APP/NR/1



PEEL ENVIRONMENTAL MANAGEMENT UK LTD AND BILSTHORPE WASTE LTD

BILSTHORPE ENERGY CENTRE

PUBLIC INQUIRY UNDER SECTION 77 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) INTO THE PROPOSED DEVELOPMENT OF AN ENERGY FROM WASTE FACILITY ON LAND AT BILSTHORPE BUSINESS PARK, BILSTHORPE, NOTTINGHAMSHIRE

> PINS REFERENCE: APP/L3055/V/14/3007886 LPA REFERENCE: ES/2950

PLANNING POLICY AND RELATED PLANNING MATTERS

PROOF OF EVIDENCE OF NICHOLAS ROBERTS

October 2015



CONTENTS

- 1.0 INTRODUCTION AND SCOPE OF EVIDENCE
- 2.0 THE BEC PROPOSAL AND SITE PLANNING HISTORY
- 3.0 PLANNING POLICY AND GUIDANCE FRAMEWORK
- 4.0 THE NEED FOR THE APPLICATION PROPOSAL AND ITS BENEFITS
- 5.0 CONSIDERATION OF MATTERS SPECIFICALLY IDENTIFIED BY THE SECRETARY OF STATE AND INSPECTOR
- 6.0 MATTERS RAISED BY OTHER PARTIES AND OTHER RELEVANT ISSUES
- 7.0 APPRAISAL OF THE APPEAL PROPOSAL AGAINST THE DEVELOPMENT PLAN AND RELEVANT MATERIAL PLANNING CONSIDERATIONS

APPENDICES – These are bound separately in 2 volumes. The first contains Appendices A-I and N-X. The second contains the Submitted Written Statements in Appendices J-L.

- APP/NR/2 A Plan showing development projects in and around Bilsthorpe Business Park
- APP/NR/2 B Batsworthy Cross Judgement
- APP/NR/2 C Extracts from the Government Review of Waste Policy in England (Defra, 14 June 2011)
- APP/NR/2 D Extracts from the National Policy Statement (NPS) for Energy EN-3 (DECC, July 2011)
- APP/NR/2 E Extracts from the UK Renewable Energy Strategy (DECC, 15 July 2009)
- APP/NR/2 F Extracts from The UK Biomass Strategy (Defra, May 2007)
- APP/NR/2 G Extract from The UK Low Carbon Transition Plan (HM Government, 15 July 2009)
- APP/NR/2 H Extracts from Severnside Energy Recovery Facility (SERC) recovered appeal decision (Reference: APP/P0119/A/10/2140199)
- APP/NR/2 I Extracts from the Secretary of State's Decision (19 May 2011) and Inspector's Report (3 March 2011) in relation to the Cornwall EfW inquiry (Reference: APP/D0840/A/09/2113075)
- APP/NR/2 J Written Statement by Mr Robert Sutton in respect of Heritage Matters

- APP/NR/2 K Written Statement by Mr Jon Mason in respect of Landscape and Visual Matters
- APP/NR/2 L Written Statement by Mr Dean Kettlewell in respect of Noise and Vibration Matters
- APP/NR/2 M Not Used
- APP/NR/2 N Severn Trent Water BEC Sewer Capacity Assessment
- APP/NR/2 O Extracts from Rookery South Resource Recovery Facility IPC Panel's Decision and Statement of Reasons (IPC Reference EN0100011)
- APP/NR/2 P Extracts from the Secretary of State's Decision (26 May 2011) and Inspector's Report (17 March 2011) in relation to the Rufford ERF inquiry (Reference: APP/L3055/V/09/2102006)
- APP/NR/2 Q Plan showing the location of the former Sherwood Forest Special Landscape Area
- APP/NR/2 R Extracts from the Inspector's Report (10 January 2012) in relation to the Battlefield EfW inquiry (Reference: APP/L3245/A/11/2146219)
- APP/NR/2 S Extract from Inspector's Report (26 February 2013) in relation to the Kings Lynn EfW inquiry (Reference: APP/X2600/V/12/2183389)
- APP/NR/2 T Extracts from the Secretary of State's Decision (15 December 2010) and Inspector's Report (2010) in relation to the Ardley EfW inquiry (Reference: APP/U3100/A/09/2119454)
- APP/NR/2 U Extracts from the Secretary of State's Decision (20 July 2012) and Inspector's Report (24 February 2012) in relation to the Middlewich EfW inquiry (Reference: APP/R0660/A/10/2129865 and APP/R0660/A/10/2142388)
- APP/NR/2 V Extract from the Reporter's appeal decision notice (29 November 2012) in relation to Invergordon residual waste to energy facility inquiry (Reference: PPA-270-2017-1)
- APP/NR/2 W Cabinet Office Press Release in respect of Air Products TV2 Power Purchase Agreement
- APP/NR/2 X Applicant's appraisal of UKWIN's supplementary representation in respect of the Lock Street appeal decision

1.0 INTRODUCTION AND SCOPE OF EVIDENCE

1.1 Qualifications and Relevant Experience

- 1.1.1 I am Nicholas Roberts a founding Director of AXIS, a multi-disciplinary planning, environmental and landscape/urban design consultancy. The practice operates throughout the UK and has a specialist waste management and renewable energy planning capability.
- 1.1.2 I hold a BA Honours degree in Landscape Architecture and am a member of the Landscape Institute. I have over twenty seven years professional experience and have specialised in Town and Country Planning for the past twenty three years, particularly in the waste management and associated renewable energy sectors.
- 1.1.3 My experience in the field of waste management and waste planning is extensive and ranges from the preparation of planning applications to research projects. I have been responsible for the planning of well in excess of 100 waste management facilities and have undertaken projects involving: energy-from-waste EfW (combustion, anaerobic digestion and advanced thermal treatment technologies), landfill (hazardous, non-hazardous and inert schemes); materials recycling facilities (MRFs); other specialist recycling facilities; mechanical and biological treatment (MBT) plants; mechanical heat treatment (MHT) plants (e.g. autoclaves); waste transfer stations (WTSs); household waste sites and composting facilities (open windrow and in-vessel). I have undertaken a number of research projects into waste planning including studies focussing upon the requirements for, and location of, future waste facilities within various parts of the UK and have appeared at several Examinations in Public / Local Plan Inquiries.
- 1.1.4 I have advised on numerous PFI (or similar long-term) contracts including the successful or preferred bidders on contracts in: Worcestershire & Herefordshire; Cornwall; Surrey; Shropshire; Northumberland; Wrexham; Buckinghamshire; North Yorkshire; Lincolnshire; North Lincolnshire; Derbyshire; Edinburgh and Nottinghamshire. I have had, or continue to have, a role in providing planning advice in respect of a large number of

other similar waste management contracts, including the UK's two largest waste contact procurements Greater Manchester and North London; plus those for Derbyshire (residual waste treatment); Merseyside; North Wales; and South East Wales. In addition, I have provided waste planning services to local authorities (as part of their long term contracts) including: Peterborough City; Cheshire; Derbyshire; Lancashire and Shropshire County Councils.

- 1.1.5 I have undertaken waste planning projects for local authorities, regulatory bodies and industry. Clients include: Lancashire, Derbyshire, Cheshire and Shropshire County Councils; Regional Assemblies, the Environment Agency; and, Peel Environmental, Urbaser, Balfour Beatty, Mercia Waste Management, FCC Environment, Suez Environment (formerly SITA UK), Veolia, the Banks Group and Amey / Cespa, amongst others.
- 1.1.6 Of direct relevance to this Inquiry, I have been involved with Peel Environmental's interests in the Bilsthorpe Business Park site since 2010 and involved in the Bilsthorpe Energy Centre (BEC) development itself since 2012, on behalf of the Applicant's, Peel Environmental Management (UK) Ltd / Bilsthorpe Waste Ltd. I was the Project Director with overall project responsibility for the preparation of the BEC planning application, which was submitted to Nottinghamshire County Council (NCC), the waste planning authority (WPA), on 29th November 2013.
- 1.1.7 I have extensive experience in the field of Energy-from-Waste (EfW) development having secured major consents (generally as the lead project planner) for EfWs in Gloucestershire, Worcestershire, Surrey, Glasgow, Perth, Peterborough, Rotherham, Cheshire, Wrexham, Nottingham and The Wirral. I have also been heavily involved in EfW projects in Lincolnshire and Buckinghamshire and continue to work on several other EfW schemes which are at various stages of the planning process.
- 1.1.8 I have been a Professional Examiner on behalf of the Landscape Institute, specialising in Environmental Planning, and have given lectures in the same subject at Liverpool and Manchester Universities. I have also undertaken

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

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

1.2 Scope of Evidence

- 1.2.1 I have prepared this proof of evidence for the Inquiry arising from the Secretary of State's decision to call-in the planning application for the BEC facility for his own determination under Section 77 of the Town and Country Planning Act 1990 (as amended).
- 1.2.2 My evidence is divided into a number of sections, which cover the following matters, noting that in some instances my proof cross-refers to information set out in the Statements of Common Ground:
 - A brief description of the Application proposal and the planning history associated with the application site;
 - Details of the planning framework relevant to the consideration of this Application and whether relevant development plan policies are up to date and consistent with the National Planning Policy Framework;
 - An assessment of the need for the BEC proposal and its benefits, including the consequences of not proceeding with the Application proposal;
 - 4) Consideration of certain issues raised in paragraph 32 of the Inspector's Pre-Inquiry Meeting (PIM) note, specifically:
 - The historic environment;
 - Landscape and visual impact;
 - Noise and vibration;
 - Agriculture;
 - Surface water quality and sewage disposal;
 - Tourism and socio-economic development in the area; and

- The adequacy of the Environmental Statement;
- 5) Other matters, including issues raised by RAGE, UKWIN and Newark and Sherwood District Council (NSDC); plus any other relevant issues including prospective planning conditions in the event the Application is approved;
- 6) An assessment of the Application Proposal in the context of development plan policy and relevant material planning considerations. This includes:
 - Whether the scheme would accord with the development plan for the area (confirmed as, so far as relevant, the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (December 2013), those saved policies of the Nottinghamshire and Nottingham Waste Local Plan of January 2002 that have not been replaced by the Waste Core Strategy, the Newark and Sherwood Core Strategy of March 2011, and the Newark and Sherwood Allocations and Development Management DPD dated July 2013); and
 - The extent to which the scheme would be consistent with the National Planning Policy for Waste and the National Waste Management Plan for England.
- 1.2.3 In considering these matters I believe that, in conjunction with the other evidence presented for the Applicant, I cover all of the main issues on which the Secretary of State and Inspector wish to be informed i.e. the issues set out in paragraph 32 of the PIM note. I note that in dealing with the matters in point 4 above, I rely on statements prepared by other members of the Applicant's team which form appendices to my evidence.
- 1.2.4 The evidence which I have prepared and provide for this call-in Inquiry (reference APP/L3055/V/14/3007886) is true and has been prepared and is given in accordance with the requirements of my professional body. I can confirm that the opinions expressed are my true and professional opinions.

2.0 THE BEC PROPOSAL AND SITE PLANNING HISTORY

2.1 Introduction

- 2.1.1 It should be noted that an agreed description of the Application Site and its surroundings are contained as Chapter 2.0 of SoCG1 (CD65). Accordingly these are not repeated.
- 2.1.2 Similarly Chapter 3.0 of SoCG1 provides a detailed description of the Application Proposal. Again I do not repeat this but add some minor supplemental points below.
- 2.1.3 I rely on the content of SoCG1 and SoCG1 Supplement with regard to the planning history of both the Application Site, and its surroundings, together with the BEC application itself. However, I have added some supplemental points including evidence in rebuttal to written representations submitted by UKWIN and others.

2.2 Scheme Description

- 2.2.1 The Application Proposal has, since the submission of the planning application, been subject to ongoing engineering work. This largely relates to the specification and performance evaluation of process equipment. Such evolution is entirely normal in delivering a thermal treatment plant and is expected to continue through the detailed design stage and even on through scheme implementation, should planning permission be granted.
- 2.2.2 The current design evolution work associated with the BEC proposal comprises:
 - Refining the gross electrical output from the gas engines from approximately 13.6MW (see SoCG1 paragraph 3.5) to 13.76MW. With the parasitic load remaining at 4.0MW the net power available for export to the electricity grid would be 9.76MW.
 - Work in relation to the management of sewage.

- 2.2.3 In preparing evidence for this Inquiry, the Applicant has also noted an error in the scheme description with regard to the stated percentage of renewable energy that would be generated by the BEC. Environmental Statement (ES) Main Report (CD2) paragraph 4.1.5 states that the biodegradable or biomass content of the waste "is recognised as a renewable source of energy and as such, around 60% of the energy produced by the proposed BEC development would be classed as renewable". However, reference to the ES Second Regulation 22 Submission (CD7) Appendix 4-1 page 3, Table 10.2, indicates that this is not correct. Table 10.2 does identify that the average biodegradable content by mass in the target waste is indeed 60.81%. However, the same table also identifies that the average biodegradable energy content is actually 50.62%. It is the actual energy content of the waste that dictates the percentage of energy generated that can be classed as renewable. Accordingly, this is 50.62% and not 60% as stated in the ES and SoCG1 at paragraphs 3.7 and 6.29.
- 2.2.4 This error has been rectified in the latest Third Regulation 22 submission (CD75) referenced in the next sub-section of proof and is also reflected in Section 4.0 of my evidence in relation to 'need'.

2.3 Planning History

Site Planning History

- 2.3.1 Subsequent to the PIM, UKWIN submitted a written representation to the Planning Inspectorate dated 10th June 2015. The sole subject of this submission was in relation to the planning history of Bilsthorpe Colliery and in particular restoration obligations. The essence of UKWIN's position is that the Application Site and other parts of the Colliery Pit Head area were the subject of restoration conditions that provided for restoration to a 'green' use. Thus the Application Site should not be treated as 'previously developed land' in accordance with the definition of such in the glossary at Annex 2 of the NPPF.
- 2.3.2 The Applicant and NCC do not agree with UKWIN's assertion and to this end have further clarified the matter of the site being previously developed

land in the SoCG1 Supplement (CD70). This Supplement is entirely consistent within the findings of the original SoCG1 (Chapter 4.0), but provides additional documentary evidence in rebuttal to UKWIN's claim.

- 2.3.3 In summary:
 - The Colliery Pit Head area was subject to an original restoration scheme (approved in 1996) that that was separate to the wider Colliery Spoil Heap area and identified a proposed 'Development Area', the boundaries of which could be altered to suit particular development requirements. A condition attached to the approval of the restoration scheme required that the 'Development Area' be returned to green end use should no development take place on the development area within 5 years of the closure of the mine.
 - Mining operations at the site ceased in 1997, and the condition attached to the restoration scheme's approval became triggered, in so far as the 'Development Area' was concerned in 2002. The County Council enquired as to the intentions for the 'Development Area' at this time, and it was confirmed that a planning application for the redevelopment of the site would be submitted shortly.
 - An outline planning application for Bilsthorpe Business Park was subsequently made in June 2002 and approved in March 2004. This permission related to the entire Pit Head area and approved employment development over the totality of the Pit Head area.
 - Subsequent reserved matters approvals were granted and the Bilsthorpe Business Park permission was implemented. The agreed Pit Head restoration scheme therefore crystallised around the plans approved in the 2004 Permission, which was subsequently implemented. The originally approved Restoration Scheme always envisaged flexibility in specifying that the Pit Head (Mine) area could be altered to suit particular development requirements.
- 2.3.4 It is demonstrably the case that Bilsthorpe Business Park is the lawfully identified after use for the Colliery Pit Head area. The Business Park has been, and will continue to be, built out pursuant to detailed planning permissions for individual development components on a site that has no

residual 'green' restoration requirements and exhibits the qualities of previously developed land.

2.3.5 Accordingly, I am absolutely satisfied, as is NCC (and NSDC), that the Application Site properly comprises 'previously developed land' in accordance with the definition within the NPPF.

Other Planning History

- 2.3.6 Paragraph 4.9 of SoCG1 lists, in five bullet points, other planning permissions / applications relevant to the BEC application. The last of these (application reference F/3058), for the removal and temporary storage 75,000m³ of colliery spoil including the export of circa 40,000m³ of coal material; has now been approved subsequent to the Applicant and NCC preparing SoCG1. This development is, like the BEC, located virtually entirely within the designated Bilsthorpe Colliery Local Wildlife Site.
- 2.3.7 In preparing my evidence I have reviewed the above permission and others relating to the Bilsthorpe Colliery site and the surrounding area. I have illustrated these pictorially in my Appendix (APP/NR/2 –) A. This shows 17 developments / proposals of which:
 - 10 are fully implemented;
 - 1 is under construction;
 - 4 are approved, but not implemented; and
 - 2, including the BEC proposal, have been recommended for approval by the relevant planning authority and called-in by the Secretary of State.
- 2.3.8 Looking at the developments / proposals: 10 are directly related to energy generation or transmission; 3 relate to an energy mineral; and the balance is employment related. It would be fair to describe 9 of the 10 energy generation / transmission schemes as large scale, which, excluding the BEC proposal, comprise:
 - 4 commercial scale solar farms, one of which also includes an 87m high wind turbine (to blade tip);

- A further commercial scale solar farm 2.2 hectares in area, together with 27,500m² of B1/B8 development with buildings up to 21m in height;
- A 5 turbine wind farm with turbine heights of 103.5m (to blade tip);
- A test area for a cluster of 6 electricity transmission pylons of varying design. These are all between 34m and 35m in height and have strung spans of between 167m and 200m; and
- An Anaerobic Digestion plant.
- 2.3.9 I believe it to be self-evident that the former Bilsthorpe Colliery site and its surrounding area has become a general location for a new industrial economy based around decentralising, decarbonising and renewing the UK's ageing energy infrastructure. This is entirely in line with NSDC's vision for the area in their landscape strategy (refer to my sub-section 5.3). The development already delivered includes well over 50,000m² of solar panels, a series of tall structures and large buildings. These features, together with the legacy of the Colliery itself, strongly characterise the locality.

BEC Application History

- 2.3.10 SoCG1 (from paragraph 4.10 onwards) describes the BEC application process through to the Secretary of State's decision, on 19th December 2014, to call-in the application for his own determination.
- 2.3.11 Subsequent to this date, and as set out in the PIM Note (CD69) at paragraphs 39 and 40, the Applicant has voluntarily submitted under Regulation 22 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 additional information pursuant to the application. This constitutes "any other information" for the purposes of Regulation 22 and the information submitted comprises:
 - Updated ecological surveys on and around the site to reflect the age of certain survey data and to ascertain any evolution in the baseline situation. This has also resulted in an updated Wader Mitigation Plan and recalculation of the Biodiversity Offsetting Metric;
 - Details on the energy efficiency of the BEC proposal including an R1 calculation in relation to further establishing that the facility would be a

recovery operation under Annex II of the revised Waste Framework Directive (2008/98/EC);

- An update of the Application Proposal's carbon benefits; and
- Correction of the proportion of energy generated that would be classed as renewable and the associated implications of this on region renewables capacity.

This information is referred to as the Third Regulation 22 submission (CD75).

- 2.3.12 On the basis that the information has been provided for the purposes of an Inquiry, under Regulation 22(2) the information does not need to be advertised (with Regulation 22 paragraphs (3) to (9) not applying). Nevertheless, as discussed at the PIM, the Applicant has committed to, as a minimum, meeting the requirements of Regulation 22(3). To this end the additional information has:
 - Been advertised in the prescribed format in the Newark Advertiser newspaper dated 17th September 2015;
 - Been available for public inspection at Bilsthorpe Library for a period greater than 21 days following the newspaper advert;
 - Placed on deposit at NCC's offices and uploaded on the authority's web site;
 - Sent to the following organisations / bodies on 17th September 2015, all of whom we sent copies of the previous Regulation 22 submissions:
 - The Secretary of State via the Planning Inspectorate;
 - Nottinghamshire County Council;
 - Dr Hon Kit Chow;
 - Bilsthorpe Parish Council;
 - Eakring Parish Council;
 - Edingley Parish Council;
 - Farnsfield Parish Council;
 - Kirklington Parish Council;
 - Rufford Parish Council;
 - Cllr Laughton;
 - Cllr Jackson;
 - Cllr Peck;

- Natural England Consultation Service;
- The Coal Authority;
- National Grid (Gas);
- Western Power Distribution;
- Environment Agency Midlands Region;
- Nottinghamshire Wildlife Trust;
- Historic England;
- Newark and Sherwood District Council;
- The Garden History Society;
- NCC (Highways);
- NCC (Countryside Access);
- NCC (Planning Policy);
- NCC (Archaeology);
- NCC (Landscape);
- NCC (Accident Investigation Unit);
- NCC (Noise Engineer);
- NCC (Built Heritage);
- NCC (Nature Conservation);
- NCC (Reclamation);
- Police Force Architectural Liaison Officer;
- Severn Trent Water Limited;
- Newark & Sherwood District Council;
- Public Health;
- Mark Spencer MP;
- o RAGE; and
- UKWIN.
- Been placed on Peel Environmental's web site; and
- Been advertised on newly erected site notices.
- 2.3.13 The information was issued well in advance of the exchange of evidence and the date advised by the Inspector at the PIM for submissions by Interested Persons i.e. 13th October 2015 (see PIM Note paragraph 24).
- 2.3.14 On the morning of 24th September I was contacted by Mr Hankin from the County Council who indicated that the web links directing people to the Third

Regulation 22 document contained within the newspaper advert and the site notice were not functioning correctly. In short, the relevant part of the County's web site was temporarily offline and the link to Peel's web site did not lead directly to the documents, even though they were actually available online. Both these matters were rectified later that day. Notwithstanding the lack of any statutory consultation requirements, and out of an abundance of caution, the Applicant re-advertised (new newspaper advert and site notices) the Third Regulation 22 consultation on 1st October, extending the consultation period for one further week. This ensured that anyone who was not able to access the documentation during the first week of the consultation had the full 3 week period when online access was attainable.

2.3.15 The relevance of the additional information to the Secretary of State's determination of the BEC application is addressed in the evidence of Mr Stephen Othen, in relation to matters of plant efficiency, R1 and carbon benefits, and Mr Kevin Honour, in respect of ecological matters. I deal with the other matter.

2.4 Summary of Section 2.0

- 2.4.1 I am absolutely satisfied, as is NCC, that contrary to the view of UKWIN, the Application Site properly comprises 'previously developed land' in accordance with the definition within the NPPF.
- 2.4.2 Furthermore, as a matter of fact, the former Bilsthorpe Colliery site and its surrounding area support a new industrial economy, comprising a variety of large scale development much of which is related to the energy sector. This development includes over 50,000m² of solar panels delivered (and more consented / in planning), a series of tall structures and large buildings which, together with the legacy of the Colliery itself, strongly characterise land use in the locality.
- 2.4.3 Finally, the BEC planning application documentation has been augmented, for the purposes of the Inquiry, by a Third Regulation 22 Submission.

3.0 PLANNING POLICY AND GUIDANCE FRAMEWORK

3.1 Introduction

- 3.1.1 SoCG1 (CD65) sets out in Chapter 5.0 the planning policy context in terms of the statutory development plan and material planning considerations. I believe the list setting out the latter is largely complete, but that individual appeal / inquiry decisions to which I subsequently refer are not listed. The most relevant development plan policies are also agreed (in SoCG1). Accordingly I have not repeated the constituent parts of the development plan or the relevant policies.
- 3.1.2 There are no emerging development plans in publication, but Nottingham City and NCC have been out to consultation (closed on 26th June 2015) on the method of how potential waste sites might be selected in the forthcoming Waste Sites and Policies Local Plan.
- 3.1.3 In addition to the material planning considerations listed in SoCG1, a further relevant consideration is the need for the scheme in terms of helping to deliver national and local policy in respect waste management, energy and climate change, together with its environmental; economic; and social benefits. These matters are covered in Chapter 6.0 of SoCG1, but are also augmented with the most contemporary data / information in my Section 4.0.
- 3.1.4 As a consequence, this section of my proof is limited to consideration of whether the relevant development plan policies are up to date and consistent with the National Planning Policy Framework (NPPF), together with a brief synopsis of key messages in the national policy and strategy documents identified as material planning considerations.

3.2 Whether Development Plan Policy is Up to Date and NPPF Compliant

3.2.1 As a matter of fact two components of the development plan predate the NPPF - the saved policies of the Nottinghamshire and Nottingham Waste Local Plan, (NWLP) adopted 2002 (CD61), and the Newark and Sherwood Core Strategy (NSCS) which was adopted in March 2011 (CD62); whilst the

other two components postdate the NPPF and are considered NPPF compliant – the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (December 2013) (CD62) and the Newark and Sherwood Allocations and Development Management DPD (July 2013) (CD64).

- 3.2.2 With regard to the plans predating the NPPF, in accordance with paragraph 215 of the NPPF, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 3.2.3 One of the key considerations in gauging NPPF compliance is that the NPPF requires a judgement to be made as to whether an adverse impact would be outweighed by the scheme's benefits, taking a far more balanced approach than in restrictive development control polices often seen in old development plans. Referring to the Batsworthy Cross Judgement¹ (see Appendix B to my evidence at paragraph 22), it is established in case law that where policies do not permit any countervailing benefits (whether they are economic or other) to be weighed in the scales, they should be considered inconsistent with the NPPF (i.e. there should be an application of a 'cost / benefit' approach).
- 3.2.4 Looking at the saved policies from the 2002 Waste Local Plan deemed relevant to this case I comment as follows. The subsequent policies all advise on matters that can be specified in planning conditions attached to planning permissions. On review I cannot see anything material that would point to them being clearly inconsistent with the NPPF:
 - Policy W3.3 Visual Impact: Plant and Building;
 - Policy W3.4 Visual Impact: Screening;
 - Policy W3.5 Water Resources Pollution Issues;
 - Policy W3.6 Water Resources Planning Conditions;
 - Policy W3.7 Odour;
 - Policy W3.8 Litter;

- Policy W3.9 Noise; and
- Policy W3.10 Dust.
- 3.2.5 The following two policies both relate to traffic and transportation and I believe both are in direct conflict with paragraph 32, 3rd bullet of the NPPF:
 - Policy W3.14 Transport: Road Traffic; and
 - Policy W3.15 Vehicular Routing.

In respect of the former it sets a more onerous test than that in the NPPF, the NPPF directing that: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe". With regard to the latter, unlike the NPPF it places no cost effectiveness cap on highway improvements. Accordingly, in my view, both policies should be afforded very little or no material weight.

- 3.2.6 The two ecological policies listed below do contain a balancing exercise. However, unlike the NPPF approach, neither balances the entirety of the <u>benefits</u> of the development (be they environmental, social or economic) against the harm:
 - Policy W3.22 Biodiversity; and
 - Policy W3.23 Nature Conservation and Geological Sites.

Accordingly, I do not believe either should attract significant weight.

- 3.2.7 The following policies fundamentally fail to incorporate an NPPF balancing, cost / benefits approach and should be afforded very little or no material weight:
 - Policy W3.27 Archaeology;
 - Policy W3.28 Listed Buildings and Conservation Areas; and
 - Policy W3.29 Cumulative Harm.
- 3.2.8 Looking at the relevant Newark and Sherwood Core Strategy policies, they are all relatively strategic in nature, as opposed to focussed on development management. They are also extremely wordy. I cannot see any major inconsistency between the general objectives of the policies and the NPPF

¹ Approved Judgement of Mr Justice Parker in Colman v Secretary of State for Communities and Local Government and others [2013] EWHC 1138 (Admin). 'The Batsworthy Cross Judgement'.

with the exception of Core Policy 6 - Shaping our Employment Profile. Here I believe the 4th bullet in the policy directly conflicts with NPPF paragraph 22, with the Framework advocating a more flexible approach for the use of employment sites. As such, I believe this policy should be afforded little weight.

- 3.2.9 The policies in the Newark and Sherwood Allocations and Development Management DPD are, in my view, up to date.
- 3.2.10 The Waste Core Strategy is undoubtedly the most important plan in this case, being more contemporary than the DPD and relating directly to waste management development, unlike the DPD. As such I have given detailed consideration as to whether its policies remain up to date, in light of more recent material planning considerations, in subsequent sections of my proof, particularly in Section 4.0 relating to need.

3.3 Summary of the Material Considerations in the Context of EfW

- 3.3.1 The material planning considerations listed in SoCG1 and identified in the Planning Statement submitted in support of planning application are extensive. I believe the various policy and strategy documents referenced are material considerations that lend very strong support for the BEC proposal. They also provide unambiguous messages about EfW and the valuable future role it has to play. Accordingly, I briefly summarise a number of the key points:
 - i) Energy recovery is an excellent use of many wastes that cannot be recycled and could otherwise go to landfill. It can contribute secure, renewable energy for the UK. Looking at the period up to 2050 the government believes that even with the expected improvements in prevention, re-use and recycling, sufficient residual waste feedstock will be available through diversion from landfill to support significant growth in this area, without conflicting with the drive to move waste further up the hierarchy. The government seeks to maximise the potential for growth in continuous generation available from energy from waste (from paragraph 214 of the Government Review of Waste Policy in England 2011 – see my Appendix C).

- ii) The Government anticipates EfW (by combustion, i.e. excluding anaerobic digestion) will treble by 2020 (paragraph 215 of the Government Review of Waste Policy in England 2011 – see my Appendix C).
- iii) New renewable energy capacity will increasingly include plant powered by the combustion of biomass and waste (NPS EN-1 paragraph 3.3.10 – see CD55).
- iv) Large-scale renewable energy generation in the UK includes EfW plants where the principal purpose of the combustion of waste is to reduce the amount of waste going to landfill and the energy produced from the biomass fraction of waste is renewable (NPS EN-1 paragraph 3.4.3 see CD55).
- v) EfW can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand. As more intermittent renewable electricity comes onto the UK grid, the ability of biomass and EfW to deliver predictable, controllable electricity is increasingly important in ensuring the security of UK supplies (NPS EN-1, paragraph 3.4.4 – see CD55).
- vi) Where a modern EfW facility meets the requirements of WID (now Industrial Emissions Directive – IED) and will not exceed local air quality standards, it should not be regarded as being detrimental to health (NPS EN-3, paragraph 2.5.43 – see my Appendix D).
- vii) The energy EfW produces is a valuable domestic energy source contributing to energy security; it is partially renewable energy source which contributes to our renewable energy targets; and it has the added advantage that it is non-intermittent, so it can complement other renewable energy sources such as wind or solar, which are intermittent (Energy from Waste: A Guide to the Debate, page 3 of the Overview – see CD60).
- viii) Energy from mixed residual waste is seen as one of a number of technologies that either have the greatest potential to help the UK meet the 2020 renewables target in a cost effective and sustainable way and offers great potential for the decades that follow (Energy from Waste: A Guide to the Debate, paragraph 66 – see CD60).

- ix) Using biomass from biodegradable waste to generate heat and electricity is a cost-effective way to meet the 2020 renewable energy target (UK Renewable Energy Strategy, paragraph 4.121 – see my Appendix E).
- x) Waste biomass is an under-used resource which could provide a significant contribution to our renewable energy targets and reduce the total amount of waste that is landfilled in the UK (UK Renewable Energy Strategy, paragraph 4.130 – see my Appendix E).
- xi) There is active encouragement for more energy infrastructure able to use biomass waste, given the lack of combustion plants compliant with WID (now IED) which is a barrier to fully exploiting biomass waste to energy (UK Renewable Energy Strategy, paragraphs 4.179 to 4.184 and Box 4.9 – see my Appendix E).
- xii) Recovering energy from waste biomass will help towards our overall renewables targets as well as providing an indigenous, secure energy source. The UK should maximise the potential of biomass to contribute to the delivery of our climate change and energy policy goals: to reduce CO₂ and other greenhouse emissions, and achieve a secure, competitive and affordable supply of fuel (The UK Biomass Strategy, paragraph 3.1 – see my Appendix F).
- xiii) The Government encourages the greater production of bio-energy, particularly from waste biomass combustion (The UK Low Carbon Transition Plan Chapter 7 – see my Appendix G).

3.4 Summary of Section 3.0

- 3.4.1 The appropriate planning context, comprising the relevant policies of the development plan and relevant material planning considerations, has been clearly identified.
- 3.4.2 I believe that certain development management policies within the Nottinghamshire and Nottingham Waste Local Plan (adopted 2002) are not in conformity with the policies of the NPPF and should not be afforded significant weight in this case. Similarly, I believe that Core Policy 6 of the Newark and Sherwood Core Strategy directly conflicts with NPPF paragraph

22, with the Framework advocating a more flexible approach for the use of employment sites.

3.4.3 Finally, a review of national policy and strategy documents which are material planning considerations relevant in this case provides unambiguous messages about EfW development and the valuable future role it has to play.

4.0 THE NEED FOR THE APPLICATION PROPOSAL AND ITS BENEFIT

4.1 Introduction

- 4.1.1 There is no Government policy that requires, as a matter of general principle, applicants to demonstrate that there is a need for their development. However, it is widely recognised that the need for a particular scheme may be material planning consideration
- 4.1.2 The BEC development would manage residual waste, generate energy (of which half would be renewable) and lead to a net reduction in CO₂ emissions. Thus, if appropriate, the need for the scheme (and any benefits arising from it meeting a need) should be considered in the context of waste, energy and climate change policy (and strategy). The BEC development would not exist if it did not generate energy and similarly there would be no scheme if it did not manage waste. Furthermore, it would specifically reduce greenhouse gas emissions from landfill and displace fossil fuel generation. As such, there is no issue as to what may be the primary purpose of the scheme, all three policy areas are equally applicable and can be afforded equal weight in any need assessment.
- 4.1.3 In terms of waste policy, the approach to demonstrating need is manifest in the National Planning Policy for Waste (NPPW) (paragraph 7, first bullet point) (CD53) which reads:

"When determining waste planning applications, waste planning authorities should:

- Only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need."
- 4.1.4 As set out in my evidence (Section 7.0), I believe that the BEC development is in conformity with the development plan. Furthermore, numerous material considerations add further support for the scheme. Thus, need (from a

waste management perspective), whilst an important issue is not something the Applicants are required to prove.

- 4.1.5 I acknowledge that WCS Policy WCS3 requires new recovery facilities to show they would divert waste that would otherwise be disposed of; however, this is not the same as demonstrating a quantitative need for a particular amount of recovery capacity, nor should it be construed as such. Were such an incorrect interpretation to be adopted this would mean that Policy WCS3 would be inconsistent with national policy contained in PPS10, which was inforce at the time of the WCS's adoption. Specifically, paragraph 22 (extract) which read: *"When proposals are consistent with an up-to-date development plan, waste planning authorities should not require applicants for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal."*
- 4.1.6 With regard to renewable energy and climate change policy, the position on need is clear. The Energy White Paper (May 2007) (CD56) and the NPPF (CD52) are unequivocal in stating that it is not necessary for an applicant to demonstrate need for renewable energy schemes such as the proposed BEC development. Of particular relevance is:
 - Paragraph 5.3.67 of the Energy White Paper which states: "Applicants will no longer have to demonstrate either the overall need for renewable energy or for their proposal to be sited in a particular location."; and
 - Paragraph 98 (extract) of the NPPF states that: "When determining planning applications, local planning authorities should:....not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions".
- 4.1.7 Notwithstanding the above, where there is a clear and urgent need (and thus benefit) for a development; it can be a very important material planning consideration to which significant weight (possibly very significant weight depending on the prevailing circumstances) can be attached. Thus, even where a planning proposal is found to cause a degree of harm, planning

permission can still be granted where the benefits of the scheme outweigh its dis-benefits.

- 4.1.8 As a consequence, in this section of my evidence I have considered the need for the BEC development (and the benefits arising from it meeting the need) under six main sub-headings:
 - Waste Management Need and Benefits.
 - Energy / Renewable Energy Need and Benefits.
 - Other Benefits of the BEC Proposal.
 - Climate Change Need and Benefits.
 - Consequences of Not Proceeding with the BEC Proposal.
 - Summary of Section 4.0 and Conclusions on the Benefits of the BEC Proposal and the Weight they Attract.

4.2 Waste Management Need and Benefits

European / National Waste Management Need

- 4.2.1 SoCG1 (paragraph 6.2)(CD65) identifies that there is agreement between NCC and the Applicants that there is a need for new infrastructure in the UK to facilitate sustainable waste management and in particular move the management of municipal solid waste (MSW) and similar commercial and industrial (C&I) wastes up the waste hierarchy and in particular away from landfill.
- 4.2.2 The need that exists is primarily derived from European legislation most notably the Landfill Directive and the revised Waste Framework Directive and is evidenced by the fact that England continues to landfill very significant quantities of these wastes and also exports large crudely processed quantities of these wastes in the form of RDF (Refuse Derived Fuel). On the matter of exporting RDF, Energy from Waste: A Guide to the Debate published by DEFRA (CD60) states (paragraph 57 extract): *"While such exports are permissible, the energy recovered from the waste does not contribute to UK renewable energy targets and is effectively a lost resource to the UK. The Government is keen to support domestic RDF and SRF*

markets, where they can provide better environmental outcomes, to ensure that the UK benefits from the energy generated from UK waste".

- 4.2.3 It is also agreed between NCC and the Applicants in SoCG1 (paragraph 6.2) that the delivery of this European legislation within England is manifest in several elements of domestic legislation and waste management strategy. These comprise, the Government Review of Waste Policy in England (2011), the Waste Management Plan for England (December 2013) (CD58), the NPPW (October 2014) (CD53) and the Planning Practice Guidance for Waste (2014) (CD54).
- 4.2.4 As identified in my sub-section 3.3, the Government Review of Waste Policy in England 2011 confirms the waste hierarchy as defined in the revised Waste Framework Directive (rWFD). It specifically supports energy from waste through a range of technologies and believes there is potential for the sector to grow significantly.
- 4.2.5 The agreed position on the extent to which the Application Proposal would accord with the Waste Management Plan for England (December 2013), is set out in the SoCG1 (paragraph 7.6) upon which I rely.
- 4.2.6 It is also agreed with NCC in SoCG1 (paragraph 7.6) that the BEC development would accord with the NPPW and the Planning Practice Guidance for Waste (2014). I consider the development in the context of these policies later in my Proof.
- 4.2.7 SoCG1 also identifies that:
 - The gasification element of the BEC development would be an 'other recovery' facility (through meeting the R1 threshold as defined in the rWFD) and thus any waste it treats that would otherwise be sent to landfill would be managed further up the waste hierarchy (SoCG1 paragraphs 3.4 and 7.4);
 - The energy generated from the combustion of the biogenic fraction of residual waste constitutes renewable energy (SoCG1 paragraph 6.18); and

- That government policy and the WCS are technology neutral (SoCG1 paragraphs 7.6 and 8.27).
- 4.2.8 In summary, I consider that the BEC development would be consistent with the relevant objectives and aspirations of European and national legislation / strategy and contribute towards the provision of sustainable waste management infrastructure as it would:
 - Divert residual waste from disposal at landfill contributing to the national landfill diversion target² (refer to);
 - Constitute other recovery (by way of energy recovery from waste) and thus move the management of waste up the waste hierarchy (and contribute to the national waste recovery target);
 - Generate renewable energy from the biogenic fraction of the waste and secure energy from the non-biogenic waste fraction; and
 - Be an appropriate technology in the context of a clear national policy position of the Government remaining technology neutral. Furthermore, it would be an appropriate technology for the treatment of mixed residual waste, unlike anaerobic digestion.
- 4.2.9 Given the clear European and national waste policy imperatives it is selfevident there remains a need at national level for schemes such as the proposed BEC development to contribute towards the overall aim of sustainable waste management manifest through the achievement of the national targets and objectives.

Local Need

Introduction

- 4.2.10 Defining the quantitative local need for a specific waste management facility can be complex. Particularly so if the facility is a 'merchant' plant focussed on the management of C&I waste. This is due to the fact that there is an acknowledged lack of reliable data in respect of C&I waste:
 - Arisings;

- Method of management;
- Quantity forecasting;
- Recycling rates; and
- Imports / exports from particular Waste Planning Authority areas.
- 4.2.11 My review of the position in Nottinghamshire and Nottingham, as will become clear from this section of my proof, indicates the position is no different in this part of the country than elsewhere. Possibly, given the geographic centrality of Nottinghamshire and transport linkages, the situation is even less clear.
- 4.2.12 The fact that the BEC proposal is a merchant facility, as say opposed to a facility linked to a large authority MSW contract, should in no way count against it. A great number of merchant plants, or plants with a material quantity of merchant capacity, have been consented, a good number built and many more will be. However, when evaluating the need for this scheme, cognisance must be made of the paucity of the available C&I waste data, even though it is the 'best available'.
- 4.2.13 For this reason NPPW (Paragraph 2) and its predecessor PPS10, both advised authorities in preparing their waste plans in respect of the provision of new capacity and its spatial distribution, to use the best data and information, but to avoid spurious precision.
- 4.2.14 Finally, in considering local need, I have for the purposes of this assessment only looked at the quantitative need for other recovery capacity within Nottinghamshire and Nottingham. This is demonstrably the target market for the BEC scheme and is likely to be where all inputs would be sourced. However, the Applicant has always explicitly acknowledged that the BEC could accept waste from surrounding local authority areas and this remains the case. There is no support in national policy for drawing waste catchment boundaries along the lines of administrative boundaries and indeed paragraphs 149-155 on Energy from Waste: A Guide to the Debate (CD60) specifically advise against doing so. There are also numerous inquiry

² Refer to the evidence subsequently in this sub-section of my proof and Biffa Reality Gap Report

decisions in relation to merchant plant capacity that find against such restrictions.

Waste Arising's, Facility Capacity and Additional Treatment Capacity Requirements set out within the WCS

- 4.2.15 Local need for waste management infrastructure is set out, from a strategy and policy perspective, in the Nottinghamshire and Nottinghamshire Replacement Waste Local Plan Part 1: Waste Core Strategy (WCS) December 2013 (CD62). The position relating to waste arisings, facility capacity and additional treatment capacity requirements is set out within Chapter 4. This is summarised below, together with the key assumptions and qualifications that underpin the figures within the WCS.
- 4.2.16 In terms of headline figures, the WCS (paragraphs 4.2 onwards) indicates that Nottingham produced over 2.5 million tonnes of waste in 2009 down from 4 million tonnes in the pre-recessionary period. Of this 1.5 million tonnes is MSW and C&I waste, with the balance being construction and demolition (C&D) waste. Around 160,000tpa of the MSW is identified as being landfilled with the landfill figure for C&I waste being around 300,000tpa. A proportion of the C&D waste was also landfilled. C&D waste, whilst not a primary waste stream for an EfW facility, does contain material suitable for thermal treatment in particular large quantities of waste wood.
- 4.2.17 Table 1 of Chapter 4 (over the page) provides a summary of the existing and permitted waste treatment capacity within the plan area (in '000s tonnes), it states:

(CD78) at Figure 1 showing EU Eurostat data 2014 for UK MSW landfilled.

	Municipal	Commercial / Industrial	Construction / Demolition
Recycle	300	1,600	1,000
General	-	600	-
Metal	-	1,000	-
Aggregates	-	-	1,000
Compost	85	-	-
Recovery	200	100	-
General	200	100	-
Wood/Biomass	-	54	-
Transfer	80	500	-

"Table 1 Summary of Existing Waste Treatment Capacity (in '000s tonnes)"

Please note that Table numbers 1, 3, 4a and 4b are direct reproductions of the tables with the same numbering in the adopted WCS.

- 4.2.18 Paragraphs 4.13 4.24 of the WCS provide a commentary regarding the existing capacity figures presented within Table 1. The key points to note in the context of this assessment and the proposed BEC development are:
 - 1. The 200,000tpa of general municipal recovery capacity relates to that provided by the existing Eastcroft EfW Facility in the City of Nottingham;
 - 2. The 100,000tpa of general C&I recovery capacity relates to the third line extension at Eastcroft EfW Facility, which benefits from a planning consent that has been implemented, but is yet to be built / operational. In this regard, it should be noted that Paragraph 4.20 of the WCS confirms that there is currently no energy recovery facilities that have been developed that are dedicated to the processing of mixed C&I waste within the plan area.
- 4.2.19 Having identified existing waste management capacity, Chapter 4 of the WCS then confirms the anticipated future waste arisings for the joint authority area. These are set out in Table 3, over the page.

	Municipal	Commercial / Industrial	Construction / Demolition	Total
2015	637	1,472	2,725	4,834
2020	653	1,472	2,725	4,850
2025	669	1,472	2,725	4,867
2030	683	1,472	2,725	4,880

"Table 3 Estimated Future Waste Arisings ('000 tonnes per annum)"

- 4.2.20 Policy WCS3 of the WCS sets targets for the management of the anticipated waste arisings and by 2025 the joint authorities are seeking to achieve the following targets:
 - 70% recycling and composting of all waste (MSW, C&I and C&D);
 - A maximum level of residual waste disposal of 10%; and
 - The remaining 20% to be met by energy recovery, where appropriate.
- 4.2.21 Table 4a of the WCS provides a breakdown of the overall tonnages of waste to be managed by recycling / composting, energy recovery or disposal based upon the estimated level of future waste arising for the year 2030 presented in Table 3 (see above) and the targets set out within Policy WCS3, it states:

"Table 4a Estimated overall tonnages of waste to be managed based on aspirational targets in Policy WCS3 ('000s tonnes per annum)"

	Recycling / Compositing (70%)	Energy Recovery (20%)	Disposal (10%)
Municipal	478	137	68
Commercial / Industrial	1,030	294	147
Construction / Demolition	1,908	-	273
Total	3,416	431	488

4.2.22 It should be noted that the totals within the table do not equate to the total arisings figure presented within in Table 3 of the WCS on the basis that no energy recovery capacity is shown for C&D waste. The WCS notes that this exclusion is on the basis that the C&D waste steam is not suitable for energy recovery.

4.2.23 Table 4b provides a summary of how much additional waste management capacity is likely to be required over the plan period, above that which is provided by the existing / consented capacity (shown in Table 1 of the plan).

"Table 4b Indicative additional treatment capacity requirements to meet aspirational targets in Policy WCS3 ('000 tonnes per annum)"

	Municipal	Commercial / Industrial	Construction / Demolition	Total
Recycling / Compositing	93	430	908	1,413
Energy Recovery	-	194	-	194

- 4.2.24 The figures provided within Tables 1 (existing capacity) and 4b are based upon a number of assumptions within the WCS, and were also the subject of discussion within the Inspector's report on the 'soundness' of the WCS (CD62). The assumptions and discussion are of relevance to this assessment are summarised below.
 - The Eastcroft EfW Facility has a consented capacity of 300,000tpa and this figure has been used within the calculation of existing capacity within Table 1 of the WCS. However, it is noted within paragraph 4.38 that the total available capacity is likely to be closer to 260,000tpa due to the down-time required for planned maintenance;
 - The calculation of additional energy recovery includes 100,000tpa of capacity at Eastcroft EfW Facility;
 - The calculation of existing capacity within Table 1 of the WCS excludes two small energy recovery facilities which are purposely designed to manage biomass or waste wood. The WCS notes at Paragraph 4.33 that: *"it is assumed that this capacity will contribute towards more general waste management needs."* In this regard, I note that whilst the two developments referred to within the WCS had planning consent, neither has subsequently been built and the two planning permissions have expired;
 - The Inspector's report identified that there is an existing gasification plant at Bentinck Colliery in Kirby-in-Ashfield with a total consented capacity of 75,000tpa. Paragraph 20 of the Inspector's report on the soundness of the WCS states that: *"the plant does not appear in the table of existing*

capacity (Table 1), because its input material is regarded as a fuel and not as a waste.";

 The existing capacity figures also take no account of the availability of waste treatment facilities outside of the Nottinghamshire and Nottingham area. This includes the Sheffield EfW Facility which has recently obtained planning permission to accept residual C&I waste from a wider catchment area. In considering this matter the Inspector stated in Paragraph 27 of her report:

"27. On the availability of waste treatment facilities outside the N/N area, it cannot on the evidence be assumed that continuing spare capacity would be necessarily available at the existing incinerator at Sheffield to take waste from N/N. The Councils have maintained close contact with Sheffield as WPA, and there is no evidence that Sheffield plans or intends to provide capacity for N/N use throughout the Plan period."; and

- The footnote to Table 4b states that: "No additional recovery requirement is shown for municipal waste in Table 4b because there would be a surplus capacity available based on the tonnages which are currently estimated. It is possible that spare capacity could be used for commercial and industrial waste but this will depend upon future circumstances."
- 4.2.25 In addition to the above the WCS also notes at paragraph 4.30 that (my emphasis): "The exact amount of additional capacity required may vary depending on actual circumstances and will need to be kept under review through regular monitoring. However, in order to try and illustrate the amount and broad categories of new waste management capacity that may be required; the following tables show how much additional capacity is likely to be needed in order to meet the aspirations of Policy WCS3. Please note these figures have been included for information and are not intended to be read as absolute as they may be subject to change over the life of the Waste Core Strategy."
- 4.2.26 Taking into account the relevant assumptions regarding existing capacity referred to above at face value, the WCS confirms that circa 194,000tpa of additional energy recovery capacity is required for the C&I waste stream over the WCS plan period.

- 4.2.27 The proposed gasification element of the BEC development has an anticipated waste throughput of circa 95,000tpa and would therefore clearly make a significant contribution to addressing the shortfall of residual waste management facilities that are required within Nottinghamshire and Nottingham.
- 4.2.28 In addition, it should also be noted that the BEC could recycle up to 22,300tpa of C&I waste each year and, in doing so, would also contribute towards the 430,000tpa shortfall of recycling capacity for the C&I waste stream.
- 4.2.29 It is clear therefore that based upon the figures published within the adopted WCS there is a demonstrable need for the proposed BEC development.
- 4.2.30 In the subsequent sub-sections of my proof, I provide my appraisal of whether the WCS figures and the assumptions that underpin them remain robust and further analysis of need directly relevant to the proposed BEC development. In doing so, I will:
 - Provide my interpretation of the assumptions within the WCS, identify elements of the WCS which have been superseded by material planning considerations, and confirm how this affects the case of need for the proposed BEC development;
 - Review the waste management figures contained within the Annual Monitoring Reports (AMRs) published by NCC in April 2015 (CD72) and Nottingham City Council in March 2015 (CD73), and the impact they have on the case of need for the proposed BEC proposal;
 - Provide an overview of other prospective residual waste treatment facilities / capacity that benefits from planning consent, but are not built or operational; and
 - Draw a series of conclusions on the local waste management need for the proposed BEC proposal.

Issues Associated with the Adopted WCS

4.2.31 Within the preceding sub-section, I have summarised the waste management figures contained within the adopted WCS, the assumptions

that underpinned them and the extent to which the proposed BEC development would contribute towards the future capacity requirements. Within this sub-section, I will provide my interpretation of the waste management figures presented within the WCS and identify material planning considerations which affect the assumptions underpinning them.

- 4.2.32 I have presented this information under the following sub-headings:
 - Compliance with the policies contained with the NPPW (October 2014);
 - Managing waste further up the hierarchy;
 - Whether there is a surplus of energy recovery capacity for MSW?; and
 - The prospects of achieving the 'ambitious' recycling targets within the WCS.

Compliance with the policies contained with the National Planning Policy for Waste (NPPW) October 2014

- 4.2.33 The WCS was adopted in December 2013 and therefore pre-dates the publication of the NPPW in October 2014. Paragraph 3 (bullet point 7) of the NPPW states (my emphasis) that *"In preparing Local Plans, waste planning authorities should...*
 - Consider the extent to which the capacity of **existing operational** facilities would satisfy any identified need."
- 4.2.34 As I have noted previously, the methodology that has been adopted within the WCS to calculate the amount of additional energy recovery capacity that is required within Nottinghamshire and Nottingham, includes energy recovery capacity that is not built and operational. This approach is no longer consistent with Government policy in the NPPW and the implications of this are material considerations in the assessment of need for the BEC proposal.
- 4.2.35 Table 4a of the WCS indicates that (based upon the achievement of the aspirational targets in Policy WCS3) 294,000tpa of C&I waste requires energy recovery. Table 4b indicates that there is only a requirement for an additional 194,000tpa of energy recovery capacity on the basis that

100,000tpa of capacity is available at the Eastcroft EfW facility. However, the additional capacity at Eastcroft is not built and operational.

4.2.36 In light of this, and in accordance with paragraph 3 of the NPPW, the 100,000tpa of consented capacity at Eastcroft EfW Facility, should not be considered in the calculation of future capacity requirements. Accordingly, the actual energy recovery capacity requirement for the C&I waste stream should be **294,000tpa**, rather than the 194,000tpa stated within the WCS. This position is also agreed with NCC in SoCG1 (paragraphs 6.10 and 6.14).

Management of Waste in Accordance with the Waste Hierarchy

- 4.2.37 Table 4a of the WCS provides a breakdown of the overall tonnages of waste to be managed based upon the waste management targets set out within Policy WCS3. The table indicates that 70% of the waste arising (for all waste streams) should be recycled / composted, 20% should be managed by energy recovery and 10% by disposal. For the C&I waste stream, it indicates that 1.03 million tpa should be recycled / composted, 294,000tpa the subject of energy recovery and 147,000tpa to disposal / landfill.
- 4.2.38 Further justification for the joint authorities' waste management targets is provided within paragraphs 7.8 and 7.17 of the WCS. With regard to the target for disposal / landfill, paragraph 7.14 states that: "...we also want to see a reduction in the amount of waste going for disposal to 10% or below so that it becomes a last resort" (my emphasis). The clear inference here is that the joint authorities consider the 10% target to represent a 'maximum' requirement for landfill disposal and if there are opportunities to divert more waste from landfill, they should be taken. Such an approach is entirely consistent with the aims of national policy in terms of managing waste further up the Waste Hierarchy and maximising landfill diversion.
- 4.2.39 In light of this, it is clear that the figures for disposal within Table 4a of the WCS should be seen as a maximum and (in accordance with the joint authorities' objective of maximising landfill diversion) the waste should also be considered to be available for management further up the waste
hierarchy. In light of this, the waste that is to be managed by disposal should also be considered suitable for Energy Recovery.

4.2.40 It would be unrealistic to assume that all of the 147,000tpa of C&I waste would be suitable for energy recovery. However, taking a broad assumption that around half of the material may be suitable, circa **73,000tpa** of residual C&I waste could be considered suitable and available for either disposal or energy recovery in Table 4b of the WCS. This position would apply equally to the MSW (discussed below) and C&D waste streams, although the waste quantities / percentages that might be suitable for 'other recovery' will differ³.

Surplus Recovery Capacity for Municipal Waste

- 4.2.41 It is noted in the footnote to Table 4b that: "No additional recovery requirement is shown for municipal waste in Table 4b because there would be a surplus capacity available based on the tonnages which are currently estimated. It is possible that spare capacity could be used for commercial and industrial waste but this will depend upon future circumstances."
- 4.2.42 Table 1 of the WCS states that existing energy recovery capacity within Nottinghamshire and Nottingham is 200,000tpa and Table 4a indicates that, based upon the achievement of the targets within Policy WCS3 of the WCS (stated previously), 137,000tpa of municipal waste would require recovery. Thus, the surplus capacity is circa 63,000tpa (i.e. 137,000 – 200,000).
- 4.2.43 It has been argued within a number of the third-party objections⁴ that the 63,000tpa should be taken into consideration in the additional treatment capacity requirements for C&I waste. They argue that, on this basis, the energy recovery figure for C&I waste (194,000tpa) is overstated.

³ Refer to Biffa Reality Gap report (CD78) page 16 final paragraph. This indicates 44% of C&I is generally accepted as being MSW like – taking into account suitable C&D waste I believe that the 50% figure adopted is realistic.

⁴ UKWIN Objection Part 1 (Feb 2014) paragraphs 145, 161-163; UKWIN Objection Part 4 (Sept 2014) paragraph 8; UKWIN Formal Interested Party Representation (Feb 2015) paragraphs 125-126: Hughes Planning (for RAGE Jan 2014) paragraph 97; and Hughes Planning (for RAGE Feb 2015) paragraph 61.

- 4.2.44 There are two reasons why I do not consider that there is a surplus of recovery capacity for municipal waste and therefore spare capacity for the C&I waste stream.
- 4.2.45 Firstly, in terms of existing recovery capacity, Table 1 of the WCS states that there is 200,000tpa of existing waste recovery capacity for MSW. It is noted in Paragraph 4.16 that the existing recovery capacity figure is associated with the Eastcroft EfW Facility in Nottingham and that the 200,000tpa capacity referred to is the 'licenced' capacity.
- 4.2.46 I am very familiar with the operation of the Eastcroft EfW facility and this knowledge has been gained:
 - through my involvement in the preparation of the planning application and EIA for the Third Line at the facility;
 - giving evidence on planning and need at the subsequent Appeal Inquiry (reference app APP/Q3060/A/058/2063129); and
 - Through AXIS' subsequent involvement in the preparation of a number of other planning applications in relation to the facility.
- 4.2.47 The reality is that lines 1 and 2 at Eastcroft are thermally treating circa 170,000 of residual waste each year (referenced in the latest annual performance report for the facility 2014). This is 30,000tpa less than the figure quoted within Table 1 and therefore material to the assessment of need. Indeed, this adjustment in the waste figures reduces the purported surplus of energy recovery capacity for MSW to only 33,000tpa.
- 4.2.48 Secondly, as I have discussed previously, whilst the joint authority have set a 10% target for disposal, which has been used in the tables relating to existing and future waste capacity requirements, it is clear within the WCS that this is a target which they hope to better. As a consequence, in order to better the target, it is also essential that the residual waste that has been allocated for disposal is also considered available for management further up the waste hierarchy through energy recovery.
- 4.2.49 In this regard, and based on my experience on numerous MSW PFI (or similar long term contracts), and the waste flow models contained there-in,

residual MSW that cannot be recycled, composted or subject to energy recovery is typically in the order of 1% of the overall MSW waste stream.

- 4.2.50 Table 4a of the WCS allocates circa 68,000tpa of MSW for disposal and arguably almost all of this waste could therefore be managed further up the waste hierarchy through energy recovery. In doing so, it would meet the joint authorities' stated aspiration within the WCS of seeing *"a reduction in the amount of waste going for disposal to 10% or below* so that it becomes a last resort."
- 4.2.51 Based upon the foregoing, I do not consider there to be a surplus of energy recovery capacity for the MSW waste stream and there is therefore no spare energy recovery capacity for C&I waste.
- 4.2.52 Whilst I do not consider a surplus to exist, it must be noted that even if the surplus were to be taken into account, and the spare capacity used for the management of residual C&I waste, there would still be an requirement for in excess of 200,000tpa of energy recovery capacity for the C&I waste stream, Thus there would remain a clear and demonstrable need for the BEC development.

Recycling Targets

- 4.2.53 As stated previously, the WCS seeks to achieve 70% recycling and composting of all waste by 2025. There is considerable discussion regarding the targets within the adopted WCS and the premise on which they have been set. I have set out what I consider to be the most relevant statements below.
 - Paragraph 4.28 states that: "the WCS is taking a more ambitious approach to go beyond these existing national targets in order to achieve 70% recycling and composting of all waste by 2025....";
 - Paragraph 7.12 states that: "Achieving this high recycling rate will require significant investment from local authorities and the waste industry to provide additional waste collections and recycling or composting infrastructure.";

- Paragraph 7.15 states that: "....If future recycling rates reach this level and the proportion of waste disposed of can be reduced to 10% or less, we would need around 20% of our waste to be recovered for energy. On the other hand, if higher recycling rates are not achieved then this would mean greater demand for either energy recovery or landfill...."; and
- Paragraphs 7.16 and 7.17 state:

"7.16 We recognise that there is a risk that these targets may not be achieved and that there needs to be some flexibility in our approach. If annual monitoring evidence shows that the 70% recycling and composting target is unlikely to be achieved then this may become a material consideration in determining planning applications for other types of waste management facilities and may even trigger an early review of this policy.

7.17 In practice the future provision of waste facilities may need to reflect a sliding scale of either more or less of each facility type as we progress towards our long term goal. However our presumption will be towards facilities that are higher up the waste hierarchy."

- 4.2.54 It is clear from the foregoing that the joint authorities' accept that:
 - 1. The recycling target is very ambitious;
 - The achievement of the target will necessitate a significant amount of investment in collections and infrastructure;
 - Failure to achieve the target will necessitate a greater demand for either energy recovery facilities or landfill capacity (clearly the preference should be for the former, it being higher up the waste hierarchy);
 - 4. In the event that monitoring indicates that the recycling target is unlikely to be met, it can be a material consideration in determining planning applications; and
 - 5. There is a presumption in favour of facilities that move the management of waste up the waste hierarchy.
- 4.2.55 In considering the recycling targets, it is firstly important to understand that the commerciality of the management and recycling of C&I waste is materially different to MSW. Accordingly, I have addressed each waste stream separately.

<u>MSW</u>

- 4.2.56 The national recycling target is 50% by 2020 and at present, with virtually all English Waste Collection Authorities (WCA's) having rolled, out or substantively rolled out, their collection service changes, Waste Disposal Authorities (WDA's) modifying household waste site arrangements and following several years of education, the national recycling rate has remained virtually static for the last three years. In 2011/12 it was 43.3%, in 2012/13 it was 41.1% and in 2013/14 it was 44.2%.
- 4.2.57 Upon releasing the national recycling figure in 2011/12, Defra stated that: "In 2011/12, 43 per cent of household waste was recycled, up from 41.5 per cent in the previous year. This year on year increase was the smallest for ten years; the rate of increase has been slowing since its peak around 2005, which could indicate that authorities have by now exploited the easiest targets in terms of recycling, and are increasingly facing challenges in influencing behaviour change and identifying new areas and efficiencies in the waste services they provide".
- 4.2.58 The recycling results for the two years following the publication of the statistical release would certainly seem to validate Defra's concerns.
- 4.2.59 In addition to the statement from Defra, the Association of Directors of [local authority] Environment, Economy, Planning and Transport (ADEPT) also expressed a concern in this regard to the Secretary of State for Defra in July 2013. They stated:

<u>"England's Recycling Rates, Initiatives and the Potential Impact of Reduced</u> Local Authority Finances on Residual Waste

Whilst data for 2012/13 does not appear to have been fully submitted to the Environment Agency, a brief review of data available on Waste Data Flow showed 169 authorities that have submitted data for the four quarters of 2012/13 have experienced a reduction in recycling rates as measured by the former BVPI82a. It does not seem safe, therefore, to assume that recycling rates are set to continue to steadily climb.

ADEPT is concerned that 50% recycling and compositing may not be achieved across all local authorities in England as the reduction in funding available to Local Authorities may lead to some waste re-use, reduction and recycling schemes and initiatives being delayed, pulled or not going ahead in the first place. It is not clear that this has been given consideration by Defra in assessing the future residual waste treatment needs, in a situation where it is already not certain that 2020 requirements will be met. There is clearly an ongoing need to maintain, and perhaps increase the national programme to provide for infrastructure to divert biodegradable waste from landfill".

- 4.2.60 In light of the foregoing, achieving the 50% rate across England as a whole will not be easy.
- 4.2.61 In March 2015 Nottingham City Council published their Authority Monitoring Report 2013 /14 (CD73) and In April 2015 Nottinghamshire County Council published their Minerals and Waste Development Plan Annual Monitoring Report 2013/14 (CD72). Both documents provide the latest recycling rates for the authority area and, for comparison, historic recycling rates. The latest data for each authority area is summarised in Table 4.1 below, together with the figure for the East Midlands as a whole.

Table 4.1 MSW recycling rates for NCC and Nottingham City Council2008/09 – 2013/14

Year	Nottinghamshire County Council (%)	Nottingham City Council (%)	East Midlands (%)
2008/09	41.38	-	42.9
2009/10	42.67	-	44.2
2010/11	43.90	-	44.8
2011/12	43.27	-	45.3
2012/13	43.27	34.74	45.6
2013/14	44.59	35.72	45.3

- 4.2.62 With regard to the AMR data published by NCC it is clear that:
 - NCC's recycling rate has effectively remained static and has only increased by 3.31% in six years between 2008 and 2014. This is all the more significant given that this coincides the with roll-out of new infrastructure and waste management practices following the Council's procurement of a long-term contact for the management of their MSW in 2006. It is noteworthy that the recycling target within the waste contract is

only 52% by 2020 which, whilst above the national target, is far lower than the aspirational target within the WCS.

- The recycling rate is still 5.41% less than the national target and 25.41% less than the WCS aspirational target for 2025.
- The recycling rate and the rate of growth are broadly commensurate with national levels and slightly lower than the overall recycling rate for the East Midlands region.
- 4.2.63 With regard to the AMR figures published by the City Council, it is clear that their recycling rates are also largely static, are significantly (over 14%) below the national target for 2020 and only half way to the aspirational recycling target within the WCS. The recycling rate is well below that which is being experience in NCC, regionally and nationally.
- 4.2.64 The AMR results from the County and City would appear to echo the issues that Defra and ADEPT have raised regarding the achievement of recycling targets at the national level.
- 4.2.65 Based upon the figures presented within the AMRs the combined recycling rate for the County and the City is 42.1% which is 7.9% less than the national target and 27.9% less than the aspirational target in the WCS.
- 4.2.66 In light of the latest AMR figures, it is clear that NCC and Nottingham City Council are struggling to achieve the national recycling target of 50% by 2020, with the latter making particularly poor progress in this regard. Furthermore, based upon the increases in the rate of recycling over the monitoring period, there is a clear medium term (6 year) pattern of minimal growth in MSW recycling rates.
- 4.2.67 This position is set against a background where:
 - The constituent authorities having rolled out their recycling initiatives (primarily focussed on segregation via the collection services) and thus having already achieved the recycling 'easy wins';
 - Local authority and general public sector finances are extraordinarily stretched and thus, even if there were substantive measures that could

be put in place to materially increase recycling (which I don't believe to be the case), funding will remain a barrier; and

- Evidence from other EU countries⁵, including those 10 years or more advanced than the UK in terms of sustainable waste management, which indicates that the very best performing (Germany) has achieved circa 64% MSW combined recycling and composting. However, this figure includes Anaerobic Digestion and the recycling of incinerator bottom ash (IBA). Neither of these counts as recycling in England and thus the like for like comparison is around a 50% MSW recycling (including composting) rate in Germany i.e. the English target for 2020 which we are struggling to achieve.
- 4.2.68 On the basis of this hard evidence, there is no practical prospect that the Councils will come close to achieving their aspirational target of 70% recycling by 2025. As a consequence, and as countenanced in the WCS, this creates an increased demand for new energy recovery capacity.

C&I Waste

- 4.2.69 With regard to C&I waste it is the producer of the residual waste that pays directly for its collection and disposal, rather than it being subsumed in Council Tax that pays for a plethora of public services, as is the case for MSW. As a consequence, there is a clearer fiscal benefit to the waste producer to minimising the quantities of residual C&I waste produced and to recycle as much as possible.
- 4.2.70 Commercial and industrial operators are posed a very simple choice, they either pay for disposal of all waste they generate at for example £105 £110 tonne in a non-hazardous landfill (£25 gate fee plus £82.60 Landfill Tax in 2015/16), or they separate out recyclables and get paid for them as commodities. Reference to the Letsrecycle web site http://www.letsrecycle.com/ shows the common recycled commodities and their recent and current market values. The main commodities with an economic value are: glass; metals; waste paper; plastics; textiles; and

certain woods. All have several sub-commodity categories e.g. there are nine categories of waste paper including cardboard etc. Values range by commodity and market conditions, but run from over £4,000 per tonne for certain non-ferrous metals, to only a few £ per tonne for certain woods, although even low value recycling is clearly economically attractive compared to the alternative disposal costs.

- 4.2.71 The choice of either paying for your waste to be managed or getting paid for it is a fairly simple one in the C&I market. Thus the market and commercial drivers will dictate that residual C&I waste is in practicable terms truly 'residual'.
- 4.2.72 As referenced earlier, the establishment of robust estimates of C&I waste arisings and its management at the local level (and indeed all levels) is difficult, as there is simply a paucity of reliable or comprehensive data in this regard. The last complete study of C&I waste arising's within Nottinghamshire and Nottingham was carried out in 2002/03 and the results of this were adjusted to take account the number of businesses and employees in each sector in 2006/07. The most recent survey of C&I waste was the national survey carried out by Jacobs for Defra in 2009 (published in 2010) which provides estimates at the regional level.
- 4.2.73 In their latest AMR (CD72) NCC do not present any local recycling figures for C&I waste and instead adopt the national estimate of 52% recycling from the Jacobs / Defra report. In this regard, I note that recycling rate for the East Midlands region was lower, at 46%.
- 4.2.74 The Defra study was based upon 2009 data and at that time the rate of Landfill Tax stood at £40 per tonne, since then the rate of landfill tax has more than doubled to £82.60 in 2015/16. As this is the principal driver for the diversion of C&I waste from landfill, it is reasonable to assume that recycling rates will have increased to some extent.

⁵ Refer to Biffa Reality Gap Report (CD78) at Figure 1 showing EU Eurostat data 2014 for EU MSW recycling and composting rates.

4.2.75 Within their AMR NCC estimate that the total amount of C&I waste arising within Nottinghamshire and Nottingham is circa 900,000tpa and that the amount of C&I waste that is being landfilled in the joint authority area is approximately 238,000tpa. Whilst these figures are very much estimates and should be treated with some caution (which I will discuss in more detail later in my evidence), they would appear to indicate that at the present time circa 26.5% of C&I waste is being disposed of at landfill and circa 73.5% is either being recycled / composted or otherwise recovered. This would suggest that local recycling rates for C&I waste are still short of the aspirational targets set out within the WCS (and indeed the other targets for energy recovery and disposal).

Summary / Conclusion

- 4.2.76 In terms of MSW, It is clear from the latest monitoring data that the joint authorities are going to miss their recycling target of 70% in 2025 by a very significant margin. It is important to stress at this juncture that I do not view this as a positive thing, it is clearly not. After waste reduction and re-use, recycling is the best waste management option. However, there can be no justification for not taking action to move waste out of landfill, to energy (other) recovery, when it is demonstrably the case that the recycling target will not be met. To do so would be contrary to the principles of the waste hierarchy itself.
- 4.2.77 The combined rate of recycling for Nottinghamshire and Nottingham in 2014 was 42.1%. Whilst there is still 10 years to the deadline for the achievement of the recycling target (2025), recycling rates for MSW have only grown in the County by circa 3% in the preceding 6 years, despite significant investment in infrastructure, collections and education as part of their municipal waste contract. At the same rate of growth for the next 10 years the combined recycling rate would only be around 47% 48%, which is still circa 22% short of the target. If this recycling rate were to be achieved a further 140,000tpa of waste would need to be managed by either energy recovery or disposal.

- 4.2.78 In addition to the above, it would also appear that the recycling and recovery of the C&I waste stream is also still some way short of the targets, although it is acknowledged that there is lack of up-to-date and reliable data in this regard.
- 4.2.79 The WCS is very clear regarding the achievement of the recycling targets. It identifies that in the event that monitoring indicates that the target is unlikely to be met, it can be a material consideration in determining planning applications. It also notes that failure to achieve the target will necessitate a greater demand for either energy recovery facilities or landfill capacity.
- 4.2.80 Based upon the evidence provided within the lasts AMRs and the relatively static recycling rates that are being experienced both locally and nationally, I do not consider that the joint authorities will achieve their 70% target for MSW and that they may not achieve their target for C&I waste. I consider that this is a material consideration in the determination of this planning application as it would suggest that greater demand exists for energy recovery facilities and / or landfill capacity then currently started within Tables 4a / 4b of the WCS.

Summary

- 4.2.81 The assessment of future capacity requirements within the adopted WCS identifies that there is an indicative additional treatment capacity requirement for the energy recovery of circa 194,000tpa of residual C&I waste.
- 4.2.82 However, for the reasons set out above, I do not consider that approach to the identification of the future capacity requirements is up-to-date, or reflective of the joint authorities' aspirations regarding the diversion of waste form landfill.
- 4.2.83 Further to the above, I do not consider that there is a surplus of municipal waste recovery capacity that could meet some of the identified residual waste treatment capacity requirement for the C&I waste stream.

- 4.2.84 Taking the above factors into account, it has been calculated that the additional energy recovery capacity requirement for C&I waste should be at least **294,000tpa** and potentially **367,000tpa** (including at least 73,000tpa that is currently identified as going to landfill).
- 4.2.85 There is also compelling evidence that the joint authorities will fail to achieve their 70% target for MSW and they may not achieve their target for C&I waste. I consider that this is a material consideration in the determination of this planning application as it would suggest that greater demand potentially exists for energy recovery facilities and / or landfill capacity then currently started within Tables 4a / 4b of the WCS.
- 4.2.86 It therefore is clear that with a planned throughput of circa 95,000tpa the gasification element of the proposed BEC development would make a significant contribution to addressing the shortfall of residual waste management facilities that are required within Nottinghamshire and Nottingham.

Nottinghamshire County Council and Nottingham City Council -Annual Monitoring Reports

- 4.2.87 As stated above, Paragraph 4.30 of the WCS notes that 'The exact amount of additional capacity required may vary depending on actual circumstances and will need to be kept under review through regular monitoring.'
- 4.2.88 Nottingham City Council produced their latest Nottingham Authority Monitoring Report in March 2015 and NCC published the Nottinghamshire Minerals and Waste Development Plan Annual Monitoring Report 2013/14 in April 2015. Both documents provide the latest available data on waste arising's within each waste authority area.
- 4.2.89 In light of the statement within paragraph 4.30 of the WCS, it is important to consider the waste figures presented within the AMR reports and to confirm the extent to which they affect the additional capacity requirement within the WCS.

- 4.2.90 With regard to MSW, the figures presented within the AMRs indicate that in 2014 the level of MSW waste arising within Nottinghamshire and Nottingham was 547,664tpa. This figure is less than the waste arisings figure that was included within Table 3 of the WCS which indicates that in 2015 arisings of MSW would be 637,000tpa.
- 4.2.91 With regard to C&I Waste the AMR estimates that the current 'best estimate' for the combined arisings for the County and the City is that it was around 900,000tpa in 2009/10. A more detailed description as to how the joint authorities have derived this figure is provided in Background Paper 1 to the Nottinghamshire and Nottingham Waste Core Strategy (March 2012). It states:

"The most recent national survey of commercial and industrial waste was carried out by Defra in 20103 for the calendar year 2009. This suggests a 29% national fall in commercial and industrial waste arisings since the last Environment Agency survey in 2002/03. Regionally there has been a slightly lower decline in the East Midlands of 22%. This latest Defra survey does not provide any local data. This means that the most recent local survey data for Nottinghamshire and Nottingham remains that from 2002/03 which is included the Regional Waste Strategy.

8. However there have been a number of studies to try and re-model the existing data to provide a more recent estimate. Work originally carried out by Urban Mines consultants in for the north-east of England has been repeated by ADAS for the rest of the English regions. This work takes account of changes in the number and type of businesses in each industry sector and uses this to recalculate the likely waste production of each sector. At the local level, this method has been by used RPS consultants to provide a more recent estimate for Nottinghamshire for 2006....."

9. Nottinghamshire's estimated total production of commercial and industrial waste for 2006 was 2.3 million tonnes but this figure includes just over 1.3 million tonnes of power station ash and colliery spoil which is managed separately and can distort comparisons with other areas which do not produce much, if any, of this waste type. To help get a more realistic picture of the waste we need to manage we therefore intend to consider this 'power

& utilities' waste separately as it will be managed at dedicated sites rather than alongside general commercial and industrial waste. Taking this approach gives a revised estimate for 2006 of almost 971,000 tonnes of commercial and industrial waste.

10. This latest estimate is significantly lower than the figures of 1,287,000 tonnes estimated in 2003 and it also predates the effects of the recent recession. It is therefore assumed that current rates may actually be lower. To try and obtain a more recent estimate we have calculated what Nottinghamshire and Nottingham's figure would be if the same rate of national or regional decline is applied here (i.e. between 22% and 29% reduction). This suggests that commercial and industrial arisings could now be around 900,000 - 1,000,000 tonnes a year but this is little more than an educated guess in the absence of any more reliable data.

- 4.2.92 The position and the C&I figure presented within the AMR is made more complicated by the fact that it does not correlate with the C&I waste arising figure that was presented within the adopted WCS in December 2013.
- 4.2.93 The Inspector's report into the examination of the WCS (October 2013) specifically considers whether the Strategy is founded upon *"adequate statistics and forecasts of the waste that is to be managed"*. Within her report the Inspector acknowledges (paragraph 23) the fact that the Defra survey results suggest a fall in C&I waste arisings both nationally and regionally. However, she does not suggest that a similar fall should be applied to the future waste arisings figure that was found to be sound and adopted within the WCS.
- 4.2.94 The C&I waste arising figure for 2015 within the WCS was based upon work that was carried out by consultants RPS on behalf of the Regional Technical Advisory Body (RTAB) in 2010. This indicates that C&I arisings in 2015 would be 1.472 million tpa.
- 4.2.95 This position creates a quandary, whilst the paragraph 4.30 of the WCS indicates that the figures contained within it should be kept up to date through regular monitoring, the actual approach and basis for the figures

within the monitoring are different to that adopted within the preparation of the WCS. Moreover, the figures within the monitoring report are actually based upon a less contemporary assessment with to those within the WCS.

- 4.2.96 In this regard, I believe that the figures within the WCS should take precedence as they have been through a formal consultation and examination process and found to be sound. The figures within the AMR have received no such validation and were clearly based upon a data source rejected at the examination stage of the WCS.
- 4.2.97 Notwithstanding the fact that the arisings data presented within the AMR in respect of C&I waste would appear to be unreliable, I have, in the interests of completeness, set out below as my Tables 4.2, 4.3 and 4.4 a re-run of WCS tables 3, 4a and 4b using the arising data provided within the AMRs. The key assumptions I have made in the preparation of my version of the tables are:
 - i. The total MSW arising figure shown for 2015 is the actual figure for 2013/14 projected forward to 2015 using the same growth rates that were adopted in the identification of the future waste arising figures within Table 3 of the WCS, which the Inspector validated by finding the WCS sound. It assumes 0.5% growth in MSW annually;
 - All subsequent MSW arising figures have been projected from the 2013/14 figure using the same growth rate;
 - iii. The total C&I arising figure shown for 2015 is the estimated figure in the AMR for 2009. It has been projected forward using the same growth rates that were adopted in the identification of the future waste arising figures within Table 3 of the WCS, which the Inspector validated by finding the WCS sound. It assumes 0% growth in C&I waste annually;
 - iv. The recycling and composting, energy recovery and disposal rates are based upon the achievement of the recycling targets referenced within Policy WCS3 and its reasoned justification (70% recycling and composting, 20% energy recovery and 10% disposal);
 - v. The recycling and composting figures are based upon those contained within Table 1 of the WCS and have not been updated to take into account any new operational recycling facilities that have come on-line since the adoption of the WCS in December 2013. With regard to

existing energy recovery capacity, no energy recovery facilities have been built and become operational since the adoption of the WCS⁶. However, I have adjusted the existing operational capacity for municipal recovery at Eastcroft to reflect my previously comments regarding the actual physical capacity of the facility (it is now stated as 170,000tpa rather than the 200,000tpa that was stated within the adopted WCS). Furthermore, in accordance with the NPPW, and to reflect my previous comments, I have also not included any consented capacity than is not built and operational in the identification of additional treatment capacity requirements in Table 4.4; and

vi. In accordance with my previous comments on the joint authorities' approach to the disposal targets within the development plan, in the identification additional treatment capacity requirements in Table 4.3, I have assumed that 95% of the MSW allocated for disposal and 50% of the C&I waste would also be available for energy recovery.

	Municipal	Commercial / Industrial
2015	550.74	900
2020	564.65	900
2025	578.9	900
2030	593.52	900

Table 4.2 Estimated Future Waste Arisings ('000 tonnes per annum)

⁶ In making this statement I disregard the ITI Energy Gasification plant at Bentinck. This facility was granted planning permission in 2007 and built at a pilot plant scale, with a nominal 12,000tpa capacity. It is understood to have trialled on clean wood fuel in 2013. However, the trials were not successfully completed and ITI failed to secure additional investment in order to seek to improve the plant and went into administration in November 2013. ITI's assets were then secured out of administration by Warwick Energy who did successfully complete commissioning trials using a highly processed, waste based briquette (source of the constituent waste unknown). This is not the type of waste material that the BEC facility would operate on, it would require an additional manufacturing process which is not known to be widely available in the waste sector and is of questionable financial viability. This is evidenced by the fact that the Bentinck plant has never fully operated at a commercial scale and the facility is now closed and mothballed. I do not see this pilot development as making any material contribution to the management of Nottingham and Nottinghamshire's residual waste.

	Recycling / Compositing (70%)	Energy Recovery (20%)	Disposal (10%)
Municipal	415.46	118.70	59.35 (56.38 also availiable for energy recovery)
Commercial / Industrial %)	630	180	90 (45 also availiable for energy recovery)

Table 4.3 Estimated overall tonnages of waste to be managed based onaspirational targets in Policy WCS3 ('000s tonnes per annum)

Table 4.4 Indicative additional treatment capacity requirements to meet
aspirational targets in Policy WCS3 ('000 tonnes per annum)

	Municipal	Commercial / Industrial
Recycling / Compositing	30	30
Energy Recovery	5.08	225

- 4.2.98 Taking into account my assumptions regarding existing capacity and the amount of residual C&I waste that should be considered available for energy recovery, the updated table confirms that circa 225,000tpa of additional energy recovery capacity is potentially required for the C&I waste stream.
- 4.2.99 The proposed gasification element of the BEC development has an anticipated waste throughput of circa 95,000tpa and would therefore clearly make a significant contribution to addressing the shortfall of residual waste management facilities that are required within Nottinghamshire and Nottingham.

Sensitivity Analysis – Existing Planning Consents

- 4.2.100 As I have noted previously, the NPPW only requires Waste Planning Authorities to consider existing operational facilities when identifying their future waste management needs within the local plan.
- 4.2.101 At the present time there is only one existing energy recovery facility within Nottinghamshire and Nottingham, which is the Eastcroft EfW facility. This facility has a maximum throughput of 170,000tpa, and as I have

demonstrated elsewhere in my evidence, on its own, it is not sufficient to meet Nottinghamshire and Nottingham's energy recovery capacity requirements. The additional capacity will need to be met through the provision of new, additional waste management infrastructure.

4.2.102 Whilst there is only one operating facility in the joint authority area, I am aware that that there are a number of other 'prospective' residual waste treatment facilities / capacity facilities in Nottinghamshire and Nottingham that benefit from planning consent, but are not built or operational. Further details are provided within Table 4.5.

Table 4.5 Planned Recovery Capacity with Planning Permission within Nottinghamshire and Nottingham

Site	Applicant	Planning Application Reference	Annual Waste Throughput (000's Tonnes)	Commentary
Land at C Blenheim S Industrial E Estate E L	Chinook Sciences / Bulwell Energy Limited	ninook 13/03051/P ciences / MFUL3 ulwell nergy mited	160,000	Planning consent (13/00757/PMFUL3) was first granted by Nottingham City Council for a manufacturing, research and development facility, with a 30,000tpa energy generation demonstrator (using 'active pyrolysis' technology) on 25 th June 2013, which was intended to support (provide heat and energy) to a wider energy / science park at Blenheim Industrial Estate.
				Chinook Sciences subsequently successfully applied to the City Council to increase the capacity of the facility to 160,000tpa and to change the proposed technology to gasification. Panning permission was subsequently granted for the facility on the 2 nd July 2014.
				 The planning application documentation specifies the type and anticipated source of waste for the proposed gasification facility. It confirms that the facility would receive: 40,000tpa RDF Nottinghamshire; 35,000tpa Residual C&I Derby; 85,000tpa Residual MSW.
				On the basis of the above the facility would only accept 40,000tpa of C&I waste that is sourced from within Nottinghamshire and Nottingham.
				The developer obtained an Environmental Permit for the development on the 20 th April 2015 (Permit number EPR/LP3239NX).
Eastcroft FCC (Third Line)	CC 07/01502/P 10 MFUL3 APP/Q3060/ A/058/20631	100,000	In August 2006 Waste Recycling Group (Now FCC) submitted a planning application for new external treatment to the existing energy from waste facility at Eastcroft, together with its extension to create 100,000tpa of additional capacity for non-hazardous waste treatment.	
		29		WRG subsequently appealed for non-determination of the planning application in October 2006. The appeal decision was subsequently the subject of a public inquiry. The appeal was then recovery by the Secretary of state on the 30 September 2008 following a resolution by the appeal inspector to allow the appeal. The Secretary of State subsequently allowed the appeal on the 12 February 2009.
				Subsequent to the appeal being allowed WRG / FCC has successfully

				 implemented the planning consent, saving it in perpetuity. However, aside from the minor works required in order to implement the planning consent, the main construction works for the third line have not commenced. It is also important to note that FCC has recently prepared and submitted a further planning application seeking to modify the third-line proposal and increase the anticipated throughput from 100,000tpa to 140,000. If the application is approved and the third line built the overall capacity of the Eastcroft facility would be circa 310,000tpa. The application is based upon the third line receiving municipal waste arising from within north Nottinghamshire and north Leicestershire.
Bentinck Colliery	ITI NRG / Warwick Energy	2007/0921	75,000	I have addressed this project previously within my proof and do not find the scheme as viable alternative for managing the type of waste that would be treated at the BEC proposal.
Worksop Recycling Centre	Nottingham Recycling / Bioflame	1/02/08/0032 6	30,000	The planning application was submitted for a waste wood / biomass boiler with a 30,000tpa facility that was to be operated by Bioflame. Subsequent, to the grant of consent for the facility Bioflame went into administration and the development has never been brought forward by another operator. It is my understanding that the planning consent has subsequently expired.
Fosse Way, Widmerpo ol	John Brooke (Sawmills) Ltd	8/10/00867/ CMA	26,000	This application was for a steam turbine biomass boiler which, according to the planning application documentation, was for the thermal treatment of waste wood arising from the operation of the existing sawmill. The Planning officers report into a subsequent planning application on the site (see below) confirmed that the planning consent for the 26,000tpa facility was never implemented and that the planning consent has subsequently lapsed.
Fosse Way, Widmerpo ol	John Brooke (Sawmills) Ltd	8/13/02185/ CMA	50,000	The planning application relates to the erection of 2 new industrial buildings and installation of a 7MW wood fuelled renewable energy biomass plant and retention of existing wood recycling and composting operations. The proposed biomass plant would have a throughput of approximately 50,000tpa, which would primarily comprise of waste wood arising from existing operations at the Sawmill and a limited amount of waste wood from local recycling operations. The planning application forms indicate that the waste wood would be sourced from the construction and demolition waste stream. Given that the primary purpose of the facility is to manage its own waste I do not consider that it would contribute towards the achievement of more general waste management needs for the C&I waste stream.
Total	1	1	260 000	

4.2.103 Whilst the NPPW is explicit that this existing consented capacity should not be considered in any assessment of need for additional residual waste recovery capacity in the joint authority area, I have considered the implications that they would have upon the future energy recovery capacity requirements in the event that they were to come forward.

- 4.2.104 There are a number of important conclusions that can be drawn from my review of the planned facilities, they are:
 - There are only two other developments proposals that have the potential to meet the additional energy recovery capacity requirements for C&I waste;
 - 2. The total existing consented capacity is 260,000tpa (300,000tpa if the new third line application at Eastcroft was to be granted planning consent); and
 - 3. Analysis of the planning applications prepared in support of these facilities has revealed that only **40,000tpa** is actually intended for the management of C&I waste arising within the joint authority area. The majority of the waste that is to be managed within the facilities is MSW and the Bulwell Energy Park facility would also accept a further 35,000tpa of C&I waste from neighbouring Derbyshire.
- 4.2.105 I have established elsewhere within my evidence that, based upon the existing figures within the WCS, the additional energy recovery capacity requirement for C&I waste should be 367,000tpa (rather than the 194,000tpa that is currently quoted in Table 4b). Based upon these capacity requirements, even if both of the consented facilities were built, operating and only managing C&I waste there would still be an energy recovery capacity gap of 107,000tpa. Thus, with a planned throughput of 95,000tpa, there would still be sufficient remaining capacity for the proposed BEC development, based upon Nottinghamshire and Nottingham's C&I waste only.
- 4.2.106 In reality, the two facilities would not just accept C&I waste. It is quite clear from the planning application documentation prepared in support of the two developments that the vast majority of the waste that would be managed at the facilities would either be MSW, or C&I waste arising outside of the joint authority area. Indeed, based upon the information submitted in support of the applications, only 40,000tpa of C&I waste arising within the joint authority is to be managed at the facilities. In light of this there would still be circa 327,000tpa of additional capacity required which is more than three times the capacity of the gasification facility at the proposed BEC development.

- 4.2.107 As required in paragraph 4.30 of the WCS, I have also considered the need for the BEC proposal in the context of the waste arisings figures presented within the latest AMRs for Nottinghamshire and Nottingham. As I noted previously there is considerable uncertainty regarding the validity or accuracy of the C&I arisings figures which are founded upon up unreliable / out of date information. Thus, extreme caution must be taken in the capacity figures derived from them. In this regard I consider the figures presented within the adopted WCS to be more reliable as they have been found 'sound' following a formal consultation and examination process.
- 4.2.108 My assessment establishes that, based upon AMR figures, a further 225,000tpa of additional energy recovery capacity would be required for the C&I waste stream. Based upon the foregoing, if the two 'planned' facilities were to be built and operate in accordance with the detail specified in their planning consents a further 180,000tpa of additional recovery capacity would be required within the Joint Authority area. This is almost double the planned capacity of the BEC proposal. Indeed, even if half of the planned capacity comprised C&I waste arising from within the joint authority area there would still be an identified need for the BEC proposal.
- 4.2.109 In light of the foregoing, I consider that even if all of the planned capacity were to be developed there would still be a demonstrable need for the BEC development

Conclusions on Local Quantitative Need

- 4.2.110 I make the following conclusions on local quantitative need for new residual waste treatment capacity:
 - The WCS identifies a need for 194,000tpa of additional energy recovery capacity for the C&I waste stream. At 95,000tpa the gasification element of the BEC development would make a significant contribution to addressing the shortfall of residual waste management facilities / capacity;
 - The approach to the identification of existing waste treatment capacity within Table 1 of the WCS has been superseded by the policies in the NPPF. Only existing operational capacity should be considered. NCC is

in agreement on this point (SoCG1 paragraphs 6.10 and 6.14) and that results in the additional energy recovery capacity for the C&I waste stream increasing to 294,000tpa. This further supports the need for the BEC development;

- iii) I have demonstrated that there is not a surplus of capacity for the MSW waste stream and thus there is no surplus capacity that could be used for the management of C&I waste;
- iv) The WCS is committed to 'bettering' the aspirational 10% target for waste disposal. In order to achieve this, the waste that has been allocated for disposal in the waste capacity tables within the WCS should also be considered to be available for management further up the waste hierarchy. Based upon a reasonable assumption that around half of this waste would be suitable for energy recovery waste infrastructure would be required to manage a further 73,000tpa of C&I waste. This would give an overall requirement of 367,000tpa this almost 4 times the proposed throughput of the BEC development;
- It is clear from the latest AMRs for Nottinghamshire and Nottingham that V) the Councils are struggling to achieve the ambitious target of 70% recycling for the MSW waste stream and, that it is unclear whether they are likely to achieve their target for the C&I waste stream. The WCS confirms that if monitoring shows that recycling rates are unlikely to be achieved this can represent a material consideration in determining planning applications. It also notes that failure to meet the targets will result in greater demand for either energy recovery or landfill. As the date for the achievement of the 70% target is for 2025 and the exact amount it will be missed is unclear, based upon current recycling trends both locally (and nationally), it would appear that for MSW, it will be missed by some margin. This will create a greater demand for energy recovery facilities / landfill capacity and I consider this to be material to the determination of the planning application for the proposed BEC development;
- vi) I have considered the need for the BEC development in the context of the waste arisings data presented within the latest AMRs for Nottinghamshire and Nottingham. This identifies that there would be a shortfall in treatment capacity for residual C&I waste of circa 225,00tpa. At 95,000tpa the gasification element of the BEC development would

make a considerable contribution to meeting this need. In drawing this conclusion I must note again that I have considerable reservations regarding the reliability of the C&I arisings data presented within the AMR's; and

- vii) Finally, I have carried out review of other prospective residual waste treatment facilities / capacity within the joint authority area that benefit from planning consent, but are not built, or operational. This has identified that even if the planned developments were to be built and operational, there would still be a demonstrable need for the BEC development.
- 4.2.111 In conclusion, with a residual waste treatment capacity of 95,000tpa, it is demonstrably the case that the gasification facility forming part of the proposed BEC development would make a significant contribution to diverting local C&I waste from landfill. As such there is a demonstrable need for the facility at a local level, at the capacity proposed. Accordingly, **very** significant weight should be ascribed to the sustainable waste management benefits arising from the proposal.
- 4.2.112 Finally, I appreciate that the foregoing quantitative assessment is complex, although its conclusions are clear. There is a far simpler way of looking at need that accords with extant national planning policy for waste. Nottinghamshire and Nottingham produces a lot of MSW and C&I waste, say in the order of 1.5 million tpa, <u>plus</u> further quantities of C&D waste suitable for thermal treatment. It has only one <u>existing and operational</u> energy recovery plant with 170,00tpa capacity. The joint authorities need a lot more energy recovery capacity and certainly more than the BEC proposal will provide.

4.3 Energy / Renewable Energy Need and Benefits

National Position and Overview

4.3.1 SoCG1 summarises (in paragraphs 6.16 – 6.24) the extensive policy documentation that supports renewable energy development at national and local level as key to combating climate change. It outlines the overwhelming

policy support to deploy as much renewable energy capacity as soon as possible. NCC agrees (in SoCG1 paragraph 6.24) that:

"....the proposed BEC development would assist in meeting the national renewable energy target and providing security of electrical supply utilising UK sourced, dependable residual waste and lessening dependence on insecure foreign imports of fuels for energy. Unlike certain other forms of renewable generation, energy from waste provides a constant baseload of electricity and is not dependent of weather conditions. It is therefore also agreed that the facility would provide energy that is dispatchable and therefore would fully contribute to meeting the objectives of Government energy policy.

4.3.2 In addition to the agreed position within SoCG1, the Applicant's position on the aforementioned matters is set out in detail in the Planning Statement (CD1 Part 3). I have nothing further to add on these matters.

Local Renewable Energy Need

- 4.3.3 A revised, detailed, assessment of local renewable energy need for the East Midlands region which includes the Nottinghamshire and Nottingham subregion is provided within Section 5.0 of the Third Regulation 22 Submission (September 2015) (CD75).
- 4.3.4 This up to date assessment provides all of my evidence in relation to local renewable energy need and as such, I shall not repeat it here.

4.4 Other Benefits of the BEC Proposal

- 4.4.1 The Socio-economic chapter of the submitted ES Chapter (CD2) and supporting Economics Benefits Statement (CD1 Part 6) established that there are a number of socio-economic benefits associated with Appeal Proposal, specifically:
 - The creation of approximately 46 permanent jobs together with a maximum of 300 temporary jobs during the construction phase (180 on average) of the proposed BEC development;

- That there is a clear fit with the job demand demonstrated within the Bilsthorpe and wider Nottinghamshire labour market for the opportunities provided by the proposed BEC development, particularly with regard to process, plant and machine operatives work, elementary roles and skilled trades⁷;
- Creating new local apprenticeships, working with local training providers and advertising job opportunities locally;
- Opportunities to deliver annual fiscal benefits in the order of £0.40m to NSDC, through the retention of business rates;
- Opportunities to ensure that local residents and businesses have access to the employment and business supply chain opportunities which may emerge;
- Generating electricity and heat from a low carbon source and providing a potential source of such energy to local businesses;
- Opportunities to create further value in the waste processing chain through the sorting of recyclable materials and the utilisation of process by-products which can be used in other sectors (i.e. slag in the construction sector); and
- The potential creation of 57 FTE direct, indirect (local supply chain) and induced jobs in the impact area. These jobs could support around £4.3m of GVA per annum.
- 4.4.2 Thus the BEC proposal would create employment, plus other secondary employment in maintenance projects etc. throughout its life, provide a potential source of low carbon heat for industrial, commercial, leisure or horticultural uses in a location where further strategic growth is planned and represent a circa £70 million capital investment in the local area, plus subsequent investment through the life of the plant. It should also be noted that a number of the stated benefits are also agreed with NCC in paragraphs 6.35 and 8.74 of SoCG1.
- 4.4.3 The economic benefits of the proposed BEC development should not, particularly given the prevailing economic climate since 2008, be underestimated. In this regard, reference should also be made to the

⁷ Refer to Economics Benefits Statement (CD1 Part 6) at Table 2.1 and 4.1.

Severnside Energy Recovery Facility (SERC) recovered appeal decision (Reference: APP/P0119/A/10/2140199) which specifically addressed economic benefits (refer to my Appendix H for the relevant extract). This was undertaken in the context of the Written Ministerial Statement: Planning for Growth (23rd March 2011) which was, in part, the precursor to the NPPF. Planning for Growth is not a withdrawn statement and its key principles are embodied in paragraphs 17 (3rd core planning principle), 18, 19 and 20 of the NPPF.

- 4.4.4 The Inspector concluded (IR 249 extract): "The recent ministerial statement on Planning for Growth would lend strong support to the grant of planning permission, given the employment that the scheme would provide and the economic growth it would encourage."
- 4.4.5 On this conclusion, the Secretary of State found (decision letter paragraph 17 extract): "He agrees with the Inspector's view that the recent ministerial statement on Planning for Growth would lend strong support to the grant of planning permission, given the employment that the scheme would provide and the economic growth it would encourage (IR249)."
- 4.4.6 In the Severnside case the identified economic benefits included benefits very similar to those in the BEC case. As paragraph 25 (extract) of the Inspector's report states: "It would provide about 46 skilled permanent jobs, during operation, and up to 200 jobs during construction and commissioning." And (paragraph 36 iv - extract): "Comprise sustainable economic development which is a key objective of Government policy by maximising the potential for CHP to supply local businesses all of which Mr Hayman confirmed in cross-examination should be welcomed and indeed reflects the Government's top priority to promote sustainable economic growth and jobs. The Government's clear expectation is that the answer to development and growth should wherever possible be 'yes' except where this would compromise key sustainable development principles." It is agreed that the development does not compromise sustainable development principles. The economic benefits outlined above were also fully accepted by Mr Roberts in cross-examination. In these circumstances, if the Government means what it says in Planning for

Growth, this proposal enjoys a presumption in favour of granting planning permission."

4.5 Climate Change Need and Benefits

- 4.5.1 Whilst climate change policy has been briefly considered in respect of renewable energy policy above, it is worthy of emphasis that this is not an issue that will go away.
- 4.5.2 The latest (fifth) report of the UN's Intergovernmental Panel on Climate Change (IPCC) was published with extensive publicity in September 2013. It has reviewed a mass of data, trends and analyses that unequivocally suggest warming of the climate system, citing that each of the last three decades has been successively warmer at the Earth's surface. The level of "level of certainly" that we are responsible for climate change has been increased from 90% in 2007 to 95% this year and the IPPC has found that the concentrations of carbon dioxide and other gases causing the greenhouse effect in the atmosphere have risen 40% since pre-industrial times, mainly due to the higher combustion levels of fossil fuels.
- 4.5.3 Paragraph 94 of the NPPF places an obligation on local planning authorities to take actions to mitigate climate change in accordance with the objectives and provisions of the Climate Change Act 2008. This Act places a duty on the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 80% lower than the 1990 baseline.
- 4.5.4 I shall not repeat all of the data in the Third Regulation 22 submission, but note that the BEC development would deliver a reduction in emissions of greenhouse gases (measured in tonnes of carbon dioxide equivalents tonnes CO₂-eq) over landfill, a net saving **per annum** of between 15,800 and 23,100 tonnes CO₂-eq.
- 4.5.5 It should be noted that the climate change benefits are also agreed with NCC in (paragraphs 6.31 -6.34) of SoCG1, albeit this agreement was reached based upon a lower carbon benefit and hence are now reinforced. Paragraph 6.34 is of particular relevance and this states:

"It is agreed, that the proposed BEC development would contribute towards the delivery of the Government's climate change programme. In doing so, it would contribute to global sustainability, thereby reducing the carbon dioxide that would otherwise be emitted to generate energy and displacing the harmful methane emissions that arise from landfilling."

4.6 Consequences of Not Proceeding with the BEC Proposal

- 4.6.1 By way of context, the materiality of the consequences of failing to deliver an EfW facility was considered in the Cornwall EfW facility Inspector's Report to the Secretary of State dated 3rd March 2011 and Secretary of State letter dated 19th May 2011 (PINS Ref: APP/D0840/A/09/2113075) (see my Appendix I).
- 4.6.2 It would be fair to say that this was a case where the consequences of rejecting the scheme were twofold. Firstly, there would have been severe financial consequences arising from the likely breakage or amendment of the PFI waste contract and on taxpayers arising from the delays in providing a replacement recovery facility capable of diverting MSW from landfill. Secondly, there would have been the consequences of failing to meet waste management targets, specifically diverting waste from landfill and not managing waste in a more sustainable manner. In the case of the BEC application only the latter (second) point is applicable.
- 4.6.3 The Secretary of State's letter, at paragraph 27, states: "With regard to the implications of not proceeding with the proposed development, the Secretary of State agrees with the Inspector's reasoning, proposed weightings and conclusions at IR2105 2123. He agrees that the financial implications of rejecting the appeal proposal is a matter that should be accorded substantial weight along with the other consequences of failing to meet targets, that of not diverting waste from landfill and not managing waste in a more sustainable manner (IR2123)."
- 4.6.4 The relevant paragraphs of Inspector's Report read (paragraph 2123 extract): "The financial implications of rejecting the CERC proposal is a matter that should be accorded substantial weight along with the other

consequences of failing to meet targets, that of not diverting waste from landfill and not managing waste in a more sustainable manner."

- 4.6.5 In so far as the BEC application is concerned, the consequences of not proceeding with the scheme would firstly mean that none of the clear environmental and socio-economic benefits identified earlier in this section of my proof would occur. Secondly, the corollary would be that something else would happen to the waste that would otherwise have been managed at the BEC.
- 4.6.6 I cannot definitively say what would happen to the waste, but the likelihood is the following:
 - In the short / medium and possibly even long term, it would continue to be managed as is presently the case with most, if not all, continuing to be landfilled.
 - A small quantity may continue to be exported as RDF or possibly there would be a continued increase in exportation, as has been the case on year on year throughout the UK. As outlined earlier within this section of my evidence, the government takes the view that: "Whilst such exports are permissible, the energy recovered from the waste does not contribute to UK renewable energy targets and is effectively a lost resource to the UK. The Government is keen to support domestic RDF and SRF markets, where they can provide better environmental outcomes, to ensure that the UK benefits from the energy generated from UK waste."
 - It is possible that at a point in the future some alternate in-county 'other recovery' capacity could ultimately be built. However, my evidence in sub-section 4.2 shows the extant consents for other EfW facilities are firstly aged and secondly, even if the capacity was to be delivered, there would still be a clear shortfall in 'other recovery' capacity for Nottinghamshire and Nottingham residual C&I waste.
- 4.6.7 Based upon the above, the environmental consequences of not proceeding with the BEC proposal are most likely to be both material and significant:

- There would almost certainly be continued high levels of landfilling with associated greenhouse gas emissions;
- There would be no early delivery of new renewable energy generation from waste;
- Thus, climate change impacts would continue to occur as set out previously in my evidence; and
- Finally, there is a far greater likelihood that waste management targets would not be met and a proportion of the local C&I waste would continue to be managed in an less sustainable manner.
- 4.6.8 By reference to the aforementioned Cornwall EfW facility decision, these very implications of rejecting a proposal can be a matter that should be afforded substantial weight. In this situation, in light of the above, I believe that such weight should apply.

4.7 Summary of Section 4.0 and Conclusions on the Benefits of the BEC Proposal and the Weight they Attract

- 4.7.1 The Application Proposal would result in 117,310tpa of residual waste moving up the waste hierarchy and being diverted from landfill, with possibly a portion of that waste being diverted from export (as RDF). The BEC development is an element of the waste management infrastructure required within Nottinghamshire and Nottingham that is currently clearly underprovided and there is an urgent need for the facility at a local level. As a consequence very significant weight should be ascribed to the sustainable waste management benefits arising from the Application Proposal.
- 4.7.2 The benefit of the scheme in its contribution to renewable energy generation is of significance at a regional level where the deployment of renewables has been poor. Assuming the facility was in operation, it would increase the renewable electricity generated in the East Midlands by 2.18%. The benefit is clearly material and should be afforded very significant positive weight (in planning terms).

- 4.7.3 In addition, there is extensive policy support for CHP. The clear and obvious potential that the BEC proposal has in this regard should also be ascribed positive weight.
- 4.7.4 The BEC proposal would generate 'dispatchable' power, providing peak load and base load electricity on demand, which is increasingly important as more intermittent renewable electricity comes onto the UK grid such as wind and solar energy. It would also provide a valuable domestic energy source contributing to UK energy security, as well as comprising 'new' energy generating infrastructure. All of these factors are demonstrably aligned with the delivery of the government's wider energy strategy beyond just the greater deployment of renewables. I find that they should be afforded significant weight.
- 4.7.5 The BEC proposal would contribute towards the government's climate change objectives through the avoidance of between 15,800 and 23,100 tonnes CO₂-eq per year and should be afforded very significant weight in this regard.
- 4.7.6 The economic benefits associated with BEC proposal, including new permanent jobs and further construction phase employment, lend strong support to the grant of planning permission. The permanent jobs should be afforded considerable positive weight and the construction phase employment should be afforded positive weight in the overall planning balance.
- 4.7.7 I have shown that the environmental and economic implications of rejecting a proposal can be a matter that should be afforded substantial weight. In this situation, in light of the evidence I present, I believe that such weight should apply.

5.0 CONSIDERATION OF MATTERS SPECIFICALLY IDENTIFIED BY THE SECRETARY OF STATE AND INSPECTOR

5.1 Introduction

- 5.1.1 At the PIM the Inspector outlined matters most likely to be of interest to the Secretary of State in determining the application, including whether the BEC proposal constitutes sustainable development. These matters are listed in paragraph 32 of the PIM note. I note the list may not be exhaustive, but have repeated it below together with where the Applicant has provided information in relation to each. Please note that I do not refer back to the planning application documents submitted prior to the call-in which also contain extensive information on virtually all of the matters raised.
- 5.1.2 The matters are:
 - Whether the facility would comprises a waste disposal or recovery operation – This is addressed in the Third Regulation 22 submission (CD75) and in the evidence of Mr Stephen Othen.
 - ii) Whether the scheme would accord with the development plan for the area (confirmed as including the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (December 2013), those saved policies of the Nottinghamshire and Nottingham Waste Local Plan of January 2002 that have not been replaced by the Waste Core Strategy, the Newark and Sherwood Core Strategy of March 2011, and the Newark and Sherwood Allocations and Development Management DPD dated July 2013) This is addressed in Chapters 7 and 8 of SoCG1 and in Section 7.0 of my proof of evidence.
 - Whether relevant development plan policies are up to date and consistent with the National Planning Policy Framework – This is covered in Section 3.0 of my proof.
 - iv) The extent to which the scheme would be consistent with the National Planning Policy for Waste and the National Waste Management Plan for England - This is addressed in Chapter 7 of the SoCG1 and in Section 7.0 of my proof.
 - v) The historic environment This is addressed in the SoCG1 Supplement and in the written statement provided by Mr Robert Sutton which is

appended to my proof and to which I refer later in this section of my evidence.

- vi) Landscape and visual impact This is addressed in SoCG1 Chapter 8 and in the written statement provided by Mr Jon Mason which is appended to my proof and to which I refer later in this section of my evidence.
- vii) Source emissions This is addressed in SoCG1 Chapter 8 and in the evidence of Mr Stephen Othen.
- viii) Odour, noise and vibration Odour is addressed in Chapter 8 of SoCG1 and in the evidence of Mr Stephen Othen. Noise and vibration is covered in SoCG1 Chapter 8 and in the written statement provided by Mr Dean Kettlewell which is appended to my proof and to which I refer later in this section of my evidence.
- ix) Ecology and agriculture Ecological matters are covered in SoCG1
 Chapter 8 and in the evidence of Mr Kevin Honour. I refer to the matter of agriculture later in this section of my evidence.
- Surface water quality and sewage disposal This is addressed later within this section of my proof.
- xi) *Tourism and socio-economic development in the area* This is also addressed later within this section of my proof.
- xii) *Traffic and access arrangements* This addressed in SoCG1 Chapter 8 and in the evidence of Mr Andrew Bell.
- xiii) The adequacy of the environmental statement This is addressed later within this section of my proof.
- xiv) Any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme This has already been addressed in Section 4.0 of my evidence in relation to matters of 'need'.
 I also carry out the planning balance in my Section 7.0.
- 5.1.3 Whilst I have extensive experience of a wide range of planning and environmental issues gained over 23 years of dealing with the planning of major infrastructure developments, in considering a number of the above matters I am reliant on assessment work carried out by others. This includes reference to the application documentation, consultation responses received from technical consultees and written specialist statements prepared by others which are appended to my proof.

5.1.4 I am satisfied that I understand the issues covered in this section of my evidence and that the manner in which the Applicant proposes to address the various matters is entirely proportionate to the materiality of the issue in this case. However, should the Inspector wish to pursue detailed technical questions (or allow other parties to do so) in relation to certain topics, the Applicant would wish to reserve the right, with the Inspector's agreement, to call specialist technical witnesses to appear before the Inquiry.

5.2 Historic Environment

- 5.2.1 I am familiar with the surroundings of the Application Site and those heritage features within the locality. I am also fully familiar with the Heritage assessment within the ES, particularly that in the Second Regulation 22 Submission (CD7), and the written statement prepared by Mr Robert Sutton on the same subject, which is appended to my evidence (Appendix J). I fully understand and concur with the conclusions of both. Finally, I note that matters of agreement, or otherwise, between the Applicant and NCC on heritage are contained in the SoCG1 Supplement (CD70).
- 5.2.2 In short, the BEC proposal would demonstrably have no physical effect on any heritage asset. Therefore, the only potential route for harm is in relation to the setting of heritage features. As described by Mr Sutton, having looked in detail at the setting of designated heritage assets in the vicinity of the proposed BEC development, it is evident the settings that play the greatest contribution to the significance and experience of the heritage assets in question will in no way be altered or harmed by the proposed development.
- 5.2.3 I believe the Applicant's evidence clearly evaluates the potential for harm to the setting of the relevant assets; and finds there to be none. Accordingly, I believe it is safe for the Secretary of State, having given the appropriate level of consideration, to find that impacts on the historic environment in this case do not indicate that planning permission should be refused.
- 5.2.4 Should, for whatever reason, the Secretary of State disagree with the Applicant's assessment and evidence, and find that the harm is material, but

less than substantial (in the terms of NPPF paragraph 134), then such harm as may occur should be weighed against the public benefits.

- 5.2.5 For the reasons stated in my Sections 4.0 and 7.0, the benefits of the BEC proposal are very significant and should be afforded very significant weight. In their totality, I find the benefits in terms of sustainable waste management, renewable energy, climate change and economics compelling. In addition, the adverse consequences of not proceeding with the scheme and its other benefits add further weight. Furthermore, the proposed heritage 'mitigation' (as set out in draft section 106 Agreement) offers a degree of tangible heritage benefit.
- 5.2.6 Conversely, the impacts on heritage assets could only be considered very slight in significance, even in the most pessimistic assessment. Accordingly, in weighing the above benefits against the identified harm, I believe that the Secretary of State can be confident that the public benefits far outweigh any limited harm to any designated heritage assets and in accordance with the provisions of NPPF paragraph 134; it is safe to grant planning permission from a heritage perspective.

5.3 Landscape and Visual Impact

- 5.3.1 Again I am familiar with the surroundings of the Application Site and its landscape and visual context having visited the site and area on several occasions. I am also fully familiar with Chapter 7.0 of the ES dealing with landscape and visual effects and the written statement prepared by Mr Jon Mason on the same subject, which is appended to my evidence (Appendix K). I fully understand and concur with the conclusions of both. Finally, I note that there is an agreed position between the Applicant and NCC on landscape and visual matters in Chapter 8 of SoCG1 (from paragraph 8.14 onwards). I do not look to repeat much of what is contained in these documents, but do highlight what I believe are the most pertinent factors as well as adding my own opinion on landscape matters.
- 5.3.2 The local rural landscape is gently, but notably, rolling, and covered with intensively farmed arable land set within a very strong network of

interconnecting woodland and plantations. Field sizes are fairly large and generally well defined by hedgerows. These characteristics result in a landscape where views are intermittent and development is frequently well screened.

- 5.3.3 The Newark and Sherwood Landscape Character Assessment was published in 2010 (the District LCA). The BEC proposal is identified within a landscape type to which policy zone (PZ) MN PZ24 applies. The overall action for MN PZ 24 is to 'Create', which is defined as: "actions that create new features or areas where existing elements are lost or are in poor condition." Specific actions for the area include to: "Create new industrial economy within the area, such as creation of a wind farm (already proposed)."
- 5.3.4 As set out in sub-section 2.3 and Appendix A of my proof, the former Bilsthorpe Colliery site and its surrounding area has become a general location for this new industrial economy, based around the low carbon energy sector. Thus the actions explicitly encouraged within the District LCA have come to fruition.
- 5.3.5 The Bilsthorpe Business Park site, including the Application Site, comprises previously used land and is remarkably well screened and physically contained in a topographical bowl, much of which is fringed by belts of woodland plantation. This is a result of landscape design (the Colliery spoil heap restoration scheme) which was specifically intended to encompass a large area of employment development on the former Pit Head. Accordingly, the Application Site and its surroundings demonstrably have significant capacity to absorb large scale development without undue harm to the wider rural landscape.
- 5.3.6 In short it is difficult to envisage a better site for an EfW facility from purely a landscape and visual perspective. Disregarding wholly urban EfWs where the siting and visual challenges are different, I cannot recall a better site.
- 5.3.7 The BEC proposal would be very well screened and physically contained in the tree fringed topographical bowl. Where the upper parts of the BEC
building and structures would be visible, they would always be seen in the context of the adjacent, taller and far more prominent, wind turbines. The development does not lie adjacent, or even particularly close to, a busy road and is similarly remote from residential property, but is not isolated or wholly detached from urban development. When built, and where visible, it would simply appear as a fairly distant industrial development in a location already characterised by large scale built developments. Accordingly, and in line with the conclusions of the Applicant's landscape and visual assessment, the development would not result in any residual significant effects.

5.3.8 On this basis I do not believe that landscape and visual issues merit refusal of the application, nor should such minor effects that have been identified weigh heavily against the proposal in the overall planning balance.

5.4 Noise and Vibration

- 5.4.1 I am familiar with Chapter 11.0 of the ES dealing with noise effects and the written statement prepared by Mr Dean Kettlewell on the same subject, which is appended to my evidence (Appendix L). Mr Kettlewell was the author of the ES chapter and has worked with me on practically every waste facility planning application, including EfWs (plus other biomass combustion plants), for the past 10 years. I have worked with him as an expert witness and have the highest regard for his expertise.
- 5.4.2 I propose to deal with noise and vibration briefly. Firstly, owing to the nature of the development and proximity between the BEC proposal and vibration sensitive receptors, vibration is not a material concern in this case.
- 5.4.3 No noise objections were identified following a technical review of the proposals by NCC Noise Engineer as part of the planning application consultation process, or by the EHO from NSDC. The former was fully satisfied that: "that the construction and operation of the development would not result in any unacceptable noise emissions to nearby residential properties and sensitive receptors subject to inclusion of appropriately worded conditions to impose appropriate limits on noise emissions." The latter commented on the thoroughness of the assessment (refer to NCC

Committee Report paragraph 97 and NSDC 1st Committee Report page 16, respectively – CD9 and CD45).

- 5.4.4 Prior to NCC's consideration of the application, the submitted ES noise and vibration chapter resulted in no objections from anyone with technical competence in respect of the assessment methodology or assessment conclusions. The same is the case with regard to the post 'call-in' representations.
- 5.4.5 The ES noise assessment considered all relevant guidance and standards for noise and vibration in the assessment of impacts and effects. Subsequent to the call-in there have been changes to relevant guidance and standards for noise and the assessment has been updated and evaluated in Mr Kettlewell's written evidence. The results of the changes do not alter the conclusions of the ES and impacts associated with the construction and operation of the BEC have not altered and remain valid. In short, these are that with the implementation of appropriate noise mitigation, the residual impacts at nearest receptors would not result in any significant impacts.
- 5.4.6 There are no 3rd party submissions that have raised any further issues to alter the conclusions of the ES in respect of noise and at the time of exchanging evidence I have not seen anything that materially challenges the technical noise assessment work. I therefore conclude that there is no basis for refusing planning permission in relation to noise and vibration, subject to imposition of appropriate noise conditions as suggested in SoCG1.

5.5 Agriculture

- 5.5.1 The BEC proposal itself does not occupy of take any agricultural land or land within an agricultural holding. However, the ecological mitigation scheme, proposed under the Wader Mitigation Plan (as set out in the Third Regulation 22 submission – CD75) does encompass some land in agricultural use.
- 5.5.2 The overall mitigation area comprises 8.35 hectares of land, with the northern part comprising part of a large field of improved grassland,

managed as sheep-grazed permanent pasture. This is divided by a fence from an area of less well-established open grassland of 6ha in area occupying a south-facing slope, which the current tenant farmer does not consider currently suitable for regular grazing. The flat ground at the base of this slope is seasonally damp with evidence of standing water. The agricultural grassland is partly divided by a small area of scrub and a postand-rail fence running north-south, although this is not stock-proof, and the field is managed as a single unit.

- 5.5.3 The land within the mitigation area all forms part of the Colliery spoil heap restoration scheme and is generally poor quality for agricultural purposes.
- 5.5.4 The mitigation scheme includes improvements in stock fencing in and around the mitigation area and maintaining the existing agricultural land in agricultural use for both grazing and for hay / silage crops. There would be a net gain of 6ha of regularly grazed agricultural land and thus the effect on agriculture would be positive with regard to this area.
- 5.5.5 The only other potential for effects on agriculture is in relation to effects from aerial emissions from the BEC. This matter is addressed by Mr Stephen Othen.
- 5.5.6 Based upon the foregoing and Mr Othen's evidence I conclude that there is no basis for refusing planning permission in relation to agricultural matters.

5.6 Surface Water Quality and Sewage Disposal

- 5.6.1 The management of surface water and sewage (hereafter meaning domestic foul flows and trade effluent from the gasification process) discharge / disposal is dealt with in detail within the planning application and summarised in SoCG1 paragraphs 3.57 3.59. The salient information is provided in the application documentation as follows:
 - Paragraphs 4.2.26 to 4.2.34 of the ES Scheme Description (Chapter 4.0) describe the method of managing surface water and sewage. With paragraphs 4.3.41 and 4.3.42 describing the effluent treatment system.

- Paragraph 2.4.4 of the first ES Regulation 22 Submission confirmed that sewage would go to mains sewer (and earlier prospective option of treated sewage going to surface waters having been discounted).
- Chapter 10.0 of the ES Main Report considers the likely significant effects of the proposed BEC development on surface water, flood risk, groundwater and land drainage during its construction and operation. Tables 10.4 and 10.5 of the ES assess the impact of the development on the aforementioned water resources at the construction and operational stages respectively. In all cases impacts are assessed as either negligible or minor and beneficial.
- ES Appendix 10-1 (the FRA CD3) describes in detail the surface water drainage system (which operates as a SuDS scheme) and includes the relevant calculations for sizing the attenuation requirement.
- Planning application drawings: T_13_1310-CL(19)01-P4 Indicative Site Drainage Layout 1 and T_13_1310-CL(19)02-P4 - Indicative Site Drainage Layout 2 provide (in two parts) the indicative site drainage strategy.
- 5.6.2 In addition to the above, as is normally the case, proposed planning conditions 7, 23, 24 and 25 (see SoCG1 Appendix B) set requirements for the detailed design of the surface water drainage system. With the first addressing the construction phase, the second and third relating to the permanent surface water drainage system and the fourth addressing bunding / containment around storage tanks.
- 5.6.3 The original draft section 106 Agreement provides for (in the First Schedule) a potential financial contribution in respect of the Bilsthorpe Waste Water Treatment Works (WWTW) and any improvement works that might be required in order for the Works to accommodate the foul sewage flows (to be facilitated by Severn Trent Water). Noting that it did not cover the actual physical connection costs as that is a project construction cost.
- 5.6.4 Dealing firstly with surface waters. The BEC development would have a positive drainage system managing surface water run off from roofs and hardstandings in a manner that is typical of all development projects in the

UK (probably for at least the past 10 years). There is nothing complex about the system, it will both work and ensure surface water quality is protected. Both NCC and the Environment Agency are entirely satisfied about the BEC scheme in this regard. Surface water drainage and discharge for the BEC facility would be regulated under the plant's Environmental Permit.

- 5.6.5 With regard to sewage, comprising domestic foul sewage and trade effluent, the former would be conveyed via a sewer to the Bilsthorpe WWTW. The latter would be treated in the on-site effluent treatment system to the requisite discharge parameters and then to would be conveyed via (the same) sewer to the WWTW.
- 5.6.6 The effluent treatment plant is, for the purposes of Environmental Permitting, part of the BEC 'installation' and would be regulated as such. The Environment Agency may set discharge parameters for the treated effluent leaving the plant, but it is more likely this would be regulated (by Severn Trent Water) under the Trade Effluent Discharge Consent, that will be required in any event.
- 5.6.7 I can advise that a Sewer Capacity Assessment (refer to my Appendix N) has been carried out by Severn Trent Water. The key findings of which are:
 - The impact of foul water flows arising from the proposed BEC development on the sewer network has been assessed using hydraulic modelling.
 - Two routeing options for a new sewer connection have been considered and both are equally workable with the same 'low' effects on the system infrastructure. Effects are graded: low, medium or high, with low being the lowest grading attainable). Both routes can be delivered by conventional trenching in existing roads (hard dig), albeit requiring a slight modification to Option 2.
 - It is envisaged that capacity improvements are not likely to be required to accommodate foul water flows from the proposed development.
 - Preliminary investigations indicate that additional capacity will <u>not</u> be required at Bilsthorpe STW.

- No further mitigation modelling will be required to assess downstream capacity restriction and provide notional solutions.
- 5.6.8 In short, Severn Trent Water will need to provide a new sewer connection, to the WWTW, but no improvement work is actually required at the WWTW or downstream of it. This updates the information contained in SoCG paragraphs 3.58 and 3.59.
- 5.6.9 In light of the foregoing, there is now no requirement for the section 106 to provide a financial contribution in respect of WWTW upgrade / improvement works. This is reflected in the submitted final draft agreement.
- 5.6.10 I therefore conclude that there is no basis for refusing planning permission in relation to surface water drainage, water quality or sewage, subject to imposition of appropriate noise conditions as suggested in SoCG1.

5.7 Tourism and Socio Economic Impact

- 5.7.1 SoCG1 identifies that Chapter 14.0 of the ES contains an assessment of socio economic effects of the proposed BEC development and concludes that the proposal would have a moderately beneficial effect upon the local economy, a conclusion agreed with by NCC. It then references the consideration of socio economic matters in the Committee Report (CD9) in relation to potential adverse effects, but concludes that any such impacts would be minimised and acceptable.
- 5.7.2 SoCG1 goes on to identify a number of socio economic benefits of the scheme and finds that it is supported by the NPPF which encourages the planning system to be supportive of development which encourages economic growth.
- 5.7.3 The scope of the socio economic assessment within the ES was prepared in line with the EIA Scoping Report (CD3 Appendix 2-1) as NCC, in providing its formal Scoping Opinion, had confirmed that the proposed scope of work was considered appropriate (see CD3 Appendix 2-2). The work was carried out by Regeneris who also prepared the separately submitted Economics

Benefits Statement. They are acknowledged as an expert in this field having completed socio economic assessments for a wide range of governmental organisations and blue-chip companies including: DCLG; DEFRA; the Welsh Government; BT and Taylor Wimpey. The Applicant stands by the socio economic assessment within the ES and its conclusions.

- 5.7.4 At the PIM the Inspector identified the requirement for the Secretary of State to be informed on matters of socio economics and tourism. In reviewing both the ES and the committee report I am not able to find any reference to an appraisal of tourism effects, which are typically viewed as part of the suite of potential socio economic effects as stated in the Overarching National Policy Statement for Energy - EN-1 at paragraph 5.12.3 (CD55). Accordingly, in this section of my proof I have given consideration to the issue of effects on tourism.
- 5.7.5 Whilst in this case there are development plan policies that relate to tourism, they either seek to promote it or protect the environment against tourism related development. There is no clear policy that seeks to protect tourism from the effects of development. That said, tourism is an economic asset in Nottinghamshire, and indeed throughout the UK, and common sense dictates that it merits protection under the planning system.
- 5.7.6 Similarly, the NPPF contains no clear policy which seeks to protect tourism from the effects of development. However, tourism is referred to in a number of planning decisions in relation to EfW facilities. In a policy context, the most helpful is the IPC's decision in relation to the Rookery South EfW facility (IPC Reference EN0100011) (see my Appendix O). This states at paragraphs 5.170 and 5.171:

"5.170. Turning to the possible disadvantages, the areas of greatest concern locally centred on the effect the proposal would have on local house prices and the area's attractiveness for tourism and as a place to set up or expand a business.

5.171. Paragraph 5.12.7 of EN-1 advises that limited weight should be given to assertions of socio-economic impacts that are not supported by evidence. In this regard, such studies that have been undertaken on the

effects plants such as that proposed have had on house prices have tended to be inconclusive (DOC/5.5, s3.3). On the latter, whilst we can appreciate people's concerns, we found nothing to substantiate the view that the area's potential as a tourist destination or attractiveness as a place to do business would be significantly harmed were the proposal to go ahead. Accordingly, we take the view that these concerns should not attract significant weight in the overall balance".

- 5.7.7 The aforementioned paragraph 5.12.7 of EN-1 reads: "The IPC [i.e. the decision maker] may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out in this NPS)".
- 5.7.8 I note that paragraph 1.2.1 on EN-1 states that the National Policy Statements (NPSs) are "likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, this NPS is a material consideration will be judged on a case by case basis." This fact is given further support by the Chief Planning Officer Letter concerning NPSs dated 9 November 2009.
- 5.7.9 Based upon extensive experience of EfW planning, knowledge of EfW planning inquiry decisions and NCC's agreement in SoCG1, I firmly believe that NPS EN-1 and EN-3 are material considerations in the determination of this application.
- 5.7.10 Accordingly, I find that an objection in relation to tourism impacts, and indeed other socio economic effects, should not be afforded significant weight where it is not supported by substantiating evidence.
- 5.7.11 With regard to potential tourism effects in relation to the BEC proposal I make the following points:

- The matter of negative tourism impacts has been raised by a number of residents. None have provided any evidence to substantiate assertions that the negative effects would occur.
- ii) RAGE references tourism impacts in their representations of 25th September 2014 (CD40) and 24th February 2015 (IP1). The latter makes a single passing reference to tourists (paragraph 127) and goes on to say visitors to the area, including those visiting Centre Parcs, would experience impacts on the landscape character. This plainly does not constitute substantive evidence of a tourism impact; setting aside I disagree with the alleged landscape effects as addressed earlier in my proof.
- iii) RAGE's September 2014 representation provides slightly more text and quotes a single Trip Advisor review for Centre Parcs where the reviewer indicates they wouldn't return if the 'Gasification' plant is built. It then quotes the Rufford decision, to which I shall return. I do not view the Trip Advisor review as any sort of substantive evidence of a tourism impact.
- iv) On the subject of Centre Parcs I note that the Parc operators did not object to NCC with regard to the BEC application at the pre call-in stage, although they did write to NSDC (on 9th February 2015 – CD67) to request that the District Council continues to object to the BEC application. Their request to the Council is noteworthy in three regards:
 - NSDC do not and have not ever objected on the grounds of impacts on tourism. As an opponent of the scheme and a body with a very significant vested interest in local tourism this is rather telling.
 - Centre Parcs themselves did not raise any concerns about impacts on their own holiday village.
 - In so far as tourism is concerned, the Centre Parcs' letter states: "The construction of the energy centre in the heart of a world renowned heritage site will cause significant and irreversible harm to Sherwood and its surrounding area and will have a detrimental impact on tourist numbers to the area. The height of the main buildings and chimney stacks would dominate the sky-line in an otherwise rural setting and this would have a negative impact on the local landscape". I make two comments on this. Firstly it is far from substantive evidence of harm to tourism. Secondly, the last sentence

is clearly written by someone who self-evidently cannot have recently visited the site. The statement is not credible in the context of the evidence I present in sub-section 2.3 and Appendix A of my proof, which show that that the former Bilsthorpe Colliery site and its surrounding area has become a general location for a new industrial economy, based around the low carbon energy sector.

- v) Centre Parcs has now objected to the BEC proposal to the Planning Inspectorate, on 15th September 2015, nearly 2 years after the planning application was submitted. Having reviewed their rather carefully worded objection, I do not believe it actually objects to the BEC on the basis of impacts to their own asset. I do not find this surprising as the Centre Parc's concept is very much one of self-sufficiency with, in this instance, visitors ensconced in the middle of Sherwood Forest and not needing to go off site for services, facilities, leisure or entertainment. They object under 5 headings, which are set out below together with my brief comments:
 - Harm to local tourism It is alleged that impacts on local landscape character and visual effects in a very rural area with heritage importance, would deter visitors and may result in a net loss of jobs. As with their objection to NSDC, the author of the objection talks effusively about the local landscape, referencing an otherwise rural landscape, an area of outstanding natural beauty and the development dominating the skyline in an otherwise rural setting. I do not find this assessment credibly in the context of subsisting development in and around the Bilsthorpe Business Park site. Furthermore, I properly address the landscape, visual and heritage setting effects elsewhere in my proof and demonstrably conclude that the alleged effects would not occur.
 - Traffic volumes This matter is fully dealt with by Mr Bell and he finds that the alleged network capacity and highway safety issues cannot be substantiated.
 - Pollution Risk This cites impacts from aerial emissions on human health and agriculture which are both matters fully addressed by Mr Othen on which he finds no such effects would occur. It also

references impacts from waste water which I fully address later in this section of my proof.

- Local Wildlife It is alleged that the BEC proposal may have a detrimental and irreversible impact on the biodiversity of the local area. Mr Honour provides clear evidence that this will not be the case.
- Creation of Jobs This again refers to a net loss of jobs without any substantiating evidence. It also alleges that it is likely there would be no local job creation. For the reasons summarised in my sub-section 4.4, the evidence shows that this will not be the case.
 In conclusion, the objection is not evidence based and nor do I believe

that any of the alleged harm can be substantiated.

- vi) Other Centre Parcs sites are located close to EfW proposals, as in July 2014, after 10 years of planning and development, they opened their latest Holiday Village at Woburn Forest in Bedfordshire. This is located 3.2 km from the previously mentioned Rookery South EfW facility, a Nationally Significant Infrastructure Project and one of the largest consented EfWs in the UK. The separating distances in that case are very similar to those between the BEC Site and the Sherwood Forest Centre Parcs. In terms of the timeline, the Rookery decision was dated 17th October 2011 and the application was submitted in August 2010, following the mandatory extensive pre-application consultation. The Woburn Centre Parcs did not believe the prospect of a far larger EfW plant offered a threat to their (£230 million) tourism offer in that case.
- vii) As noted above, the Inspector at the Rufford ERF (an EfW) inquiry did raise the matter of tourism impacts. He stated (see my Appendix P) at paragraph 1231: "As outlined above, the former Rufford colliery is not allocated for development. It is in the open countryside and away from Rainworth. However, the ERF would be prominent in residents' views and it would detract from their enjoyment of the area. It would also undermine efforts being made to develop Sherwood Forest as a tourist destination, because of the harm that would be caused to the rural landscape. This is clearly at odds with the need to protect the countryside for the sake of its intrinsic character and beauty, so that it

may be enjoyed by all". The Secretary of State agreed with the Inspector's conclusions on the matter of impact on the countryside, whilst not specifically referencing tourism. On this finding I make the following comments:

- The Rufford site fell with the Sherwood Forest Special Landscape Area. This designation no longer exists, but as a matter of fact the BEC Application Site does not fall within this former designation (refer to my Appendix Q).
- The Rufford site was immediately surrounded on 3 sides by a part of Sherwood Forest itself. This is not the case for the BEC Application Site.
- The BEC proposal is located within an identified employment site surrounded by existing and proposed large scale energy development.
- The BEC Application Site is previously developed land, which was agreed / found not to be the case in respect of Rufford Colliery. In fact the Rufford Inspector concluded (paragraph 1178 extract): "Indeed, it seems that Rufford is unlike other collieries in the area because of the requirement that it be restored to heath and woodland, rather than to something that is suitable for industrial or commercial use. Certainly, it is not "previously developed land" as defined in the government's (PPS3) planning policy statement on housing".
- NSDC gave evidence at the Rufford Inquiry against the proposal. Paragraph 443 (extract) of the Inspector's report, reporting the District Council's case, states (my emphasis): "Mrs Bland's evidence demonstrated the significant difference between Bilsthorpe and Rufford, both in terms of their respective locations and proximity to settlements, topography, landscape protections, and the fact that when the restoration proposals for the former Bilsthorpe Colliery had been approved in 1996 – it was envisaged, even at that time, that the former pit head area would be redeveloped for industrial/business use. This is significantly different from the restoration proposal for Rufford, as explained above."

On this basis, and taking account of the very limited landscape impacts of the BEC proposal, I believe that it is demonstrably the case that the position in relation to tourism effects associated with the Rufford ERF application is materially different to the position in relation to the BEC scheme.

- viii) Looking at other EfW planning inquiries, there appears to be a fairly consistent theme in relation to alleged tourism impacts (and other claimed socio economic effects) as set out below.
- ix) The Inspector at the Cornwall Energy Recovery Centre (an EfW) inquiry stated (see my Appendix I) at paragraphs 2081 and 2085 of his report that: "The Council and others suggested that the presence of the CERC facility would have a negative impact upon Cornwall as a tourist destination. Although the CERC plant would be visible from the A30, the main route into western part of the County for tourists, the CERC plant would be seen at some distance and would be viewed against a backdrop of mineral workings, tips and associated large scale buildings associated with the china clay industry. In these circumstances, I do not consider that the CERC development is likely to deter visitors to Cornwall." (Paragraph 2081).

"Accordingly, I conclude that there is no evidence that the proposal would adversely affect the regeneration of the China Clay communities by deterring economic investment. Rather, the CERC facility is likely to benefit the local economy. Nor is there any evidence that the proposal would impinge upon the County's tourist trade, agriculture or food processing industry." (Paragraph 2085)

x) The Inspector at the Battlefield EWF (Energy from Waste Facility) appeal stated (see my Appendix R) at paragraphs 159 and 173 of his report that: "Tourism is very important to the local economy, accounting for some 6% of all jobs in Shropshire. It is clear from the CS what a significant contribution historic, built and natural environment assets make to the unique qualities of the area, and its attraction to tourists. However, the limited harm to the urban fringe landscape and minor harm to the setting of the battlefield that would result from the proposed EWF, would in my view, be inconsequential in terms of the tourism offer available in Shrewsbury. The EWF would at most marginally diminish the enjoyment tourists gained from visiting or passing through this part of Shrewsbury. It is highly unlikely that the EWF would have any effect on the number of tourists visiting the area, their length of stay, or their contribution to the local economy." (Paragraph 159)

"I deal with the harm or disadvantages first. The likely harm to the character and appearance of the area from the proposed EWF would be significant. This is a consideration of some substance in the overall balance. The scheme would also result in minor harm to cultural heritage....... I have also taken into account and given some weight to the extent of public objection to this proposal, expressed in the written representations, petitions and submissions to the Inquiry, which far exceed representations in support of the scheme. However, I have not given much weight to the financial issues raised against the proposal, or to the likely harm to tourism. Neither can much weight be given to any adverse effects on ecology, highway safety or other amenity considerations." (Paragraph 173 extract)

- The Inspector at the Kings Lynn EfW inquiry, related to a called-in xi) application that was withdrawn before publication of the Inspector's report, considered alleged tourism impacts. She stated (see my Appendix S) at paragraph 1129 of her report: "A number of local objectors and groups like the local Round Table and Trades Council have raised the issue of the impact of the proposed development on the town's socio-economic development, both in terms of inward investment/ regeneration and tourism. However, the development would be a large investment in its own right with up to 300 jobs created during construction and about 40 jobs during operations. In addition, there would be further jobs created indirectly within the service sector and within support operations for the facility. There is little to suggest that the landscape of the area would be adversely affected by the proposal and that tourism would be reduced as a result. The CHP potential might either support existing industry or encourage new industry to take advantage of the energy that would be produced from the facility. In addition, there is evidence from other appeals, such as the examples in para 2078 of the Cornwall appeal that such facilities do not deter or discourage nearby economic activity, regeneration or tourism."
- xii) The Inspector at the Ardley EfW appeal, with whom the Secretary of State agreed, stated (see my Appendix T) at paragraph 16.29 (extract)

of his report: "Whilst there is a suggestion that the proposal would not sit well with the environmental aims of the north west Bicester eco development, there is no evidence before me of future residents being significantly affected by it. Although there is concern that the site's dinosaur tracks would be harmed, to the detriment of education and tourism, the proposed retention of the relevant limestone faces would be a benefit over the permitted restoration, which would result in them being underground. Therefore, I take the view that all of these objections are unfounded."

- The Inspector at the Middlewich EfW inquiry, with whom the Secretary of xiii) State agreed, stated (see my Appendix U) at paragraph 685 of his report: "Nor is there cogent evidence of any adverse effect on tourism in the town. CHAIN's arguments regarding the Newhaven incinerator attempted to make a link between alleged effects there and in Middlewich. Though there seem to be superficial similarities between the towns, circumstances always vary from place to place so that to draw conclusions from a single comparison is in my view unsound. The Newhaven study also appeared to have concentrated more on the effects on house prices than on any other factor, and whilst that was a concern of CHAIN, the same point regarding the dangers of one to one comparisons applies. In any event, it appears that the Inspector who dealt with the Newhaven appeal appears to have placed little weight on the tourism argument. Nor did he conclude there would be adverse effects on social deprivation or regeneration prospects in that town."
- xiv) The Reporter for the Invergordon residual waste to energy facility appeal stated (see my Appendix V) at paragraph 196 of his report that: "Overall, I believe the updated environmental statement provides a reasonable analysis of the visual impact of the proposed stack. I conclude that in the context of the site itself and, within the wider Cromarty Firth, the visual impact would not give rise to an adverse socio-economic impact to the detriment of either existing or potential tourist activity. In reaching this conclusion I also note the impressive level of local activity that continues to take place in promoting Invergordon as a tourist destination. I do not believe that the proposed development represents a significant threat to any future achievements in this respect."

- xv) Finally, it is relevant to consider how the BEC proposal could theoretically harm local socio economics including local tourism. As outlined in my consideration on landscape and visual effects, the proposal is remarkably well screened and physically contained in a topographical bowl. Where the upper parts of the BEC building and structures are visible, they would always be seen in the context of the adjacent, far larger, wind turbines. The development does not lie adjacent, or even particularly close to, a busy road or a specific tourist destination. It is similarly remote from residential property, but is not isolated or wholly detached from urban development. When built, and where visible, it would simply appear as a fairly distant industrial development in a location already characterised by large scale built developments. I cannot realistically see how it would materially deter visitors to the wider area or result in material adverse socio economic consequences.
- 5.7.12 I am not aware of any empirical research into the effects of EfW development on tourism, although there is contemporary UK research in respect of other socio economic matters such as inward investment and house prices to which I refer below. For the sake of brevity I limit myself to two examples.
- 5.7.13 The first arises from the Cornwall EfW decision (see my Appendix I), where the Inspector, in describing the case for the appellant, reports at paragraphs 428 and 429 (extract):

"428. There has been no evidence that high tech/knowledge based/image conscious firms have been deterred from locating in areas within sight of an EfW plant. In fact, the opposite is true. A study commissioned by East Sussex County Council and Brighton and Hove Council into the potential economic impacts of constructing an EfW facility in Newhaven, East Sussex recorded in the Study (carried out by DTZ Pieda in 2002 and reported in the ES in paras 11.125 to 11.132 at CD/A8) points to the robust health of a number of business parks located close to EfW facilities including the Hanford EfW in Stoke (see para 11.126), the Allington EfW in Kent (see para 11.127), Chineham near Basingstoke (see para 11.129. Mr Greenwood confirmed the robust health of the Chineham Business Park at para 3.13 of

his rebuttal proof, SITA/10/4, identifying a number of hi tech business names within the Business Park including Motorola, Ericsson and Visa) and Marchwood near Southampton (see para 11.130).

429. Moreover, it is clear that none of the concerns identified by Mr Vinson are shared by the Eco-town landowner Imerys who do not object to this proposal and, indeed, have expressed a keen interest in using the heat and power generated by CERC at both their clay dryers and the Eco-town (see appendix 3 of SITA/1/3)."

5.7.14 The Inspector (with whom the Secretary of State did not disagree) dealt with this at his paragraphs 2078 and 2079, specifically (extract):

"2078. Evidence from other parts of the country does not show that EfW plants deter economic activity. The Study commissioned by East Sussex County Council looked at the economic impacts of constructing an EfW plant at Newhaven. The Study was carried out by property specialists, DTZ Pieda, and pointed to the health of business parks which were located close to EfW plants in Portsmouth, Basingstoke, Stoke-on-Trent, near Southampton and near Maidstone. There is also evidence that food processing companies are not deterred from setting up near to EfW plants. An example is a food firm which is located about 100 metres from the Portsmouth EfW plant. Whilst the economies of these localities may be influenced by different factors than the CCA, The Study and the example of the food firm in Portsmouth demonstrate that companies do not, as a matter of principle, automatically shy away from EfW plants.

2079. The Council's objection in this respect is based on perception. Perception may constitute a material planning consideration but to be given weight, the perception must be supported by evidence. There is no evidence in this case. Rather, the evidence from elsewhere in the country is that the presence of an EfW facility does not discourage or deter nearby economic activity."

5.7.15 The second is a 2014 research study by Cranfield University into the impact of EfW development on house prices. The University's website synopsis⁸

1649-01/Proof Final/ Oct 15

⁸ See the following link for a synopsis: <u>https://www.cranfield.ac.uk/about/media-centre/news-archive/news-</u> 2014/house-prices-unaffected-by-incinerator-plants-cranfield-research.html

reads: "This study, carried out by Cranfield University, analysed property prices surrounding three EfW plants in the UK, all of which have been operational for at least seven years. Property sales data, within 5 km of the sites, was analysed in detail, and compared against the local house price index before and after the facilities became operational.

In all cases, there was no significant negative effect on property prices at any distance within 5 km from the plant, indicating that the perceived negative impact of these plants on local property values is, in fact, negligible".

Conclusions on Socio Economic and Tourism Effects

- 5.7.16 In conclusion, I believe to attract any significant weight, the claimed socio economic impacts of an EfW development, including effects on tourism, must be supported by substantiating evidence. In this case there is no such evidence supporting claims of potential adverse effects.
- 5.7.17 Conversely, the Applicant has provided evidence, by virtue of the ES chapter on socio economics, that the BEC proposal would have moderate socio economic benefits in terms of the factors / indicators assessed. Furthermore, it is difficult to see how the BEC would adversely affect local socio economics including tourism.
- 5.7.18 The operator of the largest tourist facility in the locality (Centre Parcs) did not object to NCC with regard to the BEC application and when they raised an objection with NSDC it was not made on the basis it would impact on their business. They have now objected to the BEC proposal to the Planning Inspectorate, on 15th September 2015, nearly 2 years after the planning application was submitted. Having reviewed their rather carefully worded objection, I do not believe it actually objects to the BEC on the basis of impacts to their own asset. Further, I do not find their objection evidence based and nor can any of the alleged harm be substantiated. Finally, I note that they have recently opened a new Holiday Village circa 3km from the consented Rookery South EfW, one of the largest consented plants in the UK.

- 5.7.19 A review of EfW inquiry decisions has shown fairly consistently that alleged adverse tourism impacts were not afforded significant weight, largely because they were not supported by substantiating evidence. In the Rufford ERF case where tourism impacts weighed more strongly against the scheme, the circumstances were demonstrably different to the situation with regard to the BEC proposal.
- 5.7.20 Where contemporary UK empirical research has been undertaken, it indicates that EfW facilities do not lead to material adverse socio economic effects.
- 5.7.21 In light of the above, I do not believe that in this case there is any basis on which to refuse the planning application in relation to socio economic matters. Conversely the identified socio economic benefits lend clear support for the application to be approved.

5.8 Adequacy of the Environmental Statement

- 5.8.1 UKWIN has repeatedly claimed that there are a number of alleged inadequacies with the ES, particularly with regard to waste data, R1 status and ecological survey and mitigation issues. I do not accept these claims.
- 5.8.2 There are four points I wish to make about the ES for the Application Proposal and about EIA in general. Firstly, I note that NCC, as the relevant planning authority on whom the duty to determine the adequacy of the ES first fell, found that the ES was adequate taking into account the two Regulation 22 submissions.
- 5.8.3 Secondly, when the Application was called-in, the duty to determine the adequacy of the ES fell to the Secretary of State. In the PIM note the Inspector records (paragraph); "The planning application was accompanied by an Environmental Statement. In dealing with the application, the Council considered that further information was required and two formal requests for supplementary information under Regulation 22 of The Town and Country Planning (Environmental Impact Assessment)(England & Wales) Regulations 1999 were served on the applicant. The responses

incorporated supplementary reports and technical appendices, including non-technical summaries, and were sufficient to satisfy officers that the Environmental Statement provided a full assessment of the potential environmental impacts resulting from the development proposed. In addition, an EIA review has been carried out by the Planning Inspectorate which found that the relevant tasks of the Statement were well performed with no important tasks apparently left incomplete."

- 5.8.4 Furthermore, subsequent to the PIM there remains a duty upon the Secretary of State to ensure that the ES is not deficient. Had he believed that it was, there is a requirement upon him, under Regulation 22 of the EIA Regs, to notify the applicant in writing accordingly. No such notification has been issued.
- 5.8.5 Thirdly, I note that the EIA was subject to formal Scoping, which included external consultation, with the following consultees providing comment in addition to NCC Planning's formal Scoping Opinion:
 - Various departments within NCC: Environmental Health (covering noise and air quality matters); Ecology; Highways; Landscape; and Heritage;
 - Newark and Sherwood District Council;
 - Environment Agency;
 - Natural England;
 - The Health Protection Agency;
 - The Coal Authority;
 - Nottinghamshire Wildlife Trust;
 - Trent Valley internal Drainage Board; and
 - National Grid and Western Power Distribution.
- 5.8.6 The ES reflected the scope set in the Scoping Opinion, with some further information or clarification provided under Regulation 22 and none of the above organisations, in responding on the planning application, ultimately found, at the point of NCC Committee's consideration, that the ES was in anyway inadequate. The probable exception to this is Nottinghamshire Wildlife Trust in respect of nightjar. However, they are only one of three technical ecological consultees, the other two having been satisfied.

- 5.8.7 Fourthly, it is relevant to understand the legal context. In the case of *R* (*Blewett*) *v Derbyshire County Council* [2004] Env LR 29, at paragraph 41 Sullivan J. articulated what should be realistically expected from an ES: "In an imperfect world it is an unrealistic counsel of perfection to expect that an applicant's environmental statement will always contain the 'full information' about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation. They recognise that an environmental statement may well be deficient, and make provision through the publicity and consultation processes for any deficiencies to be identified so that the resulting 'environmental information' provides the local planning authority with as full a picture as possible. There will be cases where the document purporting to be an environmental statement is so deficient that it could not reasonably be described as an environmental statement as defined by the Regulations...but they are likely to be few and far between."
- 5.8.8 On this basis highly technical challenges to ESs are therefore unlikely to be countenanced by the Courts. More importantly it is an indication that the Courts will consider whether a challenge is one that has an allegation sufficiently grave that the statement could not properly be characterised as an ES.
- 5.8.9 Blewett was followed by R (on the application of Kent) v First Secretary of State and Others [2004] EWHC 2953 (Admin) which concerned a challenge by a local resident to the grant of planning permission for the disposal of hazardous waste in rock salt caverns. The Claimant asserted that it was not permissible to rely on pollution prevention and control permit application procedures to handle detailed material that should be available as part of the EIA process. Accordingly, the failure of the ES to identify specific waste types (relevant to UKWIN's claim), relying instead on generic descriptions, caused the ES to be fundamentally flawed. Harrison J noted that the case law showed that: "whilst the ES must contain sufficient information to enable the decision maker to make an informed judgement as to whether the development is likely to have a significant effect on the environment, it is for the decision maker to decide whether the information contained in the document is sufficient to meet the definition of an ES in regulation 2 of the EIA Regulations, subject only to review on Wednesbury [unreasonableness]

grounds whilst also bearing in mind that the document does not have to contain information about all the effects, only the 'main effects' or the 'likely significant effects'.

5.8.10 The BEC application is plainly a case where the decision maker (at the point of determination) remains satisfied, taking account the views of relevant technical consultees, that the information contained in the ES was and is sufficient to meet the definition of an ES in regulation 2 of the EIA Regulations. Accordingly, I remain satisfied that all the necessary information has been provided and the ES is adequate.

5.9 Summary of Section 5.0

- 5.9.1 I have addressed those matters most likely to be of interest to the Secretary of State that have not been covered by other witnesses for the Applicant or elsewhere in my proof.
- 5.9.2 **Historic Environment** The BEC proposal would demonstrably have no physical effect on any heritage asset. Therefore, the only potential route for harm is in relation to the setting of heritage features. Having fully assessed this potential impact, the Applicant concludes that the settings of the heritage assets in question will in no way be altered or harmed by the proposed development. Accordingly, I believe there is no basis on which to refuse planning permission on the grounds of heritage effects.
- 5.9.3 Should, for whatever reason, the Secretary of State disagree with this conclusion and find that the harm is material, but less than substantial (in the terms of NPPF paragraph 134), then such harm as may occur should be weighed against the public benefits. In any such balancing exercise, I believe that the Secretary of State can be confident that the public benefits of the BEC proposal far outweigh any limited harm to any designated heritage assets and in accordance with the provisions of NPPF paragraph 134; it is still safe to grant planning permission from a heritage perspective.
- 5.9.4 **Landscape and Visual Impact** The BEC proposal would be very well screened and physically contained in the tree fringed topographical bowl.

Where the upper parts of the BEC building and structures would be visible, they would always be seen in the context of the adjacent, taller and far more prominent, wind turbines. I do not believe that landscape and visual issues merit refusal of the application, nor should such minor effects that have been identified weigh heavily against the proposal in the overall planning balance.

- 5.9.5 **Noise and Vibration** There are no 3rd party submissions that have raised any further issues to alter the conclusions of the ES in respect of noise and at the time of exchanging evidence I have not seen anything that materially challenges the technical noise assessment work. I therefore conclude that there is no basis for refusing planning permission in relation to noise and vibration, subject to imposition of appropriate noise conditions as suggested in SoCG1.
- 5.9.6 **Agriculture** There would be no net loss of agricultural land and thus the effect on agriculture would be neutral with regard to this topic. With regard to the potential for effects on agriculture in relation to effects from aerial emissions, taking the evidence of Mr Stephen Othen into account, I conclude that there is no basis for refusing planning permission in relation to agricultural matters.
- 5.9.7 **Surface Water Quality and Sewage Disposal** The surface water drainage and sewage disposal systems proposed are entirely robust and would provide the highest level of environmental protection. I therefore conclude that there is no basis for refusing planning permission in relation to surface water drainage, water quality or sewage, subject to imposition of appropriate noise conditions as suggested in SoCG1.
- 5.9.8 Tourism and Socio Economic Impact In order to attract any significant weight, the claimed socio economic impacts of an EfW development, including effects on tourism, must be supported by substantiating evidence. In this case there is no such evidence supporting claims of potential adverse effects. Conversely, the Applicant has provided evidence, by virtue of the ES chapter on socio economics, that the BEC proposal would have moderate socio economic benefits in terms of the factors / indicators assessed.

- 5.9.9 A review of EfW inquiry decisions has shown fairly consistently that alleged adverse tourism impacts were not afforded significant weight, largely because they were not supported by substantiating evidence. In the Rufford ERF case, where tourism impacts weighed more strongly against the scheme, the circumstances were demonstrably different to the situation with regard to the BEC proposal.
- 5.9.10 Where contemporary UK empirical research has been undertaken, it indicates that EfW facilities do not lead to material adverse socio economic effects. In light of the above, I do not believe that in this case there is any basis on which to refuse the planning application in relation to socio economic matters. Conversely the identified socio economic benefits lend clear support for the application to be approved.
- 5.9.11 Adequacy of the ES This is plainly a case where the decision maker (at the point of determination) remains satisfied that the information contained in the ES was and is sufficient to meet the definition of an ES in regulation 2 of the EIA Regulations. I fully concur with this finding.

6.0 MATTERS RAISED BY OTHER PARTIES AND OTHER RELEVANT ISSUES

6.1 Introduction

- 6.1.1 Having reviewed the representations made by third parties, the public and interested persons, I believe that in responding to the matters specifically identified by the Inspector at the PIM, the evidence presented by the Applicant at this inquiry covers the vast majority of issues raised.
- 6.1.2 I have noted some matters not specifically covered in evidence, such as impacts from vermin and litter, but have elected not to cover these further, as I believe virtually all such matters are adequately addressed in the planning application documentation (including the ES), which forms part of the current application paperwork. I further note that these, and other matters, are quite properly controlled through the Environmental Permitting regime.
- 6.1.3 Notwithstanding, a limited number of matters are raised on a repeated basis including:
 - i) That the proposed technology is experimental.
 - ii) The proposal would not achieve the best environmental outcome.
 - iii) Failure to properly assess alternative sites.
- 6.1.4 All of the above essentially revolve around claims that there are preferable alternatives to the BEC Proposal. Hence it is important to understand the general position with regard to alternatives. Except in rare circumstances not here applicable, there is no requirement in planning law or policy for developers to demonstrate that their chosen site or technology is the best and provides the best environmental outcome, or that there are no preferable alternatives. The test is simply whether the proposed development on a particular site is acceptable in its own right, having regard to the development plan and other material considerations. I am supported in this position by both policy and other planning inquiry decisions as set out below.

6.1.5 In addition to the above, I provide the Applicant's views on UKWIN's supplementary representation dated 13th August 2015 (IP12) in respect of the relevance of the Lock Street appeal decision to this case.

6.2 Experimental Technology

- 6.2.1 The matter of the proposed BEC technology was relatively briefly covered in Section 6.0 of the ES first Regulation 22 Submission (CD6) and is also referenced in the evidence of Mr Othen.
- 6.2.2 I also note that the Government appears to have significant confidence in the BEC technology having entered into a major Power Purchase Agreement on Air Product's Tees Valley 2 project, which uses the same technology. In April 2013 the Cabinet Office finalised a new 20 year contract with Air Products, worth 2% of government's energy spend. This is expected to deliver £84 million in savings to tax payers over the life of the contract (see my Appendix W). It would appear somewhat unlikely that the Cabinet Office would have taken the time and expense to contract with this technology, nor published the ensuing publicity, had they material doubts about its effectiveness.
- 6.2.3 Notwithstanding the above, it is important to understand that the use of new or specific waste management technologies is clearly covered in national planning policy, which is unequivocal on the matter.
- 6.2.4 The issue of technology choice is specifically referenced in the National Policy Statements:
 - EN-1 Overarching Energy NPS (CD55):
 - Paragraph 3.1.2 (extract): "It is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies."
 - Paragraph 3.3.5 (extract): "There are likely to be advantages to the UK of maintaining a diverse range of energy sources so that we are not overly reliant on any one technology (avoiding dependency on a particular fuel or technology type)."

- Paragraph 3.3.6 (extract): "Within the strategic framework established by the Government it is for industry to propose the specific types of developments that they assess to be viable. This is the nature of a market-based energy system."
- EN-3 Renewable Energy Infrastructure NPS (see my Appendix D) paragraph 2.5.11 (extract): "Waste and biomass combustion plant covered by this NPS may include a range of different combustion technologies, including grate combustion, fluidised bed combustion, gasification and pyrolysis. The IPC should not be concerned about the type of technology used."

6.2.5 Further reference to technology is made in the National Planning Policy for Waste at paragraph 4 (extract):
"Waste planning authorities should identify, in their Local Plans, sites and/or areas for new or enhanced waste management facilities in appropriate locations. In preparing their plans, waste planning authorities should:

 identify the broad type or types of waste management facility that would be appropriately located on the allocated site or in the allocated area in line with the waste hierarchy, taking care to avoid stifling innovation...."

6.3 Best Environmental Outcome

6.3.1 In the Middlewich EfW facility decision (see my Appendix U), the Secretary of State expressly disagreed with the Inspector on the matter of the requirement for the appellant to demonstrate the best overall environmental outcome in paragraph 24 of his decision letter: 24. The Secretary of State does not agree with the Inspector that Article 4(2) of the Waste Framework Directive applies to individual planning decisions (IR573). The Waste Framework Directive transposed in England and Wales through the Waste (England and Wales) Regulations 2011 and through an amendment to Planning Policy Statement 10 (PPS10). Both the first and second stage consultation make it clear that transposition of the hierarchy into planning would be through an update to PPS10, a point

confirmed by the Chief Planner's letter of 30 March 2011. As a result, the Secretary of State believes that individual waste management proposals should be assessed against planning policy in PPS10 which has incorporated the revised waste hierarchy. Therefore the Secretary of State cannot accept the Inspector's conclusions in IR582 that the proposal would have an unacceptable conflict with this part of the Waste Framework Directive and that it is necessary for the appellant to demonstrate best overall environmental outcome.

6.4 Alternative Sites

- 6.4.1 As stated in the introduction to this section, there is as a matter of fact in this case no requirement for the Applicant to undertake an alternative site assessment for any particular purpose. Notwithstanding, as part of the originally submitted planning application documentation, the Applicant did actually carry out an Alternative Site Assessment (ASA) in support of the proposed development which demonstrated that the Application Site is one of the most sustainable locations for the proposed development.
- 6.4.2 The purpose for undertaking the ASA is absolutely explicit in the study (refer to ES Technical Appendix 3-1 CD3) where paragraph 1.2 of the introduction states: "The object [sic] of the ASA is not to prove that any specific site is the very best for the proposed development, but that the site ultimately selected is acceptable for the proposed development taking into account a range of relevant policy, environmental and technical criteria and other potential sites, both evaluated through a structured and consistent process and thus represents one of the most 'sustainable' sites".
- 6.4.3 In reviewing the third party representations there are two main points of note which I address below:
 - 1. There have been claims that because the BEC facility might accept waste from authority areas outside but neighbouring Nottinghamshire, the ASA should have considered sites outside of the county. I deal with this briefly setting aside my introductory remarks in relation to the need for an ASA. In short, as is self-evident from my sub-section 4.3, the overwhelming target market for the BEC proposal is waste arising in

Nottinghamshire and Nottingham. This is where the demonstrable need for new energy recovery capacity occurs and this is where it should be met.

- Secondly, despite there being some fairly vociferous opponents to the scheme, none has identified a single alternative site either within or outside of the county at which it states the required new energy recovery capacity should be provided. I believe this speaks volumes about the merits of the Application Site and the paucity of viable alternatives.
- 6.4.4 On the basis of the foregoing, I conclude that the matters relating to alternative sites raised by third parties are not relevant considerations in this case.

6.5 Lock Street Decision

- 6.5.1 UKWIN's supplementary representation dated 13th August 2015 (IP12) sought to make specific comments of the relevance of the Lock Street appeal decision to the determination of the BEC application. I have carried out a full appraisal out the representation in a structured form in Appendix X to my proof. This provides a tabular summary of the Inspector's findings, UKWIN's interpretation and the Applicant's view on both the Inspector's position and UKWIN's interpretation of it.
- 6.5.2 The appraisal draws the clear conclusion that several factors key to the decision in the Lock Street appeal are materially different to the circumstances prevailing in the determination of the BEC planning application. Accordingly, the Applicant rejects the findings and conclusions set out in UKWIN's supplementary submissions and believes it has been clearly demonstrated that the appeal decision lends no support for refusal of the BEC application.

6.6 Summary of Section 6.0

6.6.1 There is no requirement in this case in planning law or policy for developers to demonstrate that their chosen site or technology is the best

and provides the best environmental outcome, or that there are no preferable alternatives. The test is simply whether the proposed development on a particular site is acceptable in its own right, having regard to the development plan and other material considerations. In terms of the proposed BEC gasification technology, the government's neutrality on waste management technology could not be clearer. I am supported in this position by both policy and other planning inquiry decisions.

6.6.2 I have undertaken a detailed review of UKWIN's supplementary representation on respect of the Lock Street appeal and find the circumstances therein are wholly different to the present case and that the appeal decision lends no support for refusal of the BEC application.

7.0 APPRAISAL OF THE APPLICATION PROPOSAL AGAINST THE DEVELOPMENT PLAN AND RELEVANT MATERIAL PLANNING CONSIDERATIONS

7.1 Introduction

- 7.1.1 Earlier in my evidence, I have identified the development plan context and other material considerations relevant to the determination of the Application Proposal.
- 7.1.2 In addition, within Section 4.0 of my proof, I have described how the Application Proposal conforms with, and delivers the objectives of, many parts of strategies, plans and policy relating to waste management, energy and renewable energy development.
- 7.1.3 In this final part of my proof I provide:
 - A summary as to how the BEC proposal clearly conforms with the relevant policies of the development plan.
 - A overview of how the Application Proposal accords with the policies and objectives of the NPPF and is demonstrably sustainable development as defined in the Framework.
 - A brief summary of the extent to which the scheme would be consistent with the National Planning Policy for Waste and the National Waste Management Plan for England.
 - My overall conclusions and the planning balance.

7.2 Assessment Against the Relevant Policies of the Development Plan

7.2.1 When considering compliance with the development plan regard must be had to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Sub-section 5 of Section 38 also states that: *"If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour of the policy in the development plan the conflict must be resolved in favour plan the conflict must be policy in the development plan the conflict must be policy plan.*

policy which is contained in the last document to be adopted, approved or published (as the case may be)." In this case the Waste Core Strategy (WCS) provides the only contemporary development plan document in relation to waste matters and, in far as there is any conflict between policies, it should be preferred over the significantly more aged Waste Local Plan.

- 7.2.2 It has also been confirmed by case law that a particular proposal does not need to accord with each and every policy in a development plan. The key issue is that it accords with the overall thrust of development plan policies taken as a whole (*R v Rochdale Metropolitan Borough Council* [2001] ENV.L.R 22).
- 7.2.3 The planning application as originally submitted assesses the BEC proposal against the policies of the development plan (refer to CD1 Part 3), albeit at a time prior to the adoption of the WCS. However, the final draft policies in the WCS did not materially differ (beyond their numbering) at the time of their adoption. Many key development plan policies are also appraised in Sections 7.0 and 8.0 of SoCG1. Unless otherwise stated in my proof, I rely on the development plan policy appraisal contained within these documents.
- 7.2.4 Notwithstanding the above, I believe it is fully appropriate to fully evaluate the BEC proposal against the key policies of the WCS.
- 7.2.5 **WCS1** provides a presumption in favour of sustainable development and states that planning applications that accord with the WCS will be approved without delay, unless material considerations indicate otherwise. For the reasons set out subsequently in this section of my proof, I believe the BEC proposal is demonstrably sustainable development in the context of the NPPF determinants and also accords with the other policies in the WCS. Furthermore I have found no material considerations that indicate planning permission should be refused. As such the BEC proposal conforms with Policy WCS1 and planning permission should be expedited.

- 7.2.6 **WCS3** deals with future waste management provision. For the reasons set out in sub-section 4.2 of my proof, there is a demonstrable need for the new energy recovery capacity that the BEC proposal would deliver. It would result in residual waste being diverted from landfill. It would not crowd out recycling, or hinder the achievement of the joint authorities' 70% recycling rate, although that is unlikely to be achieved in any event which lends further weight to the need for the scheme. The BEC proposal would export power and is well located to deliver heat that could be used locally. Accordingly, the scheme accords with Policy WCS3.
- 7.2.7 WCS4 and WCS7: WCS4 defines 'Broad' locations for waste treatment facilities. It states that large-scale facilities (which the BEC proposal is) will be supported in, or close to, the built up areas of Nottingham and Mansfield / Ashfield. It also states that development of facilities within the open countryside will be supported only where such locations are justified by a clear local need, particularly where this would provide enhanced employment opportunities and/or would enable the re-use of existing buildings.
- 7.2.8 The WCS also contains a Key Diagram (Plan 4 on page 69) which contains two shaded circular 'blobs' covering Nottingham and Mansfield / Ashfield which are labelled as 'Large Sites'. The Key Diagram is not referenced within either Policy WCS4 or its supporting text. The Key Diagram contains no map base information such as roads etc. Nevertheless it can be determined that the Application site lies outside, but close to the Mansfield / Ashfield 'blob'.
- 7.2.9 The supporting text to WCS4 (paragraph 718) states: "As set out in our vision, we want to promote a pattern of appropriately sized waste facilities in the areas where they are most needed i.e. where most waste is likely to be produced. This approach will help local authorities and the waste industry to develop a modern, safe and efficient network of waste facilities that can manage waste close to where it is produced. The Waste Core Strategy has therefore adopted a broadly hierarchical approach based on population and geography to focus sites where they are most needed. This approach is supported by a more detailed set of site criteria (see Policy

WCS7) to establish the types of locations that would be considered suitable for different types of waste management use/facilities". Thus it can be seen that Policies WCS4 and WCS7 interact.

- 7.2.10 Policy WCS7 states that waste management facilities will be supported in the following 'general' locations set out within a matrix within the policy. This identifies that energy recovery facilities will be supported on Employment Land defined as: *"areas which are already used for, or allocated for employment uses such as industrial estates, business or technology parks etc."*; or on Derelict / Other Previously Developed Land. This is defined as: *"land that is no longer needed or has been abandoned. This could include former un-restored or poorly restored colliery land in need of restoration, old quarries, disused railway land etc."*
- 7.2.11 Policies WCS4 and WCS7 deliberately use flexible language in identifying potential locations for waste treatment facilities and therefore provide flexibility in site selection, with the reference to 'Broad', 'in, or close to' and 'general' locations in the wording of those policies providing scope for waste treatment facilities to be assessed in the most appropriate manner to a specific proposal.
- 7.2.12 Such an approach was clearly followed by the WCS so as to be consistent with Planning Policy Statement 10 (PPS 10), which was still in force as at the date of the WCS's adoption. This approach remains entirely consistent with the National Planning Policy for Waste (NPPW), which replaced PPS 10 and which recognises at paragraph 4 that Waste Planning Authorities should *"consider a broad range of locations"* when identifying sites for new waste management facilities in their local plans, including industrial sites.
- 7.2.13 The aforementioned paragraph 7.18 of the WCS recognises that the basis for the approach to site locations set out in policy WCS4 is founded on the principle of proximity, specifying that appropriately-sized waste facilities should be promoted in areas where they are most needed (most waste produced) on a broadly hierarchical approach based on population and geography. Clearly this countenances small waste facilities (such as a Bring site or a Civic Amenity site) serving small catchments needing to be

very close to the population they serve. Whereas for larger capital intensive schemes designed to serve the whole joint authority area, a key determinant could well be that proximity to the centroid of arisings of the relevant waste streams. In this context, 'broad' and 'close to' will be seen in the context of all the urban areas which are intended to be served.

- 7.2.14 On this basis, the BEC Proposal, which is designed to serve the entire joint authority area, is clearly 'close to' the main areas of population and main areas of waste arisings and conforms to the 'broad' spatial objectives set out in WCS4.
- 7.2.15 In so far as the Key Diagram is relevant, it is also notable that this contains a Disposal Shortfall Area which is the priority location for the provision if new landfill capacity (as set out in Policy WCS5). The Disposal Shortfall Area is far more geographically expansive than the two 'blobs' which are notated as 'Large Sites'. Furthermore, Policy WCS5 even supports landfill development outside of the Disposal Shortfall Area where it can be shown that there is no reasonable, closer, alternative. Accordingly, it must be the case that the spatial guidance should be applied with the deliberate flexibility contained within it, or the WCS would be explicitly supporting waste travelling further for landfill disposal from the Nottingham and Mansfield / Ashfield conurbations, than for energy recovery which sits above disposal in the waste hierarchy. Such an approach would be perverse.
- 7.2.16 Having considered the spatial aspects of Policy WCS4, it is relevant to note the reference to restraint on development in the open countryside. For reasons explained in SoCG1 (paragraph 4.7) whilst the Application site is located in the "open countryside" by virtue of the proposals map of the NSDC Allocations and Development Management Development Plan Document, it is not open countryside in the normal sense and (as SoCG1 Supplement states at paragraph 2.21, which NSDC supports) is included within the employment land supply for the District and is recorded as 'available employment land in a designated area'.

- 7.2.17 Also on this point, Policy WCS4, which deals with Broad locations, must be read in the context of WCS7 which deals with actual 'General Site Criteria'. This is supportive of energy recovery development on both 'Employment Land', which includes areas in employment use including business parks, and 'Derelict / Other Previously Developed Land', which includes former unrestored colliery land in need of restoration, presumably where there is no outstanding restoration condition, as is the case with the application site. I believe the site of the BEC proposal meets both descriptors. Consequently, I find that the scheme accords with both Policy WCS4 and WCS7, the latter subject to there being no unacceptable environmental impacts, which I have confirmed to be the case elsewhere in my proof.
- 7.2.18 **WCS9** is supportive of waste management facilities making use of new and emerging technologies where they will lead to the more efficient and sustainable management of waste. Clearly, in using an emerging technology to recover energy from waste and divert it from landfill, or potentially export, the BEC proposal would lead to the more efficient and sustainable management of waste. Accordingly, I am satisfied that the BEC proposal accords with the policy.
- 7.2.19 I note that UKWIN (in paragraphs 26 39 of its Part 1 Objection February 2014) has adopted a different interpretation of the policy to that seemingly presented at face value in the WCS. Indeed, the same is true of NCC in its first Regulation 22 request. The inference is that the policy requires any new technology to be tested against the efficiency, in this case energy efficiency, of all existing waste technologies, irrespective of how the target waste stream is presently being managed and the efficiency of that method of management. Whilst I acknowledge that the Applicants responded to NCC's regulation 22 request, I must note that I believe this it too broad and interpretation of the policy wording.
- 7.2.20 Notwithstanding the above, the third Regulation 22 submission confirms that the BEC proposal has a net energy efficiency of 20.44%. For a 95,000tpa thermal treatment plant this is directly comparable to established technologies of a similar scale. Furthermore, as the BEC proposal utilises gas engines as opposed to a steam turbine, when heat is exported there is
no adverse effect on the electrical efficiency, unlike a steam turbine plant where the heat is extracted from the turbine itself. Accordingly, with heat export, the overall efficiency of the BEC proposal would rise faster per heat unit exported than a conventional steam cycle facility. Thus, the BEC has the real prospect of being more efficient than a similar sized steam cycle plant.

- 7.2.21 WCS11 relates to sustainable transport and, firstly seeks to use alternatives to road transport and, secondly seeks to make the best use of the existing transport network and minimise the distances travelled in undertaking waste management. This policy was fully appraised in Section 5.0 of the First Regulation 22 submission and is further analysed in the Proof of Mr Bell. Both conclude that the policy is not breached.
- 7.2.22 WCS12, WCS13, WCS14, WCS15 are all fully assessed in Table 4.1 of the originally submitted Planning Statement (see CD1 Part 3), albeit the policy numbers were each one digit less in the draft version of the WCS. I have nothing to add to the assessment contained therein which demonstrates compliance with all four policies.
- 7.2.23 Based on the foregoing, I conclude that the BEC proposal clearly complies with the relevant policies within the WCS when read as a whole.

7.3 The NPPF

- 7.3.1 An assessment of the compliance of the Application Proposal with the NPPF was provided with the originally submitted planning application in the Planning Statement (refer to Part 3 of the Planning Application Document at Table 4.1 from page 158 CD1). I shall not repeat all its findings in my proof. The submission forms part of the Application documentation and I stand by its conclusions.
- 7.3.2 Paragraph 14 of the NPPF states that a presumption in favour of sustainable development is at the heart of the Framework and should be seen as a 'golden thread' running through the planning system, in relation to both plan making and decision taking.

- 7.3.3 Whilst the Framework does not change Section 38(6) of the Planning and Compulsory Purchase Act 2004 (i.e. planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise), it places (at paragraph 14) great weight on the principle that development which is sustainable, and complies with the provisions of the statutory development plan, should be approved without delay.
- 7.3.4 In this context, Paragraph 7 of the Framework identifies that there are three dimensions to sustainable development which are economic, social and environmental. I have summarised the main economic, social and environmental benefits of the proposed BEC development below:

Economic Benefits

- 7.3.5 The direct economic benefits of the scheme are detailed in Section 3.0 of the Planning Statement. These are summarised below:
 - The creation of approximately 46 permanent jobs together with a maximum of 300 temporary jobs during the construction phase (180 on average) of the development. This would include local employment opportunities.
 - Opportunities to deliver annual fiscal benefits in the order of £0.40m to NSDC, through the retention of business rates;
 - Opportunities to ensure that local residents and businesses have access to the employment and business supply chain opportunities which may emerge;
 - 4. Generating electricity from a renewable source;
 - Opportunities to create further value in the waste processing chain through the sorting of recyclable materials and the utilisation of process by-products which can be used in other sectors (i.e. slag in the construction sector); and
 - The potential creation of 57 FTE direct, indirect (local supply chain) and induced jobs in the impact area. These jobs could support around £4.3m of GVA per annum

7.3.6 Based on the foregoing, it is demonstrably the case that the proposed BEC development accords with the first dimension of sustainable development in that it would perform a significant positive economic role.

Social Benefits

- 7.3.7 The main social benefit associated with the proposed BEC development would be its contribution made towards enabling the community to take on responsibility for managing its own waste in a more sustainable manner.
- 7.3.8 Thus, the proposed BEC facility would fulfil a social role, in accordance with the second dimension of sustainable development, through the provision of a local service that reflects the community needs and supports the well-being of future generations.

Environmental Benefits

- 7.3.9 The environmental benefits associated with delivery of the BEC development are set out in Section 4.0 of the Planning Statement. In summary, these include the following benefits:
 - It would provide a residual waste recovery facility with Nottinghamshire and Nottingham for which a need has been identified. This would enable the diversion of up to 117,310tpa of residual waste from landfill and thus support national and local landfill diversion targets. Landfill results in a range of adverse environmental effects including the release of greenhouse gases, in particular methane, which is approximately 24 times more effective at trapping heat within the atmosphere than CO².
 - 2. It is demonstrably the case the energy produced from the combustion of the biomass fraction of MSW and C&I waste within an EfW plant is classified as renewable and low carbon. In the case of the proposed BEC development, circa 50.8% of the energy produced would be renewable / low carbon. The facility would make a significant contribution to renewable electricity production in the East Midlands region. This single project would increase electricity generation within the region by over 2.1%.

- 3. The proposed development would be capable of exporting heat by virtue of its design. Whilst no definitive heat users have yet been identified, the applicants have assessed heat off-take potential (existing and proposed) and will continue to review and explore the potential to secure contracts with heat users / customers.
- 4. It has been calculated (in the third regulation 22 submission) that the proposed development would result in significant greenhouse gas savings per annum amounting to between 15,800 and 23,100 tonnes of CO² equivalents. As such, it would make a valuable contribution to Government climate change programme and energy policy by reducing carbon emissions and providing security of supply.
- 5. The site is well located in respect of the main settlements within Nottinghamshire and Nottingham and the strategic highway network.
- The Environmental Statement (ES) demonstrates that the proposed BEC development would not give rise to any significant residual adverse environmental impacts.
- 7.3.10 In light of the above, the proposal clearly fulfils a key regional and subregional environmental role through protecting natural resources, minimising the quantities of residual waste not used beneficially, reducing pollution (through the diversion of waste from landfill) and mitigating against climate change, including helping in the move towards a low carbon economy.

Summary of Economic, Social and Environmental Benefits

7.3.11 It can be concluded that the proposed BEC development would play a significant role in terms of the three dimensions which shape sustainable development as defined within the Framework. Moreover, it would deliver the benefits associated with these three dimensions *"jointly and simultaneously"*, in line with paragraph 8 of the NPPF. As such, it is demonstrably sustainable development and should benefit from the presumption in its favour. In this regard the Framework lends clear, unequivocal policy support for the proposal.

Compliance with the Development Plan

7.3.12 With regard to compliance with the development plan, I have already demonstrated within sub-section 7.2 above that the proposed development would accord with the relevant polices of the Development Plan when taken as a whole.

Conclusion

7.3.13 In light of the foregoing, it is clear that the proposed development would deliver social, economic and environmental benefits across all three dimensions which shape sustainable development, and would accord with the polices of the Development Plan when taken as a whole. Accordingly, the application should be approved without delay.

7.4 Consistency with the National Planning Policy for Waste and the National Waste Management Plan for England

- 7.4.1 No specific assessment of the compliance of the Application Proposal with the National Planning Policy for Waste (NPPW) and the National Waste Management Plan (NWMP) for England was provided with the Planning Statement prepared in support of the originally submitted planning application. This was on the basis that both documents were published following the submission of the planning application and the WPA has never requested that the Applicants supplement their original planning statement.
- 7.4.2 Both the Applicants and NCC are in agreement that the Application Proposal would accord with the relevant policies and guidance contained within the NPPW and NWMP and this is evidenced in paragraphs 7.5 – 7.6 of SoCG1. I have summarised the main areas of compliance below:

Compliance with the National Planning Policy for Waste (and Planning Practice Guidance for Waste)

- 7.4.3 Paragraph 7 of the NPPW (CD53) sets out the matters that waste planning authorities should concern themselves with when determining waste planning applications, in this regard, I note:
 - 1. I have demonstrated above that the proposed BEC development accords with an up to date development plan when taken as a whole. As such, in accordance with the requirements of the NPPF there should be no requirement to consider a quantitative need for the proposed development. Nevertheless, I have identified that there is a clear quantitative need for the development within Section 4.0 of my Proof and shall not repeat the conclusions of that assessment again here.
 - The proposed development would enable the diversion of up to 117,310 tonnes per annum of residual waste from landfill and thus support the management of this waste further up the waste hierarchy;
 - 3. The Application Proposal would not give rise to any significant impacts upon the local environment and amenity which considered in the context of the criteria set out within Annex B of the NPPW. This is evidenced in the ES, subsequent Regulation 22 submissions and other technical reports prepared in support of the planning application.
 - 4. The Application Proposal would be well designed and benefit from natural screening afforded by the landscaped bunds surrounding the Bilsthorpe Business Park. The design of the facility has not been contested by any of the technical consultees to the planning application and its appropriateness is common ground with NCC (see SoCG1).
- 7.4.4 Paragraphs 4 and 5 of the NPPW set out the requirements for Waste Planning Authorities when identifying locations, sites and areas for new or enhanced waste management facilities. I consider that the BEC development would accord with these requirements for the following reasons:
 - 1. As discussed in sub-section 7.2 above the Application site is on employment land and a business park and would also meet the definition of previously developed land set out in Annex 2 of the NPPF.

It is therefore a suitable location for a waste management facility in the context of and paragraph 4 of the NPPW;

- The Application Proposal would be 'CHP ready' and a heat plan has been prepared in support of the application which identifies potential heat customers in the locality.
- 3. It has been evidenced within the Transportation Assessment submitted in support of the planning application and also within the Proof of Evidence submitted by Mr Andrew Bell that the capacity of existing transport infrastructure is sufficient to support the sustainable movement of waste and it is not practical to use other modes of transport
- 4. The ES considers the potential cumulative effects of the Application Proposal and this concludes that it would not give rise to any significant cumulative effects with either existing / proposed waste management development or other existing / planned developments in the vicinity of the application site (in terms of landscape and visual, ecology, nature conservation, noise, cultural heritage, socio-economic, traffic and transportation, geology and hydrogeology and ground conditions, flood risk and air quality). This conclusion is not altered by the subsequent regulation 22 submissions. With the exception of the NWT, cumulative effects have not be a concern for any of the technical consultees to the application.

Compliance with the National Waste Management Plan for England

- 7.4.5 The Application Proposal would accord with the key policies and principles contained within the National Waste Management Plan for England for the following reasons:
 - The Application Proposal would demonstrably contribute towards the achievement of EU landfill diversion targets and the management of waste further up the waste hierarchy;
 - 2. The Plan supports efficient energy recovery from residual waste and does not identify support for one technology over another, other than Anaerobic Digestion for organic (food) waste. In this regard please refer to sub-section 6.2 above.
 - 3. The plan supports high quality recycling which would be supported through the proposed material recovery facility;

- 4. The proposed BEC development would make a significant contribution towards the aim of self-sufficiency in the recovery of waste in England;
- 5. As noted in connection with the NPPW above the proposed BEC development would be 'CHP ready' and capable of producing both electricity and heat.

7.5 Summary of Section 7.0 with Overall Conclusions and the Planning Balance

- 7.5.1 The assessment contained with my proof, and the application and inquiry documents, demonstrates that the BEC proposal accords with the policies of the development plan. I have also shown that there is a clear and demonstrable sustainable waste management need for the Application Proposal and that it would make a very significant and positive contribution towards the delivery of the government's climate change programme and energy policies.
- 7.5.2 I have not identified any material planning considerations that indicate that the Application Proposal should be determined other than in accordance with the development plan. Conversely all relevant material considerations, to which weight should be attached, lend further support for the BEC proposal. In light of the above, I believe that planning permission should be granted.
- 7.5.3 The benefits of the Application Proposal are, in my view, very clear and very significant. They span environmental, economic and social benefits relating to sustainable waste management, energy including renewable energy and climate change. I give them all positive and often significant weight as set out in my sub-section 4.7. In addition, as set out in my sub-section 4.6, by reference to Cornwall EfW facility decision, the environmental and economic implications of rejecting a proposal can be a matter capable of being accorded substantial weight. I believe this is a case where such weight should be applied in favour of the proposal.
- 7.5.4 Conversely, I conclude that the material harm (or disbenefits) arising from the Application Proposal are very limited and centre around the fact that the

BEC proposal would be visible from parts of the local surrounding area. At worse this would constitute a degree of landscape / visual impact.

- 7.5.5 In this case I conclude that the benefits of the BEC proposal overwhelmingly outweigh any disbenefits and that it is appropriate and highly desirable for planning permission to be granted.
- 7.5.6 Whilst in my opinion no development plan policy would be breached, if, contrary to my view, the BEC proposal was found to contravene the adopted development plan in some regard, I conclude that the weight of other material considerations in the planning balance is so strong that, in my view, the application should be approved in any event.