are well within the criterion for sleeping at night;
- The predicted noise rating level at Brassington Street reduced to a level where BS4142:1997 no longer becomes suitable guidance for assessing noise and where predicted internal noise levels are well with criterion for sleeping at night;
- The cumulative effect at Brassington Street has been reduced to a minor impact; and
- The predicted internal noise levels within the nearest residential area of the Clay Cross Masterplan development are well within the criterion for sleeping at night.

The NEDDC EHO response had initial concerns regarding the information regarding baseline figures used. Following technical discussions between the EHO and the agent's acoustician and with the submission of further information and clarification (which was advertised under Regulation 22 under the EIA Regs as other information) the EHO has accepted that the operational sound can be appropriately mitigated and managed by planning condition and through the controls of the Permit administered by the EA.

The EHO notes that the ES includes a sound impact assessment which considers the potential for sound from both the construction and operational phases of the proposed development. The methodology used by the acoustic consultant establishes a baseline scenario and then offers a mitigation plan to offset any adverse impacts and the likely residual effects after measures have been employed.

Since the time of the application predicted sound impacts associated with the use of the facility proposed have been updated and revised by the acoustician working on behalf of the applicant.

The EHOs comments are summarised in the Consultation Response section of this report above but again for ease of reference referred to below.

The EHO acknowledges within the Environmental Statement that noise could have significant adverse impacts at identified receptor points and the applicant has provided a mitigation strategy to deal with the resulting impacts.

With respect to the acoustic assessment submitted in support of the application the EHO had serious concerns about its findings and had fundamental concerns about whether or not sound from the proposed development could be controlled in such a way that it would not give rise to significant adverse aural impacts on nearby dwellings. At that time the EHO could not offer comments in support of the application and as a result raised concerns with the applicant's acoustic consultant.

The EHO entered into discussions with the acoustician about these concerns and it was agreed that in order to improve the sound impact assessment that a further background sound survey would be undertaken to update the original report findings in an attempt to demonstrate that the impact would be acceptable.

The survey findings were supplied to the EHO on the 25th January 2016 which when considered against the original noise survey, suggested that sound impacts for the proposed development could meet a sound design criterion for all nearby dwellings (including the proposed dwellings on the Biwaters scheme (which benefits from an outline mixed use planning permission)).

Whilst the technical discussions indicated that the sound from the proposed development would satisfy an acceptable sound design criterion the findings of the background sound survey have not been used to update the original acoustic report and demonstrate the assumption that they had been considering. The EHO stated that the acoustician indicated that it was his clients desire to deal with residual sound issues after approval of the application via a 'condition to discharge'.

The EHO considers that his fundamental concerns with regard to the likely sound impacts of the proposed scheme have been substantially alleviated albeit that sound impacts will still need to be addressed and in addition, as is noted by the acoustician "At the detailed design stage, the client will consider various mitigation options to apply to the internal and external plant and possible changes to the building envelope, i.e. increased cladding, considered necessary to meet any reasonable noise limit conditions.

The EHO is satisfied that the application could be approved subject to a condition requiring the permission holder to submit a scheme to demonstrate that the combined rating level of sound from the scheme would not exceed the background sound level by more than 5 decibels.

Given that the background sound survey undertaken by the acoustician indicated that the background sound level is 32 decibels this would set a rating level of 37 decibels to be achieved. Compliance with such a sound rating level is suggested by the acoustician to be feasible within the constraints of this development and is an approach supported by the applicant.

The EHO offers a condition to facilitate the submission of a technical interpretive report what will address the agreement reached with the acoustician.

The EHO notes that the facility will also be subject to an EA 'WID' Environmental Permit and this should cover issues of noise associated with the operation of the plant.

Construction

The assessment of likely noise generation from the construction phase has been assessed according to relevant guidance. It is acknowledged that the area is already predominantly surrounded by industrial uses and busy roads. The applicant also acknowledges that by the nature of construction works it is likely that it would cause some disturbance for those living nearby but that this will be temporary in nature and limited to the operational hours as described above.

I am satisfied that the noise assessment has considered the existing noise environment at the local receptors and the predicted noise emissions levels of all plant operating simultaneously. I have no reason to disagree with the assessment made that has been carried out using appropriate standards and parameters. It should also be noted that as described the applicant has acknowledged that noise could be an issue at certain receptor points and has provided a mitigation strategy to deal with this issue.

The EHO considers that due to the nature of the construction works proposed it is likely that sound would cause some disturbance for those living nearby but that this will be temporary in nature and limited to the operational hours as described. The assessment indicates that sound levels during construction would remain within the 70 decibels criteria adopted within the assessment process. The acoustician notes that should the properties on the Biwaters site be built prior to the ERF, noise and/or vibration from construction operations would not exceed the derived limits used in the assessment.

The EHO acknowledges that construction sound impacts can be suitably addressed through a planning condition, by either providing a limit on sound levels, or requesting the provision of a construction management plan.

I consider, on that basis, that the proposed development may slightly affect the acoustic character of the area but such that there would not be a perceived change in the quality of life.

Following discussion with the EHO regarding his concerns of the baseline measurements contained within the Environmental Statement further monitoring was undertaken by the applicant. This resulted in a higher background baseline noise climate at properties in Hetton Drive. Following submission of the report the EHO is now satisfied that operational aspects of the development are capable of being controlled via an appropriately worded planning condition(s) attached to the decision notice should the application be granted planning permission.

It is considered that the proposed development is compliant with Policy W5 of the DDWLP and meets the requirements of NPPW, Appendix B, subsection J. This states that noise could be an issue if not properly managed. Given the assessment carried out in the application I am satisfied that noise management can be covered by planning condition. The facility will also be subject to an EA WID permit and this should look to cover issues of noise associated with the operation of the plant. I therefore see no reason to recommend a refusal on the issue of noise.

Transport

The site lies within an existing industrial area and forms an area of some 2.44ha. The site is to the north of the town of Clay Cross with access onto Bridge Street, a single carriageway road. The road is a single lit carriageway in good overall condition and is approximately 7.3m in width. Bridge Street operates under a 30mph speed limit and is bordered by double yellow line parking restrictions along its entire length. From the south, Bridge Street runs across the signalised junction with Harris Way where it extends north-east towards the site. Past the site Bridge Street becomes Furnace Hill Road which runs east to connect with the A6175 Market Street close to the north-eastern edge of Clay Cross. At the site there are currently two access points that connect with Bridge Street, both situated along the sites' south-eastern boundary. Bridge Street serves as an industrial access road and part of a route around the northern edge of Clay Cross, connecting to the A61 Derby Road to the west and connecting to Furnace Hill Road and the A6175 Market Street to the east.

The site is well located in relation to key arterial routes and the road network, within the vicinity of the site, is to a generally good standard, with reasonable forward visibility. Clay Cross has good connections to regional centres and the strategic road network. The A61 runs north to Chesterfield and south to the A38, which continues south into Derby. To the east, the A6175 runs through the villages of North Wingfield and Holmewood to reach the M1 at junction 29. The M1 then provides a high capacity strategic link to the north and south.

The ES sets out the Planning Policy context for transport which includes relevant policies from the NPPF, Local Transport Policy, Policy W2 transport principles within the DDWLP and policies T2 and T3 of the North East Derbyshire Local Plan.

The baseline accessibility is assessed against HGV and private car movements as this is likely to be the principal form of transport for deliveries to and from the facility as well as employee and visitor movements. The principal access routes are via the A61 to the north and south, as well as the route from the M1 which takes in the A6175 Market Street.

In terms of HGV movements the assessment assumes that the proposed 80,000 tonnes of residual wood waste would arrive in 18 tonne loads in articulated HGV loads. The gasification process that produces a residual ash/char would be equivalent of 4,000 tonnes per year of ash export, to be transported on smaller 8 tonne loads.

It is anticipated that the majority of development traffic would originate from within the County. Staff and HGVs would access the Clay Cross ERF at access junctions connecting to Bridge Street. Development traffic is assumed to originate from three main areas:

- North of Clay Cross via the A61 Derby Road, Harris Way and Bridge Street.
- East of Clay Cross via the A6175 Market Street and Furnace Hill Road.
- South of Clay Cross via the A61 High Street, Harris Way and Bridge Street (staff) or the A61 High Street, the A6175 Market Street and Furnace Hill Road (HGVs).

In terms of access the proposed ERF would have two site access points; one would be prioritised for light vehicles (cars, vans) from staff and visitor movements and the other for HGV movements for deliveries to and from the site. Both entrances connect to Bridge Street. Visibility splays from these junctions have been determined and form part of the ES.

The ES also includes an assessment of traffic effects where an automated traffic count collected data over a one week period at three key locations:

- Along the A61 High Street, around 100m north of the junction with Eyre Street.
- Along Bridge Street, near to the Eastern corner of the application site.
- Along the A6175, approximately 40m east of the junction with Furnace Hill Road.

A classified turning count was also carried out during peak periods (07:00-10:00 and 16:00-19:00) on a neutral weekday outside of any school holiday period. This data was collected from the following locations:

- At the new four arm signalised junction between Bridge Street and Harris Way
- At the roundabout junction between the A61 and Harris Way, and
- At the Priority junction of Furnace Hill Road and the A6175 Market Street (07:45 -9:15 only)

The survey determined that all three roads support a small number of HGV's, with greater movements evident during the week than at weekends. HGV's represent around 2% of the total vehicle demand within the survey area.

The Highway Authority responded with the following comments:

"The Highway Authority has considered the traffic and transport information submitted in respect of the above proposal. It should be understood that, as a generality, the Highway Authority does not "agree" the content of a Transport Assessment or, inevitably, concur with every detail contained therein.

However, providing it is considered that the conclusion is sound then it is not regarded as reasonable or warranted to require the applicant to devote resources to amending detail which would not vary the conclusion.

In this case the Highway Authority does not consider that there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect. Certainly, there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 32 of the National Planning Policy Framework. In view of the above there are no highway related objections to the granting of planning permission, subject to conditions"

The issue of impact on highway capacity, and available data is an area that has caused concern for a number of local residents. The Parish Council for example, point to a "cumulative impact" on the A6175 given other local developments and the issue of M1 closures. Residents have also expressed concerns with regards to junctions with restricted views, inappropriate footpath provision in certain areas and speeding. There is also concern that the data on accidents within the ES does not take into account incidents that have occurred since 2013. These concerns were put to the Highway Authority for it to specifically consider. The following was received:

"Intention seems to be to highlight perceived shortcomings of the existing highway network and infrastructure. However, this is of course not necessarily the issue – there would need to be demonstrable and severe harm arising from the vehicle movements generated by the proposed use. As indicated in the earlier comments there have been previous permissions at the site that would, or could, generate vehicle movements but, further, even if the current proposal was considered to create all "new" movements, the resulting trips would not be substantial when judged against existing flows.

Road closures, whether planned or due to an event such as an accident or weather conditions, are by their very nature, uncommon and finite. The consequential need for diversion and redistribution of vehicle movements would not be regarded as a sustainable reason to refuse planning permission.

With regard to accident history it is acknowledged that there is a gap in the information, although it needs to be borne in mind that the application is nearly a year old. The applicant could be asked to update the information from

Derbyshire Constabulary although due to the time involved with assimilating the relevant data it is unlikely that police records would be complete beyond, say, April 2015 in any case. Again, it would need to be demonstrable that the generated traffic (noting the previous permissions) would itself result in severe harm. I am not convinced that there is merit in requiring the applicant to update the transport assessment”

I note the concerns of residents on this issue but concerns of traffic movement issues appear to be based around perception rather than evidence. On the advice of the Highway Authority the issue of accident and other statistics is not so significant so as to recommend refusal of the application. Any survey work carried out as part of the preparation of an ES is always likely to be a “snap shot in time” given the time it takes to do the work, submit and ultimately process a submission. Officers are therefore satisfied that the survey and evidence contained within the application are reasonable, given the view of the Highway Authority on these matters.

The Highway Authority has also confirmed that it does not see a requirement for a vehicle routing scheme in relation to this proposal.

Similarly the NEDDC EHO considers that based upon the size of the vehicles proposed and the number of vehicle movements indicated, it is likely that the number of vehicle movements could supply the annual throughput predicted. The EHO did not consider that there would be any reason to doubt the conclusions reached in this respect and only if considerable changes were found to take place would the impact likely to be significant.

Policy W8 of the Waste Local Plan states that the transport network near to the proposal should be adequate to accommodate generated traffic, not cause significant disturbance to the environment or communities and not be detrimental to road safety.

Appendix B, sub section f of the NPPW includes the suitability of the road network and the extent to which access would require reliance on local roads. NPPF, section 4, paragraph 32 outlines that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In conclusion, I am satisfied that the information provided in the ES provides appropriate coverage of the traffic implications of the proposed development. None of the issues as outlined in the policy context above are significant enough upon which to base a sustainable reason for refusal when taken alongside the comments of the Highways Authority.

Contamination, Geology and Water

The general condition of the site is poor and there is evidence of ground contamination from the historical uses of the site, as identified by the ES. The site has seen use as a spoil tip which by 1996 had increased across the eastern part of the site. Prior to that in the 1970's the site was recorded as a refuse tip and has also been noted as a scrap yard. In more recent years the site has seen use as a waste transfer station. Two forms of desk based assessments have been carried out:

- A development impact assessment discusses the potential impact of the proposed development on soils, and near surface geological deposits via erosion, disaggregation, compaction and pollution.
- A land quality assessment discusses the proposal to construct commercial buildings and introduce human receptors

The construction phase would require the creation of a development platform through minor cut and fill. The groundworks would require the movement of in-situ materials only and is not expected to require the import or export of any significant quantity of material. Given the anticipated presence of made ground across the application site it is considered unlikely that the development would require any excavation of the coal measures bedrock.

The ES confirms that prior to any construction activities at the application site, intrusive site investigations would be undertaken to confirm material properties and ground conditions. This is also a requirement of the Coal Authority in dealing with the mining legacy issues.

Appendix B, sub section b of the NPPW states that *"locations, and/or the environs of locations, that are liable to be affected by land instability, will not normally be suitable for waste management facilities"* Whilst the nature of the site given its historic use and the evidence of contamination and made ground might raise concerns about potential instability it is clear that such issues have been considered and can be covered by a suitably worded planning condition. The geology, groundwater and surface water regimes at the application site have been assessed with reference to information held by British Geological Survey, the EA and others, and by the consideration of site specific investigations and reports for the application site.

Groundwater is potentially present at relatively shallow depths within the made ground, however it is not considered likely that significant groundwater flow within these deposits would occur.

Rainwater onto the site primarily forms surface water run-off in a north easterly direction towards a minor water course and pond located to the north and north-east of the application site respectively. This pond is thought to be a hydraulic continuity with the underlying groundwater.

The principal environmental impacts which have been identified for the proposed development are associated with the potential impact of the development on surface water and groundwater quality. Two main sources of contamination have been identified; initially from the construction phase where the movement of made ground could potentially release in-situ contaminants, and subsequently from the release of oils and fuels during construction, operation or decommissioning of the site. It is noted that SuDS is recommended by the Flood Drainage Authority and is a matter that could be controlled by condition and support the sustainability credentials of the development.

Several consultees have raised concerns with regards to the contamination of the site and the risk that the development could potentially cause. Much of that concern relates to fears about “disturbing” contamination that has been present on the site for a number of years. Within the ES the applicant has referred to redistributing and re-profiling the made ground on site rather than any explicit reference to material removal and the import of non-contaminated soils. Residents have raised disquiet about this, including the Parish Council that points to concerns that rather than remediate, the development will simply redistribute historical contamination and by excavating and building it could potentially make contamination risk greater.

I share concerns that the ES is not explicit in terms of its commitment to do more to remove contamination from site and import a cleaner sub-base although I am mindful of the fact that removing contamination off site can simply divert the problem elsewhere. On balance it is preferable that the applicant identifies and deals with the issues of contamination at the site and this has been the advice from the EA. The EA suggest that the issue of contamination and land remediation can be dealt with via planning condition. The EA confirms that a scheme for the removal of contamination as well as a protocol should unexpected contamination be identified should be submitted and agreed in writing with the local planning authority.

I am satisfied that the issue of site contamination can be controlled by condition. The ultimate development of the site will help to clean up and regenerate an area of Clay Cross that has for years been beset by degradation and contamination issues. Given the technical advice of statutory consultees I would not therefore recommend refusal on grounds of land contamination.

DCC Flood Team has also confirmed that the surface water model outputs indicate that the proposed site is unlikely to be subject to surface water flooding during the critical storm duration in the 1 in 100 year return period event. When considering designing drainage systems for exceedance, the developer should consider rainfall events in excess of the 1 in 100 year return period to allow for extreme events.

In terms of surface and ground water, I am satisfied with the information contained within the ES and the mitigation measures as set out.

NEDDC EHO agrees with the applicant in acknowledging these limitations and accepts that conditions are imposed in order to allow the outstanding contamination issues to be addressed as well as further ground gas monitoring being undertaken in order to allow the risk to be fully assessed. The EHO accepts this and considers that it would be reasonable to condition the requirement to carry out a further ground gas investigation and to update the gas risk assessment accordingly.

Having considered the risk associated with dealing with the known contamination by way of conditions the EHO has decided that, on balance the proposed approach would be acceptable. For the purposes of consistency the EHO accepts the condition wording proposed by the EA in its letter ref: LT/2014/118907/01-L01 to allow contamination and ground gas risk to be assessed and remediated as necessary.

Policy W6, 4.16.11 of the Waste Local Plan sets out that development should not pollute aquifers, groundwater, surface water or other areas of water and should not reduce the quality of life of local communities.

Appendix B, subsection a of NPPW in terms of locational criteria sets out consideration should be given to the location of the facility in terms of potential issues of flooding and/or proximity to vulnerable surface and groundwater aquifers

Given the policy analysis above, I am satisfied with the recommendations for planning conditions set out by the EA and Coal Authority represent an adequate way of controlling potential negative impacts to surface and ground water sources from both the construction and operational phases of the proposed facility.

Ecology

The application and ES provides an Ecological Impact Assessment (EclA) in respect of the construction and operation phases of the proposed development. The purpose of the EclA as set out is to:

- Provide decision makers with information about the likely significant ecological effects associated with the proposed development (in particular the potential for impacts to occur on designated and undesignated habitats and protected species).
- For avoidance, mitigation and /or compensatory measures to be designated as appropriate.

Within the ES the role of ecologists involved in the assessment is set out:

- Provide an objective and transparent assessment of the ecological effects of a proposed development or activity;
- Facilitate objective and transparent determination of the consequences of the proposals in terms of national and local policies relevant to nature conservation and biodiversity; and
- Set out what steps will be taken to ensure that legal requirements relating to habitats and protected or controlled species are met.

I am satisfied that the assessment of ecology within the ES has been carried out in a clear and concise way taking into account the relevant guidance and legislation. The scope of the EcIA has been carried out taking into account the scoping opinion advice.

The ES acknowledges that the proposed development will lead to the loss of approximately 1.4ha of Open Mosaic Habitats (OMH's) but makes the case that this will be to an extent mitigated through the incorporation of wildlife habitats in the landscaping scheme. There would be 0.35ha OMH plus an additional 0.53 ha of value to invertebrates including ponds, woodland and shrubbery, total of 0.88ha.

In terms of consultation responses, the EA confirms that the Environmental Permit for the site, if issued, will include conditions designed to avoid, or where that is not possible to minimise, any effects of the activity on plant life and the environment. Regenerating the site and addressing the issues discussed earlier with regards to historic contamination and degradation is likely to benefit the local ecology in medium to longer term, especially when careful and considerate landscaping and habitat restoration are taken into account. It is noted that an invasive weed (Japanese Knotweed) is evident on the site. The control of such can be addressed via an appropriately worded planning condition.

A key part of the ecological assessment within the NPPF (Section 11, sub section 109) states that development should look to remediate and mitigate despoiled, degraded, derelict, contaminated and unusable land which this development would.

It is therefore considered that the overall loss of OMH is offset by the net gain in wildlife habitats to include ponds, woodland and shrubbery and removal of invasive species within the site and as such is in accordance with Policy W5 of the DDWLP.

Cultural Heritage

The ES sets out the potential impact of constructing and operating the proposed facility in terms of the impact on cultural heritage and the historic environment.

The study area outside of the application site identifies the following designated heritage assets:

- Roman Road at Old Tupton: two scheduled parts of Rykneld Street Roman Road (One of which lies beyond the study area).
- Egstow Hall: Grade II of Egstow Hall and associated barn and outbuildings.
- Church Hill, North Wingfield: Grade I listed Church of St Lawrence and associated Grade II structure, and the Grade II manor house.
- Clay Cross: Clay Cross Town Centre Conservation Area and Grade II Church of St Bartholomew, Grade II cemetery chapels, monument and milepost 830m south of Clay Cross centre.
- Clay Cross: 170m north-east of application site: Grade II North Portal to Clay Cross Railway tunnel.

There are no registered parks and gardens, registered battlefields, protected wreck sites or world heritage sites within the application study area. NEDDC has identified the impact on listed structures as one of its reasons as to why the proposed facility is not appropriate in this setting. It concludes that:

“The energy recovery facility proposes two stacks of 40m and 30m, which is considered to be an intrusive element not only on Bridge Street itself, but also when viewed from surrounding areas. Not only would the stacks break the skyline in many directions, an impact that would be magnified by a plume of smoke when the plant is in operation, but they would also impact negatively on the settings for St Bartholomew’s Church in Clay Cross (Grade 2 listed), and the Church of St Lawrence in North Wingfield (Grade 1 listed) and so fail to meet the statutory responsibility to preserve or enhance the setting of listed structures.”

The desirability of preserving the setting of a listed building is an objective which the Council, as local planning authority, is required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard in considering whether to grant planning permission for any development which affects a listed building or its setting. Even the slight level of harm, identified with respect to the settings in this case, conflicts to an extent with this preservation objective which Section 66 encompasses. Case law has clarified that to comply with duty under Section 66, this harm must be treated as a consideration of considerable importance and weight in the decision to be reached as to whether to grant planning permission on this application.

The ES acknowledges that for example the Grade II Church of St Bartholomew is of high heritage significance but goes on to conclude that the magnitude of impact at the principal view would be nil. For a building of the scale of this proposal with one 40m and one 30m stack and corresponding widths, an analysis of nil effect is considered unlikely. The building, and associated stacks, will be of a significant scale and whilst good design and mitigation screening can soften the impact it cannot wholly remove an impact altogether.

The comments from Conservation and Design colleagues are referred to below. They outline that within the study area the Church of St Lawrence is the most significant heritage asset as a Grade I Listed Building. Direct views of the proposed development will be possible from the church as it looks down on the site from the adjacent hillside. However, they consider that there are a number of mitigating factors which need to be taken into consideration. Views of the proposed development from the church are partly screened by existing mature trees within the grounds of the church yard. The proposed development will sit within an existing industrial belt to the eastern side of Clay Cross and so it is likely to be seen as part of this.

They consider that the visual impact of the proposed development could be mitigated with an appropriate choice of colour and through alterations to certain design aspects or features of the building. Many of these have been suggested as part of their response to the proposal. Although the chimney stacks are likely to be the most prominent feature, potentially having the greatest impact on the setting of the Church by impacting on the general skyline of Clay Cross, the visual impact of this can be mitigated to some extent with an appropriate choice of colour to make it appear as visually recessive as possible. Therefore, on balance they consider that the impact on the setting of the proposed development is likely to have a small adverse impact.

The Church of St Bartholomew is a Grade II Listed Building situated on the far western side of Clay Cross. The church is also located within the Clay Cross Conservation Area which is a designated heritage asset in its own right. Views of the principal volume of the proposed development are considered unlikely although it is possible that the top of the chimney stack could be visible from certain locations in both heritage assets. Again, the visibility of the chimney stack can be partly mitigated through an appropriate choice of colour. However, given the diverse mixed-use backdrop of Clay Cross, including residential, commercial and industrial uses, it is considered unlikely that the visibility of the top of the chimney stack is likely to have a significant negative impact on the setting of any of these designated or undesignated heritage assets.

The tunnel portals, which are Grade II Listed Buildings, have also been considered. As these are located in deep cuttings and surrounded by mature vegetation they are not visible from the proposed development site and it is considered unlikely that there will be any adverse impact on these heritage assets.

In a policy context Appendix B, subsection c and e of the NPPW states that considerations should be made that should be design led to produce acceptable development with regards to landscape character. This coincides with the views of Conservation and Design officers who point to good design as an important way of mitigating the overall visual impact.

The NPPF, section 12, paragraph 128, states that applicants should describe the significance of heritage assets and their importance as a way of understanding their potential impact. This has been carried out. Paragraph 129 of the NPPF describes how in terms of a proposal the local planning authority should also assess potential impact on heritage assets.

It is accepted that the proposal will change the landscape but the ES is comprehensive in its assessment that it will not adversely affect any cultural heritage assets. Clay Cross is undergoing significant change, not least the proposed redevelopment of the former Biwaters site which has the potential to have a significant impact on heritage assets than this proposal, given its very extensive scope and mixed use proposal. The District Council does not appear to have taken this fully into account in their analysis of cultural assets.

Overall, it is considered that the proposed development will not adversely impact to the setting of nearby listed buildings, structures and conservation area. It is considered that the proposed development complies with policy W5 of the DDWLP, Policy BE9 of the NEDDC Local Plan. I am therefore of the opinion that the proposed will not have an adverse impact on cultural heritage to recommend a refusal on this matter.

Cumulative Impact

The ES provides a chapter that examines the cumulative impacts of the proposed facility. The legal background for this assessment is provided drawing upon paragraph 5 of the NPPW:

“the cumulative effect of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential”.

The applicant concludes that the proposed facility is classed as “waste recovery” rather than “waste disposal”, however I am minded that when

assessing cumulative impact the description provided in NPPW is a sound one for waste uses generally, not just disposal.

The NPPF (paragraph 120) requires that *“to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.”*

The applicant identifies a number of baseline areas from which to assess cumulative impact:

- Land Use
- Transport
- Air Quality
- Noise
- Landscape and visual
- Water

Other waste facilities including a skip sorting facility are nearby. The proposed facility is not in close proximity to other waste treatment technologies of its kind and the site location does not have a significant number of similar technologies nearby that would lead to concern in terms of cumulative impact. The type of waste facility, as a modern ERF, located in a well-designed modern industrial building, is not considered to give rise to conflict with Policy W10 of the DDWLP.

I am satisfied that the criteria identified to assess cumulative impact is appropriate and that the applicant has adequately assessed the cumulative impact of the key areas outlined. It is therefore considered that the proposed development satisfies the requirements of Policy W10 of the DDWLP.

Socio Economic

The ES provides details of the potential social and economic impacts associated with the proposed development. It provides an overview of employment, leisure and business activity in the surrounding area and considers how the population, local employment base, social and community infrastructure may be affected by the proposal. This is an important overall test of acceptability, not least because many local residents as well as the District and Parish Councils have pointed to a perceived negative impact on the local economy and wider regeneration should the proposal come to fruition, however, no cogent evidence has been received to substantiate this claim.

In summary, the ES identifies the following:

- During the construction phase it is estimated that the development could provide employment opportunities for around 150-200 workers.
- Once operational the ERF would provide direct employment for around 30 staff on a shift basis.
- The facility would provide opportunities for ancillary employment through the requirement for a range of services such as haulage, engineering/maintenance, landscape gardening/maintenance, cleaning and catering.
- The regeneration of a disused and contaminated site.
- Generation of 12MW of electrical energy (anticipated to be 10.5MW for export to the national grid).
- Generation of 14MW of thermal energy (heat - hot water).
- The addition of a visitor and education centre within the proposal that could be used as a conference suite.

Officers are satisfied that the ES identifies a number of key areas where the proposed facility will have a clear economic advantage to the local area. In terms of the direct employment at both construction and operational stages, however the application does not make reference to an aspiration to prioritise local employment. It is likely that there would be some indirect employment opportunities from the development and employees and visitors etc would quite likely use the local services, however this would likely be the case no matter what the site was utilised for. If planning permission is forthcoming the applicant has been requested to commit to some local employees on a permanent basis and as apprentices. This would be a community benefit to be controlled via a legal agreement.

The generation of renewable energy would have a positive economic benefit but this is tempered somewhat by the lack of a firm commitment to the use of thermal generation from full CHP from the outset. Having said this it is a commercial reality that whilst there appear to be land issues apparent it is unfortunate that this aspect could be potentially a missed opportunity which would support the sustainable credentials of a major waste plant in an urban/town location. Whilst the District Council, Parish Council and members of the public are strongly of the opinion that an energy from waste plant will be detrimental to the regeneration of the area given its “fragile” economy the evidence to support this referred to by the Council Leader and Planning Policy and other Officers could be interpreted to be based on perception of such a waste to energy facility being a bad neighbour – a legacy of the often poorly managed waste industry. More detailed economic analysis and commentary is referred to below.

The EA recently accepted the permit application as being “duly made” in March 2016 and the some of the detail included the application also includes information regarding CHP deliverability.

DCC is guided by the final EA consultation response as to the need for the development to be full CHP at the outset or otherwise as CHP ready. This is considered to be a material planning consideration on the overall acceptability of the sustainability of the development in this urban, albeit employment land, location.

Given its importance in the overall sustainability planning balance credentials of the proposed development the EA acknowledges that information submitted in support of the permit application confirms the figures for potential heat available for export, and that the plant will be ‘CHP-ready’ as a minimum requirement. It acknowledges that CHP would be an economically viable option, albeit dependent upon securing suitable customer(s) for the heat. During its determination of the permit application, it is likely to require the applicant to carry out a more detailed CBA analysis to confirm economic viability, and is likely to add an ‘Improvement Condition’ to the permit, requiring that the permit holder does all that it can to implement the CHP proposal.

It recognises that a permit condition cannot deliver a scheme without the co-operation of suitable customers etc, and it will require that the permit holder actively pursues CHP opportunities, and is able to demonstrate that action. The EA states it would periodically review progress against that condition. It also acknowledges that the application states that the heat capacity for export (in the form of hot water not steam) would be 8MW to 14MW, with an expected annual export of 64,000 MWhr. This would be a significant capability, and certainly sufficient for a considerable contribution to a domestic heating network whilst acknowledging such a network would have other dependencies, such as the need for standby boiler(s) in times of plant outage.

Should planning permission be granted, it is disappointing that the development cannot be full CHP from the outset. It is, however, accepted that the commercial realities that parties are willing to take heat available for export from the site is necessary. It is considered that the nearby Biwaters site is a very suitable development given its location and mixed use nature of planning uses and its absence in being delivered in the short term that other nearby commercial/residential opportunities may come to fruition. Drivers to encourage the heat offtake to be realised include an appropriately worded planning condition and a requirement of both a legal agreement and the environmental permit to actively pursue heat off take customers with demonstrable evidence to the satisfaction of the waste planning authority and the EA.

Whilst there is no full assessment available of the carbon footprint of gasification plants with the type of material they use compared with other forms of energy production, it is not possible to make any firm prediction about the level of contribution the plant could make towards other objectives, such as carbon capture or a reduction in the use of facilities that contribute to global warming.

Whilst there are clearly options further up the Waste Management Hierarchy for the management of wood waste, this facility will handle a sub-stream that is currently difficult to process or re-use.

Other socio economic benefits include those the applicant is willing to offer and are referred to in the community benefits/draft Heads of Terms below. These go some way to addressing the sustainability weakness of not being CHP ready at the outset.

Economic Impact

The NPPF requires significant weight be given to the beneficial economic impacts of new development in planning decisions. There is also an unambiguous “economic” dimension in the evaluation of the extent to which a proposal constitutes sustainable development (along with social and environmental considerations).

New development can have a beneficial economic impact by contributing to building a strong, responsive and competitive economy. New business investment on a currently vacant or underused site clearly can stimulate the local economy by direct, indirect and induced employment and supply chain growth.

However, to place weight on the economic benefits of a proposal it should be evident that the overall economic impacts of the scheme are likely to be net positive. In other words, evidence that a scheme will create “X” jobs on site is not in itself a complete argument that the scheme will cause a net overall economic benefit to the local (or wider) economy.

The proposal under consideration would demonstrate generic and place-specific benefits (by virtue of economic activity, employment and supply chain multipliers). In addition, as an efficient resource management proposal, it has the potential to have economic (and environmental) resilience benefits; by provision of increased non-landfill based waste management opportunities, generation of electricity (to displace energy imports) and the provision of a controlled-cost local heat network.

A proposal providing direct employment can also have an overall net negative socio-economic effect on a local area if it also results in a particularly significant reduction or displacement of economic activity in the area which is directly attributable to the effects of the development in question. In this case

there are also clearly contradicting views about the overall balance of positive and negative factors expressed by the district council and adjoining land owners.

To address this question there needs to be an examination of whether the concerns addressed by the third parties are justifiable and evidenced. As a general observation, during the consideration of waste facility applications by the County Council and other planning authorities, it is sometimes the case that objections are presented on the basis of net harm from negative economic impact. These arguments are normally justified by the view that the proposal will undermine inward investment because of image or perceived impact on amenity, health or the environment. These arguments share a common driver, that a waste management facility will somehow be (to use a historic term) a “bad neighbour” to nearby uses of land or at least perceived to be so.

In the case of this proposal, it can be seen that concerns in this regard have been strongly expressed in recent written representations in objection from the district council and the adjoining developer. These representations express their belief that the proposal poses a high risk of undermining the deliverability of the regeneration aspirations for Clay Cross. This is refuted by the applicant.

Officers do not dispute that (1) Clay Cross has a rationally justified emphasis for regeneration, and transformational improvements are required to realise this emphasis, (2) Clay Cross currently still represents a difficult inward investment environment in terms of developer interest and viability, and, (3) Clay Cross has a heavy industrial past which is a facet of both issues (1) and (2). This overarching view of issues is supported by both the DCC Policy and Monitoring function and its Regeneration Service.

The opposition to the proposal, and the evidence provided to support this view therefore needs to be weighed against the presumption that a waste management use is acceptable in principle on employment land sites of this type, the fall back (or potential) use of the site and the economic benefits identified above. Given the urgent and acute need to regenerate Clay Cross, it is justifiable this question should be given material weight in this decision.

When considering this issue of economic impact, the DCC Waste Plan includes Policy W9 and W10 as relevant policies;

Policy W9: Protection of other interests states that:

“Waste development will be permitted only if the development would not affect other land uses to the extent that it would materially impede or endanger the social or economic activities or interests of the community”

Policy W10: Cumulative Impact, establishes the criteria to assess whether the effect of the development in combination with other development would have an unacceptable level of cumulative impact on the local community and environment of those areas.

However, from a technical perspective it is concluded that the weight of evidence provided to support the assertion of negative economic impact is not so compelling in itself so as to justify a recommendation of refusal. It is accepted, however, that in the context of this application this evaluation is more finely balanced than is typical for a consideration of this issue. It is not considered that additional information in this regard would aid the evaluation, as the alleged harm is rooted in perception issues rather than wholly quantifiable impacts.

Community Benefits/106 agreement

The NPPF states that *“In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.”* The development could be considered more sustainable if the benefits associated with the development would promote sustainable outcomes and offer sustainable community benefit. Full sustainability of the development is weakened by the inability, at this stage, for the development to offer from the outset full CHP. It is recognised that, given the circumstances, there are reasons for this which have been considered above.

The NPPF at paragraphs 203 and 204 state that *“local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations....”* and *“Planning obligations should only be sought where they meet all of the following tests:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development.”*

It is considered that the following satisfy the above NPPF tests. One area that supports the sustainability case is the reference by the applicant in its publicity material of the setting up of up of a ‘Green Infrastructure Fund’ for Clay Cross which will provide grants for renewable / sustainable projects and sustainable community energy in the local area.

Sustainable Community Energy

The proposed development promotes sustainable waste resource recovery and energy production as supported by national and local policies. The sustainable use of energy by households is strongly supported by the

government through financial incentives. The applicant considers that the delivery of heat and electricity, directly to households / community buildings in the residential communities surrounding the site, or businesses was never identified as a realistic option at this stage.

For such households, as defined within the development boundary of Clay Cross (area to be defined on a Plan attached to a legal agreement) and therefore immediately related to the application site, measures to reduce the energy loss/use at dwellings (supported financially or otherwise by the applicant of the proposed development) provides a community benefit to those in need, is directly related to the development and has wider social benefits in line with Government objectives and supports a key objective of the Housing and Economic Development Strategy 2015-2020.

Key Objective 7 seeks to enable people to live in and sustain healthy homes. These objectives are supported by cross cutting themes and underlying principles which have a significant impact on the overall delivery of the Key Objectives. One such cross cutting theme refers to “Tackling Health Inequalities and the Promotion of Good Health and Well Being” and the work of the Derbyshire Housing and Health Group in securing affordable warmth initiatives to combat fuel poverty.

The Section 106 agreement Heads of Terms could include a financial contribution, based on a formula relating to (electrical energy sent to grid or) tonnage of waste arriving at the Site, for example, for initiatives that reduce carbon emissions and energy consumption for domestic properties and community facilities, the generation and use of sustainable energy for community benefit, the promotion and delivery of education and training into the community of Clay Cross to support the objectives of reducing energy usage, sustainable energy generation plus increasing local environmental awareness. It could be administered via an asset locked body and specifically the applicant/developer has offered to make a financial contribution (relating to £1 per tonne of waste wood x total capacity consented), towards a programme to secure sustainable energy community benefit for the community of Clay Cross to a total contribution of £80,000. The delivery mechanism would be agreed with DCC prior to the issuing of any permission as part of the terms of a legal agreement.

Below is a summary, as put forward by the applicant, of Heads of Terms it would find acceptable in principle for obligations under a Section 106 agreement between DCC, Clay Cross Biomass Ltd plus (other), NEDDC (as landowner). These are not finalised at this stage and should planning permission be granted they would need to be finalised before planning permission can be issued by DCC.

These headings for use as part of any Heads of Terms have had regard to the aspirations and objectives of the NEDDC key regeneration strategies and documents identified by the District authority namely the Housing and Economic Development Strategy 2015-2020, the Clay Cross Regeneration Framework (2013), Successful Places: a Guide to Housing Layout and Design (2013) and relevant Development Plan Policies

1) Employment Opportunities

Creation of an apprenticeship scheme/other employment to provide practical vocational training. Details to be agreed with applicant.

The regeneration documents refer to Clay Cross having higher than average unemployment. This head of term seeks to support unemployment initiatives at the site or other location.

2) Sustainable Community Energy

A single (not annual) financial contribution of £80,000 (relating to £1 per tonne of waste wood x total capacity consented) to be paid on first operation of the power plant and export of power to the grid network, to an asset locked body, or similar, for the benefit of the community of Clay Cross (within the development boundary of Clay Cross, as defined on an agreed plan area). The fund should be expended within 5 years. Any funds unused at the end of this period will be returned to the Applicants unless otherwise agreed by parties to the agreement. Detailed mechanism and timescale of delivery of funding and implementation of the contribution to be agreed prior to the issue of the planning permission as part of the terms of a legal agreement. It is noted that the area has a high incidence of Fuel Poverty residents. Such a fund could contribute to improving the energy efficiency of residents in the area.

3) Rights of Way

Financial contribution of £15,000 to be paid on commencement of construction on site (not enabling works) to DCC or NEDDC for the improvement and enhancement of Footpath 28 together with the provision of “interpretation boards” along the route or within its vicinity . The contribution should be expended for the proposed purpose within 5 years of first export of electricity to the grid. Any funds unused at the end of this period will be returned to the Applicants unless otherwise agreed.

4) Surplus Heat

The plant and location are very well suited to the supply of heat to existing commercial and residential occupiers and residential and commercial

developments proposed including the Biwaters site. Sustainable heat use not taken up is considered to undermine the sustainability credentials of the development in this location.

The applicant will: set up and administer a committee comprising representatives of the Site Operator DCC, NEDDC, and engaging with occupiers of development sites owners (with capacity for the committee to co-opt others to attend) which (unless otherwise agreed by the committee) shall meet (*quarterly*) , for the purpose of making recommendations for actions to encourage, subject to commercial and technical viability, the efficient and environmentally sustainable use of thermal energy produced by the development through suitable heat offtakes from the facility.

5) Public Art

Public Art features in the regeneration documents referred to by the District Council for Clay Cross. Provision of Public Art within Clay Cross community through engagement with local community via education (*possibly school competition*), liaison committee, local council or other relevant community body.

Public art provision as identified through the liaison committee (or other body to be agreed), to consider using art through the medium of wood or other wood reference to the fuel supply by the applicant (as a reference to the site and industrial heritage of Clay Cross) at the site as part of the landscaping proposals and within the wider community.

Expenditure of the public art shall be limited to £5,000, and to be installed on completion of construction on the site (not enabling works) or otherwise agreed

6) Liaison Committee

Setting up and administering a local liaison committee from commencement of development comprising representatives of the developer, community and the Councils - terms of reference, function and composition to be agreed.

Conclusion

Officers are of the opinion that waste that is created can be a valuable resource to be reused or recycled. In this case it is residual wood waste which rather than being sent to landfill can be used to generate energy, both thermal and electrical, with a future opportunity for use in a CHP scheme serving commercial and residential buildings nearby raising the sustainable credentials of such proposed development as referred to by the NPPF and the

Supplementary Planning Document referred as Interim Planning Guidance for NEDDC “Successful Places – A Guide to Sustainability (2013).

It is recognised that there are concerns about energy from waste plants and reassurance is required that such plants are safe. Such a facility requires both planning permission and an environmental permit to be in place before such a facility can be operational.

The consultees PHE and the EA have not objected to the proposed development. PHE concludes that it has no significant concerns regarding risk to health of the local population from any environmental emissions from the development. The EA has no objection subject to conditions relating to land contamination investigation and remediation actions, groundwater and drainage and advisory notes relating to flood, river pollution, historic landfill, and groundwater.

From a technical economic perspective it is concluded that the weight of evidence provided in the representations submitted by the Leader of the District Council and its officers support the assertion of negative economic impact is not so compelling in itself, on balance, so as to justify a recommendation of refusal. It is accepted, however, that in the context of this application this evaluation is more finely balanced than is typical for a consideration of this issue. It is not considered that additional information in this regard would aid the evaluation, as the alleged harm is rooted in perception issues rather than wholly quantifiable impacts.

The ERF development allows for residual waste to be diverted from landfill and represents an opportunity for heat a significant heat off take to taken up by nearby commercial and residential occupiers/future development. Officers consider this to be a positive feature of a high efficiency energy from waste plant and would contribute to a more sustainable development of the built form yet to be realised. This is seen as a positive economic benefit in line with the regeneration of Clay Cross and supporting documents referred to by the District Council and its officers.

The application site has a history of waste uses. The design of the structure proposed would be of a modern industrial style and appearance with no obvious conflict with the relevant requirements of the local plan policies relating to the form of new development and redevelopment. The buildings and proposed stack and associated plume, on balance, should not have an unduly negative overall impact on the landscape and visual character of the area, there would be no significant adverse ecological impacts arising from the proposed development and any issues relating to the disturbance of the ground from construction could be addressed by appropriate conditions.

I have examined the traffic impacts of the proposal but I do not consider that the number of vehicle movements involved provide any substantive grounds for refusal.

The development in the form proposed, however, would have some adverse environmental impacts. The most obvious and direct adverse impact from the construction of the proposed development; but these would be temporary and could be reduced by conditions to control the dust and noise emissions.

The potential for impacts from gasification plant emissions on human health has been considered in the context of the advice received from the EA, the main regulator of the processes to be operated in the plant by the Environmental Permit.

Associated with this topic, there is perception of a risk to health, which should also be taken into account. However, officers do not consider that a refusal to the proposal on such grounds can be sustained by this Authority.

The need to provide facilities to manage the waste arisings in Derbyshire is very evident but the actual provision has to be done in ways that respect the Waste Hierarchy whilst affording sufficient protection against adverse impacts for the people and environment of the area. I am satisfied that there is a need for the proposed development and on that basis in conclusion, I consider that the application site is appropriate for the type of activity proposed and that it accords with the provisions of the development plan.

In conclusion, I consider that the application site is appropriate for the type of activity proposed and that it accords with the provisions of the development plan(s). I am satisfied that there is currently a need for the proposed development. I am also satisfied that it can be operated in an environmentally acceptable manner and not harm the regeneration of Clay Cross but potentially support it and is recommended for approval.

(3) **Financial Considerations** The correct fee of £25,949 has been received.

(4) **Legal Considerations** This is an application submitted under Part III of the Town and Country Planning Act 1990 which falls to this Authority to determine as Waste Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendations.

- (5) **Environmental and Health Considerations** As indicated in the report.

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, equality and diversity, human resources, property and transport considerations

- (6) **Background Papers** File No. 4.2362.11
Application by SLR Consulting Ltd on behalf of Clay Cross Biomass Limited including correspondence (including Regulation 22) on behalf of or by the applicant.

Consultation responses and correspondence from EA, Coal Authority, Public Health England, North East Derbyshire District Council, Clay Cross Parish Council, DCC (Highways, Conservation and Design, Flood Team, Rights of Way) and representations/petition from the public.

- (7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that:

7.1 That the Committee resolves to authorise the **grant** of planning permission for the development proposed in the above application (planning ref CW4/1114/98) subject to (A) conditions substantially in accordance with the conditions accompanying this report and (B) the prior completion of an agreement or Unilateral Deed containing obligations under S106 of the Town and Country Planning Act 1990 (as amended) which shall make provision to the satisfaction of the Strategic Director of Economy Transport and Communities and the Director of Legal Services substantially in accordance with the draft Heads of Terms referred to in this report.

Conditions

Schedule of Conditions

Time Limit

- 1) The development shall be commenced within three years of the date of this decision notice.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

Notification of Commencement

- 2) The operator shall notify the Waste Planning Authority of the dates of:
 - the commencement of construction;
 - the date when the development will become operational;

at least 5 working days in advance of those dates.

Reason: To confirm the date of commencement and monitor compliance with Section 91 of the Town and Country Planning Act 1990 (as amended)

Approved Development

- 3) The development shall be carried out in full compliance with the details contained in the Planning Application and accompanying Environmental Statement and supporting documents, submitted by SLR Consulting Limited on behalf of Clay Cross Biomass Limited on 4 November 2014 and received as valid by the Waste Planning Authority on 10 December 2014, and other relevant information received including that relating to Regulation 22, except insofar as may otherwise be required under the terms of the conditions attached to this Decision Notice.

For ease of reference, the plans and supporting documents accompanying the planning application comprise the following:

CC 3/1: Landscape Plan
DWG No 1: Existing Site Plan
DWG No 2: Proposed Site Plan/Roof Plan
DWG No 3: Proposed Ground Floor Plan
DWG No 4: Proposed Elevations
DWG No 5: Proposed Elevations
DWG No 6: Typical Sections
DWG No 7: Part Proposed Ground Floor Plan
DWG No 8: Part Proposed First Floor Plan
DWG No 9: Proposed Roof Plan
Planning Statement
Environmental Statement (in two parts including main text and technical appendices)
Non-Technical Summary
Statement of Community Involvement

Reason: To clarify that the development must be carried out in full conformity with the details submitted including the mitigation measures proposed in the planning application, supporting documents and Environmental Statement

Duration

- 4) The use under this permission shall cease not later than the expiration of 25 years from the date of commencement of commercial grid connection at the development. The date of the commencement of commercial grid connection shall be notified to the Waste Planning Authority within seven days of the commencement.

Reason: To avoid the use of the facility to be developed under this permission continuing beyond 25 years duration without a prior assessment taking place of the case for the continuation of use.

Site Investigation Works

5) No development shall commence before:

- The Waste Planning Authority has approved in writing a scheme of intrusive site investigations which has been submitted to it, to include locating and assessing the mine entry (as referred to by the Coal Authority in letter dated 2 October 2015 and any other potential ground/surface hazard;
- The approved scheme of intrusive site investigations has been undertaken;
- a report of findings arising from the intrusive site investigations has been submitted to the Waste Planning Authority with a scheme for its written approval of remedial works for the mine entry, and any foundation designs which may be required for building over the mine entry or other surface/ground hazard identified;
- Implementation of the remedial works as approved which are not comprised in the development

Reason: To fully identify and safeguard the mine shaft within the site boundary and other ground/surface hazard.

Cross Sections

6) No development shall commence before both existing and proposed longitudinal and transverse site cross sections have been submitted and approved in writing by the Waste Planning Authority. The sections shall indicate the ground level and heights of adjoining ground level adjacent to the site boundaries and heights of existing buildings.

Reason: To establish the extent of cut and fill required and to monitor and control the height of the building(s) in relation to surrounding land, buildings and features in the interests of visual amenity in the urban setting.

Contaminated Land Remediation

7) No development shall commence before:

A) a scheme for remediation of contaminated land at the site, has been submitted to the Waste Planning Authority, which includes the following components:

- i) A report of the results of a site investigation (taking onto account preliminary risk assessment and conceptual modelling of the site as

provided within the Environmental Statement) to provide clarification and detailed assessment of the risks to each of the receptors that could be affected by contaminants of the site, including those potential receptors that are off site (including groundwater)

- ii) An options appraisal for remediation and risk reduction with full details of the measures proposed to reduce the risks detailed in the assessment under i) above to negligible levels and to remediate any impacts on receptors through contamination from the site, and how they are proposed to be undertaken.
 - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the measures set out in the appraisal in ii) above are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- B) a scheme corresponding to the scheme referred to in A has been approved in writing by the Waste Planning Authority.
- C) the remediation works as required by the approved scheme which are not comprised in the development have been implemented

Reason: The Environmental Statement acknowledges that the site has contamination present and the level, type and extent of this contamination needs to be fully determined prior to commencement. National Planning Policy Framework (NPPF) Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, Paragraph 121).

- 8) The development shall not be brought into beneficial use until:
- i) a verification report, demonstrating completion of measures set out in the approved remediation scheme and the effectiveness of the measures, has been submitted to and approved in writing by the Waste Planning Authority. The report shall include results of sampling and monitoring carried out on which the report's conclusions are based; and
 - ii) a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for

contingency action during the life of the approved development has been submitted to and approved in writing by the Waste Planning Authority.

The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that any measures required as an outcome of the site investigation and risk assessment are completed to a satisfactory standard. National Planning Policy Framework (NPPF) Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, Paragraph 121).

Unexpected Contamination

- 9) In the event that unexpected land contamination is found at the site during construction works, then no further development shall be carried out on that part of the site until the developer has submitted to and obtained written approval from the Waste Planning Authority for a method statement to deal with the unexpected contamination or material. This method statement shall set out in detail how this unexpected contamination or material is to be dealt with including a scheme of remedial measures and timescales for remediation. Thereafter the construction works shall proceed fully in accordance with the approved method statement.

Reason: To ensure that any unforeseen contamination on the site is handled and dealt with in an agreed manner to protect the surrounding environment.

Surface Water and Drainage

- 10) Prior to commencement of development (or other such date or stage in development as may be agreed in writing with the Waste Planning Authority) details of the implementation, maintenance and management of the site sustainable urban drainage system (SuDS) have been submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the SuDS system.

The SuDS surface water drainage shall be designed in line with the non-statutory technical standards for SuDS (March 2015) as far as reasonably practicable. Specifically, this includes restricting the peak runoff of surface water from the development according to S2 and S3 as detailed in the Sustainable Drainage Systems: Non-statutory technical standards for sustainable drainage systems (March 2015) guidance. In addition, the surface water drainage system should be designed to accommodate surface water in order to restrict flood risk within the development to comply with S7, S8 and S9 of the guidance as detailed above.

The SuDS system shall be fully maintained by the applicant and/or operator of the energy resource facility.

Reason: To manage surface water flood risk, minimise surface water flooding and in the interests of sustainable drainage implementation, management and maintenance.

Finished Materials

- 11) Within six months of the commencement of the development a detailed scheme for the external finish of the main building and chimney stacks shall be submitted for approval in writing by the Waste Planning Authority.

Reason: To secure the acceptability of the visual impact of the development.

Ecology

- 12) Prior to commencement of development a scheme shall be submitted and approved in writing by the waste planning authority, to minimise and mitigate potential impacts on ecological interest during construction and operation of the plant in accordance with the actions and enhancements contained within chapter 11 of the Environmental Statement. During construction and operation of the plant the scheme as approved shall be fully implemented.

Reason: In the interests of habitat/species protection and enhancement which may be adversely affected if not agreed with the Waste Planning Authority prior to commencement of development.

Dust and Odour

- 13) No development shall commence before a scheme has been submitted and approved in writing by the Waste Planning Authority, to minimise and mitigate the impacts of dust and odour on local air quality from construction operations during the construction of the development and during operation of the development. The requirements of the scheme

under this condition as approved by the Waste Planning Authority shall be fully implemented.

Reason: To ensure that dust and odour during the construction phase and operation of development is properly managed so as to minimise the impact on potential local receptors.

Noise and Vibration Management Plan

14) (a) Sound associated with the construction of the development hereby approved shall not exceed 70dB LAeq,1hr as measured or calculated to a position representing the centre of any domestic garden of a dwelling identified in Section 8 of the Environmental Statement.

(b) The development hereby approved shall not be brought into use unless and until an assessment of sound emanating from the site has been undertaken and a scheme specifying the provisions to be made for the control of sound has been submitted to and approved in writing by the Waste Planning Authority. The assessment shall demonstrate that the rating level of the sound, corrected for acoustic features, measured at or calculated to a position representing any residential façade which may suffer a loss of aural amenity from sound associated with the development, is no greater than 37 decibels. The scheme, as approved, shall be implemented in full and shall be retained thereafter.

(c) Prior to commencement of development a scheme shall be submitted to the waste planning authority for its approval in writing prior to commencement of development, detailing the following:

- Actions that will be undertaken to measure and monitor whatever construction related noise and vibration from the development is received at the dwellings in the noise sensitive locations which were used for the noise impact assessment within section 8 of the Environmental Statement as well as and including those properties at (a) and (b) above
- Actions that will be taken to reduce noise levels to below 70 dB Leq , 1 hour as measured or calculated to a position representing the centre of any domestic garden of a dwelling identified in Section 8 of the Environmental Statement (and any closer properties to the site boundary to be agreed in writing by the waste planning authority including those in (a) and (b) above) in the event of any construction related noise and vibration levels being measured or calculated to be at or above 70 dB Leq , 1 hour as so measured or calculated. Actions that will be taken to respond to construction related noise and vibration complaints

The requirements of the scheme under this condition as approved by the Waste Planning Authority shall be implemented.

The references in this condition to rating level and background sound level have the same meaning as those defined in BS4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: To ensure that noise and vibration from construction (and operation) of the facility is properly managed so as to avoid excessive noise and vibration during construction (and operation) and minimise their impacts on occupiers of nearby properties in the interests of aural amenity of nearby dwellings.

Lighting

15) (a) No illumination of any construction work under the development shall occur before a scheme has been submitted and approved in writing by the Waste Planning Authority, for lighting during the construction phase. The scheme shall include the following details:

- The position, height and type of all lighting
- The intensity of lighting and the spread of light (Lux Plans)
- The measures proposed to minimise the impact of lighting on the environment generally, with particular focus on houses and businesses within close proximity of the facility, as identified in section 7 of the Environmental Statement

(b) Following construction, no external lighting shall be installed or operated except in accordance with a scheme having regard to the Guidance Notes for the Reduction of Obtrusive Light GN01: 2011 produced by the Institute of Lighting Professionals that shall have been submitted to and approved in writing by the Waste Planning Authority.

Reason: In the interests of visual amenity and light pollution and to avoid any light pollution during construction and operation of the facility.

Temporary Site Fencing

16) No development shall commence before a scheme has been submitted and approved in writing by the Waste Planning Authority, setting out the arrangements for securing the site boundary and any spaces within the site that require isolation during works including specifying the types, height and method of installation of site fencing throughout the construction phase.

Reason: To ensure that the site is properly secured and minimise any visual impact to nearby receptors.

Weed Control

- 17) No development shall commence before a scheme has been submitted and approved in writing by the Waste Planning Authority, to manage any invasive plant species or notifiable species of weed that are found on the site during the construction/landscaping phase. The scheme shall include the management of the Japanese knotweed and any other notifiable and /or invasive non-native plant species found on the site during the operation of the development.

Reason: To ensure that any invasive plant species or notifiable species of weed found are properly handled and that dispersion is avoided.

Noise Monitoring and Mitigation During Facility Construction

- 18) In the event of the Waste Planning Authority notifying the operator that it has grounds for concern that any exceedance of construction phase noise levels from the development hereby permitted as received at the dwellings in the noise sensitive locations which were used for the noise impact assessment within section 8 of the Environmental Statement (and any other properties identified in condition 14) above 70 dB Leq , 1 hour (as measured or calculated to a position representing the centre of any domestic garden of such a dwelling or other property in condition 14) has occurred, the operator shall undertake a noise survey within 2 weeks of a written request by the Waste Planning Authority for such a survey to be undertaken. The noise survey shall be undertaken in accordance with any appropriate noise standard that may be specified in the notification (or if no standard is so specified, in accordance with the British Standards most relevant to investigation of those grounds for concern)

The results of the noise survey will be provided to the Waste Planning Authority within 1 week of the survey being undertaken.

In the event that the results of the noise survey confirm that any such exceedance of construction phase noise emissions levels has occurred the operator shall also submit, for written approval, to the Waste Planning Authority, within 2 weeks of the survey being undertaken a scheme of measures to be implemented to avoid further exceedances.

Any scheme submitted under this condition which is approved by the Waste Planning Authority shall be fully implemented as approved

Reason: To safeguard the amenity of local residents and businesses.

Decommissioning

- 19) The operator shall inform the Waste Planning Authority in writing within 30 days of final cessation of operation of the development hereby permitted that all operations have ceased. Thereafter, the site shall be restored within a period of 18 months in accordance with a scheme to be

submitted for the written approval of the Waste Planning Authority not less than 6 months prior to the final cessation of operation of the development hereby permitted. The scheme shall include the removal of all buildings, chimney stack, associated plant, machinery, waste and processed materials from the site.

Reason: To secure successful restoration of the site.

Soil Management

- 20) No development hereby permitted shall commence until a soil management plan covering all the areas of proposed soft landscaping has been submitted to and approved in writing by the Waste Planning Authority. The soil management plan shall include details of the soil material to be used, including their source, temporary stockpiling, depth of application and suitability as a growing medium. The soil management plan shall be implemented in accordance with the approved details.

Reason: To ensure that soil imported to the site is of good quality and is kept and used in accordance with the landscaping plan.

Green Roof System

- 21) Prior to the development being brought into beneficial use a scheme for the laying and maintenance of the Green Roof System as identified on drawing number SCH512, No 5 – Revision A will be submitted to and approved in writing by the Waste Planning Authority. This scheme will include actions that will be taken to replace the vegetation should that become necessary.

Reason: To ensure that the green roof is kept and maintained in a sound condition so as not to undermine the appearance of the facility.

Vegetation Clearing

- 22) No felling or clearing of vegetation shall be carried out in the period between 1 April and 31 August unless approved in writing by the Waste Planning Authority.

Reason: To protect nesting birds.

Ecology

- 23) Prior to the felling of any trees or clearance of vegetation:

(i) Ecological studies, to update those which were carried out for the Environment Statement, should be carried out in accordance with a method statement which shall have been approved by the Waste Planning Authority.

(ii) The results of those studies shall be submitted to the Waste Planning Authority and, in the event that any or points of ecological interest which were not identified under the Environment Statement are related by the studies, a scheme of programmed mitigation measures shall be submitted to the Waste Planning Authority for its written approval. The mitigation measures shall be implemented as approved.

- 24) The development shall not be commenced in the absence of a survey of the application site, to establish the presence or otherwise, of any protected species having been carried out by an appropriately qualified ecologist within the previous 365 days, and the findings of that survey having been submitted to the Waste Planning Authority no later than one month after the completion of the survey.

Should the survey reveal actual or likely presence of one or more protected species, a scheme of measures to mitigate and/or compensate for the impact of the development upon each identified protected species shall be also be submitted to the Waste Planning Authority when the findings of the survey are submitted to it, for its approval in writing prior to the commencement of the development. The development shall not be commenced until any measures under the scheme as approved for pre-development mitigation/ compensation have been implemented. From the commencement of the development all other mitigation / compensation measures under the scheme as approved shall be duly implemented

Reason: To provide protection to legally protected species and to ensure that the ecology of the site is protected from the effects of the development.

Construction

- 25) Throughout all undertaking of demolition and construction works under the development:

i) No construction or demolition works, movement of traffic, or deliveries to and from the premises, shall take place other than between 0700 hours and 1900 hours Mondays to Fridays, and 0700 hours to 1300 hours on Saturdays, and at no time on Sundays or bank holidays.

ii) No piling, blasting, dynamic compaction, or use of vibrating rollers, shall occur on the site unless a scheme has been submitted to and approved in writing by the Waste Planning Authority, detailing the provisions to be made for the control of associated noise and vibration, so as to comply with guidance in British Standard BS5228 Noise and Vibration, and Control on Construction and Open Sites. All such activities shall take place only in accordance with the approved scheme.

iii) All construction (and any remediation) activities shall comply with the guidance in British Standard BS5228 Noise and Vibration, and Control on Construction and Open Sites. Efficient silencers shall be fitted to, used and maintained in accordance with the manufacturers' instructions on all vehicles, plant, and machinery to be used on the site. Except for the purposes of maintenance, no machinery shall be operated with the covers open or removed.

iv) At such times as the prevention of dust nuisance is not possible, the movement of vehicles, soils, or dusty materials shall temporarily cease until such times as the weather conditions improve so as to enable the recurrence of dust nuisance to be prevented.

v) All vehicles entering or leaving the site and carrying materials likely to generate dust or deposit mud on the highway shall be adequately sheeted.

vi) No vehicle shall leave the site unless in a clean condition, such that it does not deposit dust or mud on the highway. Any dust or mud deposited shall be removed daily.

vii) No waste arising from demolition or construction activities shall be disposed of by burning on site.

Reason: To safeguard the amenity of local residents, adjacent properties and land users.

Highways

- 26) i) No development shall be commenced before a scheme with a detailed design for securing of satisfactory inter-visibility and impermeable surfacing for movements of vehicles between the highway and the site during construction via the existing vehicular entrance, or temporary vehicle entrance, from the highway into the site has been submitted to and approved in writing by the Waste Planning Authority, and all requirements of the scheme as approved which are designed to be implemented in advance of the construction have been implemented. All other requirements of the scheme shall be implemented throughout the construction period.

The location of all vehicular movements between the highway and the site for construction purposes shall be limited to the location of the existing vehicular entrance from the highway into the site.

- ii) No development (other than such as may be required for due implementation of elements of a scheme approved in accordance with (i) above) shall take place before space has been provided within the site

for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Waste Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

iii) Throughout the period of construction vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

iv) The development shall not be brought into beneficial use until the vehicle access(es), including associated visibility sightlines, have been constructed in accordance with detailed designs first submitted to and approved by the Planning Authority. Thereafter the accesses shall be retained accordingly and the land within the visibility sightlines retained free of obstructions exceeding 600mm above ground level.

v) The development hereby permitted shall not be brought into beneficial use until the car/vehicle parking areas shown on the approved drawings have been completed, surfaced and demarcated, and thereafter, the areas shall be kept free of obstruction and available for the parking of vehicles associated with the development.

vi) The development hereby permitted shall not be brought into beneficial use until cycle parking facilities have been implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

vii) The development hereby permitted shall not be brought into beneficial use until the facilities for commercial vehicle loading, unloading, circulation and manoeuvring have been completed in accordance with the approved drawings. Thereafter, these areas shall be kept free of obstruction and available for these activities.

viii) There shall be no gates or other barriers on the accesses within 15m. of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of highway safety

27) Notwithstanding the provisions of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order

2015,(or any Order amending, replacing or re-enacting that Order) no plant or machinery, equipment, structures, buildings or erections shall be erected, extended, installed or replaced externally within the site without the approval of the waste planning authority.

Reason: There is a need to secure control over additional plant, machinery and buildings or other erections in the interests of visual impact to views into the site from nearby existing (and proposed) residential areas.

Electrical Connection

- 28) The facility to be operated under this permission shall not be operated at any time when it would not thereby generate electricity and supply it to the relevant electricity distribution network.

Reason: To ensure that the electricity connection arrangements are effective in accordance with the waste hierarchy.

Capacity

- 29) The proposed development shall not receive more than 80,000 tonnes of material per annum. The facility shall be limited to only receive residual construction and demolition waste wood and there shall be no waste which is received for the development which is not waste wood within the definition of feedstock which shall have been agreed in writing, prior to commencement of development by the waste planning authority. The operator shall maintain records of the tonnage of waste delivered to the site and shall make these records available to the Waste Planning Authority at any time upon request.

Reason: in the interests of sustainable waste management in accordance with the waste hierarchy. Other waste streams may give rise to impacts not considered as part of this application and alter the planning balance regarding sustainability in the determination of the application.

Waste

- 30) No waste shall be processed, deposited or stored at the site except within the indoor areas of the site designated for that purpose as indicated on plan ref SCH 512 (3) – Proposed Ground Floor Plan. No external processing, deposition or storage of waste materials shall occur outside the building.

Reason: In the interests of visual amenity.

Securing of Loads

- 31) All loads of waste materials delivered to or removed from the site shall be enclosed or covered so as to prevent spillage or loss of material at the site or onto the public highway

Reason: In the interests of environmental and highway safety and dust minimisation.

Combined Heat and Power

- 32) The applicant shall provide within 12 months of commencement of development, a detailed scheme to be submitted for approval in writing by the waste planning authority, relating to an appropriate connection at the site boundary to enable heat offtake to be realised by commercial and/or residential properties. The approved scheme shall include an implementation timescale for site boundary connection and a mechanism for implementation, including annual review of actions undertaken to establish identification of the potential heat off take users.

Reason: To secure thermal energy offtake is realised in the interests of sustainable development.

Permanent Site Fencing

- 33) The proposed ERF shall not be brought into beneficial use until the site boundary has been secured and treated in accordance with details which shall have been submitted to and approved in writing by the Waste Planning Authority.

Reason: To protect the visual amenities of the area.

Hours of Delivery, Removal and Maintenance

- 34) No delivery of fuel, removal of ash or other waste, or maintenance work for the site (other than for routine maintenance only by an operative visiting without any motor vehicle other than a light van or other light vehicle, or for emergency protection of persons or property), shall be undertaken outside the hours of 0730 to 1800 hours from Monday to Friday inclusive, and 0730 to 1300 on Saturday, or at any time on Sundays or Bank Holidays

Any likely or expected works, including maintenance, which are likely to be required to be undertaken outside these hours shall be submitted for approval in writing by the waste planning authority within 3 months of commencement of development. The approved details shall be fully implemented.

Reason: To safeguard the amenity of local residents and adjacent land users.

Landscaping

- 35) Within six months of commencement of development a scheme for landscaping of the site (including screening by shrub and tree cultivation) shall be submitted for approval in writing by the Waste Planning Authority. The scheme shall be implemented as approved within the first planting and seeding seasons after the completion of construction works. Within five years of the implementation of the scheme, any tree, shrub or hedgerow which dies or becomes seriously damaged, diseased or are removed, shall be replaced with plants of the same species or such alternatives as may be approved by the Waste Planning Authority.

Reason: In the interests of the amenity of the local area and to ensure the development is adequately screened.

Noise Management Plan

- 36) No development shall commence before a Noise Management Plan, to control all noise generating activity from the use of the facility under this permission, has been submitted to and approved in writing by the Waste Planning Authority. The Noise Management Plan shall include detailed building design measures in respect of sound reduction based on those assumed under 8.101 to 8.103 outlined in Chapter 8 of the Environmental Statement and detailed mitigation measures based on those outlined at 8.132 in Chapter 8 of the Environmental Statement. The Noise Management Plan shall be implemented as approved. In the event that an operation or the use of any plant or equipment fails to comply with the limits set out in the Noise Management Plan, the operation or use shall cease until appropriate alternative noise mitigation measures have been approved by the Waste Planning Authority and implemented.

Reason: To safeguard the aural amenity of local residents, adjacent properties and land users.

Noise Monitoring Complaints During Facility Operation

- 37) In the event of the Waste Planning Authority notifying the operator that it has grounds for concern that the rating level of the sound [as defined in BS4142: Method for rating and assessing and assessing industrial and commercial sound] from the use of the facility hereby permitted might have exceeded 37 decibels (corrected for acoustic features, measured at or calculated to a position representing any residential façade which may suffer a loss of aural amenity from noise associated with the development), the operator shall within 2 weeks of that notification undertake a noise survey undertaken in accordance with any appropriate noise standard that may be specified in the notification (or if no standard is so specified, in accordance with the British Standards most relevant to investigation of those grounds for concern) under the supervision of the Waste Planning Authority.

The results of the noise survey will be provided to the Waste Planning Authority for its written approval within 1 month of the survey being undertaken.

Should the results show that further mitigation measures are necessary these shall be identified within the report and implemented within 1 month (or otherwise agreed) following their approval by the Waste Planning Authority.

Reason: To provide a noise monitoring and further mitigation contingency.

Use of Machinery and Mobile Plant

- 38) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, this shall include the use of effective silencers. The operator will fit reversing devices to vehicles which are non-tonal or other appropriate reversing warning mechanism.

Reason: To mitigate the noise effects from vehicles to protect nearby residents and businesses from intermittent and excessive noise generated.

Chemical Storage

- 39) Any facilities for the storage of oil, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses shall be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To minimise the pollution of watercourses and aquifers.

Advisory Notes

1. This permission is subject to a legal agreement under s106 of the Town and Country Planning Act 1990 (as amended)
2. Prior to designing the site surface water drainage, a full ground investigation shall be implemented to fully explore the option of ground

infiltration to manage the surface water in preference to discharging to a surface water body or public sewer system, as stipulated by Approved Document H of the Building Regulations 2000. Priority should also be given to providing storage at or near to the ground surface rather than deep below the surface (e.g. in tanks or oversized sewers).

3. Further to the condition(s) requiring appropriate site investigation and remediation where necessary the applicant is reminded that the proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk

Statement of Compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

The Waste Planning Authority engaged with the applicant in a positive and pro-active manner based on seeking solutions to problems and issues arising in the processing of this planning application in full compliance with this Article. The applicant also engaged with the County Council's pre-application service including a pre application presentation to Members on 16 January 2014 and presented a revised building design to the OPUN Design Review Panel on 19 March 2014. The environmental information was taken into consideration by the Waste Planning Authority in reaching this decision.

Mike Ashworth
Strategic Director – Economy, Transport and Communities