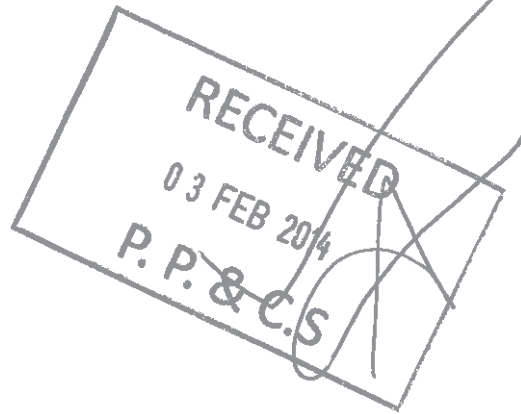




Mr Mike Hankin
Planning Applications Senior Practitioner
Nottinghamshire County Council
Trent Bridge House
Fox Road
West Bridgford
Nottingham
NG2 6BJ

31st January 2014

Dear Mr Hankin



Formal Representation of Residents Against Gasification Experiment (RAGE) and the Parish Councils of Bilsthorpe, Eakring, Kirklington and Rufford Parish Councils
Application Ref: ES/2950
Application by Peel Environmental Management Ltd & Bilsthorpe Waste Ltd

Detailed Application for "Proposed development of the Bilsthorpe Energy Centre (BEC) to manage unprocessed and pre-treated waste materials through the construction and operation of a Plasma Gasification Facility, Materials Recovery Facility and Energy Generation Infrastructure together with supporting infrastructure"

1. Further to receipt of your consultation letter in respect of the above planning application, we **object** to the proposed Bilsthorpe Energy Centre development ("the proposed BEC development") for the substantive planning reasons set out below.

Context to Objection

2. Objections are made on behalf of the Residents Against Gasification Experiment ("RAGE") and the Parish Councils of **Bilsthorpe, Eakring, Kirklington and Rufford** ("the Parish Councils") to the planning application, having regard to policies in the statutory development plan and other material considerations, including national planning policies on sustainable waste development.

The Proposals

3. The planning application has been submitted on behalf of Peel Environmental Management Ltd & Bilsthorpe Waste Ltd ("the Applicant").
4. Key features of the proposals include an integrated Materials Recovery Facility (MRF) and a Gasification Facility employing plasma gasification technology designed to handle up to **117,310 tonnes per annum (tpa) of Commercial and Industrial Waste (C&I) and/or Municipal Solid Waste (MSW)** sourced from within Nottinghamshire, the City of Nottingham and surrounding authority areas and energy generation infrastructure, together with associated infrastructure including a weighbridge and offices, offices and control room, effluent treatment tanks, oxygen production unit, cooling tower, flare stack, pump house, water tank and other ancillary development and landscaping.



RTPI

mediation of space · making of place

Hughes Planning LLP, 53 Dalby Road, Melton Mowbray, LE13 0BG
01664 566 162 | enquiries@hughesplanning.co.uk | www.hughesplanning.co.uk

5. Waste would arrive either pre-treated, as a Solid Recovered Fuel (SRF) ready for use in the gasification facility, or untreated requiring pre-treatment at the site within the Materials Recovery Facility (MRF) to produce a SRF for gasification. The SRF would be mixed with limestone and metallurgic coke to form a "feedstock" for the Plasma Gasification Facility.¹ Any recyclable materials recovered through the materials recovery process would be exported off-site to an appropriate re-processing facility.²
6. The Applicant claims that the energy generation facility would produce 13.6 Megawatts (MW) of electricity through the gasification of the feedstock and it would "have the **potential to produce**" 5.5MW of heat in the form of hot water recovered from the cooling systems associated with the Internal Combustion Engines (ICE).³
7. The proposed BEC development is being promoted as a 'merchant' facility.⁴ This means that at the time of the consideration of the planning application, precise details of the waste supply to the proposed facility and the implications arising are not known. This accords with the Applicant's established business model. In the event that planning permission were to be granted, the proposed facility is programmed to open late 2016/early 2017 and it would have a 'design life' of around 25 years.⁵ The applicant claims that the proposed facility would operate 24 hours a day, 7 days a week with 'downtime' limited to planned maintenance works. The applicant also claims that the facility would provide 46 full-time jobs.

Application Site – Land Use Designation

8. At paragraphs 2.2.1 to 2.2.13 of the Planning Statement, the Applicant seeks to grapple with the land use designation of the application site by way of setting out the planning policy background to the consideration of the proposed development. At paragraph 2.2.13, the Applicant states that *"The Business Park remains a **Committed Employment Site** within the statutory development plan, with the very recently adopted Allocations and Development Management DPD identifying the site as a **designated employment area**"* (Our emphasis). Whilst we have sympathy with the Applicant's Planning Consultant (Axis) when seeking to define the precise land use designation of the application site in development plan terms, the assertion that the site is a "committed employment site" and a "designated employment area" are incorrect as a matter of fact. The site is neither a committed nor designated employment site for the purposes of the Newark and Sherwood Local Plan.
9. This has been clarified by Newark and Sherwood District Council who, in an internal memo from Matthew Norton (Business Manager – Planning Policy) to Martin Russell (Senior Planner – Development) dated 14th January 2014, clarified the status of the land as follows – *"Technically speaking I would say that rather than the land being committed it is available"*. There is no extant planning permission for the development of the site for employment (or indeed any other purpose) by virtue that previous approvals have lapsed, and the site is not allocated or designated as employment land within the Allocations and Development Management DPD. Neither is the site allocated for waste management development. Moreover, the site does not lie within the village envelope of Bilsthorpe. Accordingly, in development plan terms, the application site lies within open countryside.
10. This is in fact recognised in various parts of the Planning Statement where, for example, on page 135 it states *"...the proposed BEC development is not strictly 'within' the village envelope..."* and on pages 140 and 141 it states *"...the site is designated as part of a wider Site of Importance for Nature Conservation (SINC), is not specifically allocated for employment use and...the site is located outside the Bilsthorpe village envelope (and thus in the open countryside)." (Our emphasis)*

¹ Planning Statement, para 1.2.1

² Planning Statement, para 1.2.4

³ Planning Statement, para 1.2.2

⁴ Planning Statement, para 1.2.7

⁵ Planning Statement, para 1.2.6

11. Whilst it is understood that the site contributes to the employment land supply figures for annual monitoring purposes (primarily as a result of the historic outline planning applications, now lapsed), this is a very different proposition in legal terms to it being expressly allocated as such in the development plan. The starting point for the consideration of the proposed BEC development must therefore be that the site lies within open countryside for the purposes of the Newark and Sherwood Local Plan and there is no extant outline planning permission for its use as employment land or for waste management development.
12. With regard to the Newark and Sherwood Core Strategy (NSCS), **Spatial Policy 2** sets out the spatial distribution of growth within the District, which focuses on regeneration *within* service centres and principal villages identified for regeneration (including Bilsthorpe), including the creation of new employment opportunities. However, as previously stated, the application site is outwith the village envelope boundary and within the open countryside. Accordingly, the proposals should be considered against the provisions in Spatial Policy 3 of the Newark and Sherwood Core Strategy.
13. **NSCS Spatial Policy 3** states that development in the open countryside will be strictly controlled and restricted to uses which require a rural setting such as agriculture and forestry. The policy does not support proposals for large-scale employment development within the countryside and it does not support proposals for large-scale waste management developments. Curiously, despite recognition in the planning application submission that the application site lies within open countryside, there is no reference to this policy in the Planning Statement. It is however clear that the proposed development conflicts with the provisions of Spatial Policy 3.

Conflict with the Development Plan

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the statutory development plan, unless material considerations indicate otherwise. It is noted that the application is being advertised by the Waste Planning Authority as a departure from the development plan for the reasons described in the consultation letters, as follows: - *"The proposed development does not accord with the provisions of the Development Plan in force in the area in which the land to which the application relates is situated."*
15. The Applicant is of the opinion that the proposed development complies with the provisions of the statutory development plan *"when taken as a whole"*. In addition, the Applicant suggests that further support for the proposals (and therefore for the approval of planning permission) derives from its compliance with national, county and local policies relating to the delivery of sustainable waste management and to combating climate change through renewable energy production, including the *"emerging"* Nottinghamshire and Nottingham Waste Core Strategy, as it then was.⁶ The Waste Core Strategy was adopted in December 2013 and therefore now forms part of the development plan.
16. The development plan in this case consists of the:
 - **Newark and Sherwood Core Strategy (March 2011);**
 - **Newark and Sherwood Allocations and Development Management DPD (July 2013);**
 - **Nottinghamshire and Nottingham Waste Core Strategy (December 2013); and**
 - **Nottinghamshire and Nottingham Waste Local Plan (January 2002) Saved Policies.**
17. In light of the above, we first consider the degree to which the proposed BEC development accords (or not) with the policies set out in the development plan before going on to consider other material considerations, including national planning policy.

⁶ Planning Statement, para 4.5.2

Newark and Sherwood Core Strategy

18. With regard to the Newark and Sherwood Core Strategy (NSCS), it has been explained above that the application site lies within open countryside for Local Plan policy purposes and the principle of development is in direct conflict with the provisions of **Spatial Policy 3**. Whilst the Applicant's Planning Statement is silent in this respect, there are a number of policies identified upon which the Applicant relies for support for the proposals.
19. **NSCS Spatial Policy 7** states that the Council will support development proposals that promote an improved and integrated transport network, with emphasis on non-car modes as a means of access to services and facilities. Newark and Sherwood District Council will work closely with Nottinghamshire County Council and other relevant agencies to reduce the impact on roads and traffic movement. Development proposals should, amongst other things, **minimise the need to travel, be appropriate for the highway network** in terms of the volume and nature of traffic generated, ensure that the **safety, convenience and free flow of traffic** using the highway are not adversely affected and ensure that **vehicular traffic generated** does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.
20. The proposed development runs contrary to the aims and objectives of Spatial Policy 7. The instructing parties are aware that there are already problems with the levels of traffic on local roads that would be exacerbated by the proposed BEC development and any intensification in the use of the junction of Deerdale Lane and the A614 would adversely affect the free flow of traffic and would increase highway dangers. Notwithstanding the existing highway problems at the junction of Deerdale Lane and the A614, there are no planned improvements to this junction as part of the planning application. For these reasons, the proposed BEC development would conflict with the provisions of Spatial Policy 7 in this respect.
21. Furthermore, the proposals would also conflict with Spatial Policy 7 insofar as there is no potential for transporting waste to the application site by means other than road. Tackling climate change is a key priority for the planning system and one of the objectives is to deliver growth that makes the fullest possible use of sustainable transport for moving freight. These objectives are carried forward into Spatial Policy 7. However, the application site has no potential for transporting waste by other means and therefore the proposal to site a large-scale waste management facility in this location would not contribute positively to combatting the causes of climate change and it does not embrace the principles of sustainable transport. Therefore, the proposed BEC development also fails to satisfy Spatial Policy 7 in this respect and any alleged benefits arising from the proposals in respect of energy recovery, avoidance of landfill, etc., are undermined by the site's unsustainable location.
22. **NSCS Core Policy 6** sets out the Council's approach to economic growth and prosperity. In circumstances where proposals are submitted for economic development uses wider than the 'B' Use Classes, the policy identifies a number of considerations to which regard shall be had. The Planning Statement acknowledges that *"the proposed BEC development, in its entirety, would not fall within a B Use Class and as such, it is necessary [to] consider the proposal in the context of this part of [the Policy]"*.⁷ It is clear from the wording and construction of the policy that the employment needs of the District will be *"plan-led"* and met through a combination of safeguarding existing employment sites and through the allocation of new employment sites. The application site is not an existing employment site and it is not allocated for such purposes in the Newark and Sherwood Local Plan. It is greenfield land within open countryside.
23. In relation to the considerations set out in Core Policy 6, the proposed BEC development is purported to be required in this location to meet an identified need for the type of waste facility proposed. For reasons advanced below, the need for this particular type of waste facility in this location is in doubt. The Policy also requires that there is a lack of suitable, alternative and available sites to meet the demand that exists. For reasons advanced more fully below, the

⁷ Planning Statement, page 136

Applicant's assertion that this is the most suitable site on which to construct the proposed BEC development is also in doubt.

24. In relation to the need to safeguard the integrity of neighbouring uses, including their continued use for employment purposes, the instructing parties are aware that a number of existing residents of business premises adjacent to the application site have expressed concern that the proposed BEC development will be detrimental to their existing operations. The proposed BEC development on the scale proposed would not be a 'good neighbour', and whilst the Applicant asserts that the proposals would "*not affect the integrity of neighbouring uses and indeed may encourage complimentary uses on the business park (i.e. heat users)*", there is no evidence to suggest this would occur. For these reasons, the proposed BEC development fails to satisfy Core Policy 6 in this respect.
25. **NSCS Core Policy 9** states that Newark and Sherwood District Council will expect new development proposals to demonstrate a high standard of design that both **protects and enhances the natural environment** and **contributes and sustains the rich local distinctiveness** of the District. This is to be achieved by, amongst other things, developments that demonstrate an effective and efficient use of land that **promotes previously developed land** and optimises site potential at a level **suitable to local character**, their contribution to a **compatible mix of uses** and developments that take into account the potential impacts of climate change.
26. The application site lies within an area designated as a Site of Importance for Nature Conservation (SINC) and within sight and sound of a number of public footpaths surrounding Bilsthorpe and Eakring. In design terms, the Planning Statement asserts that the proposed BEC development "*has been specifically designed and the proposed buildings arranged, in order to take account of its location and to minimise visual and other potential environmental effects*".⁸ However, the actual driver for the design, scale and siting of the proposed development is more accurately reflected in EIA Scoping Report (March 2013) where it is explained that "*The proposed buildings and structures associated with the BEC would vary in height, with the finished heights being a direct result of function and process requirements*".⁹ Whilst no specific criticism is made of the design of the proposed BEC facility in itself, which is a product of function over form, it is not correct to purport (as the Applicant seeks to do) that the design of the proposed buildings is driven by landscape and other environmental considerations.
27. Whilst no suggestion is made to the contrary, the application site is not previously developed land under the terms identified in Annex 2 of the National Planning Policy Framework ("the NPPF"). For the purposes of the NPPF, land developed for minerals extraction is excluded from the definition of previously developed land where provision for restoration has been made through development control procedures. Provision has been made for the restoration of the application site. This is acknowledged in the Applicant's Planning Statement where (on page 154) it states - "*Whilst the site is a former mineral site with restoration conditions, it does not fall within the description of previously developed land presented within the glossary within the NPPF*".
28. With regards to the other consideration as to whether the proposed development would contribute to a compatible mix of uses, for the reasons advanced above, it is not considered that the proposed BEC development would be compatible with existing neighbouring uses, they may in fact lead to planning blight, and the lack of alternative means by which waste can be transported to the site to the road would fail to combat the causes of climate change. For these reasons, the proposed BEC development also fails to satisfy Core Policy 9 in this respect.
29. **NSCS Core Policy 10** sets out the Council's commitment to tackling the causes of climate change and to delivering a reduction in the District's overall CO₂ emissions. The policy encourages the provision of renewable and low-carbon energy generation within new development and to secure

⁸ Planning Statement, page 137

⁹ Environmental Impact Assessment Scoping Report, para 3.1.5

a proportion of its energy requirements from decentralised sources. Whilst the proposed development would be self-sufficient in terms of meeting its own energy needs and would, it is suggested, produce 13.6 Megawatts (MW) of electricity through the gasification of the feedstock, in addition to the “potential” to produce 5.5MW of heat in the form of hot water, one of the key objectives in respect to climate change is to deliver growth that makes the fullest possible use of sustainable transport for moving freight. However, as previously pointed out, the application site has no potential to transport waste by means other than by road.

30. Moreover, whilst the Applicant claims that waste will be “sourced from within Nottinghamshire, the City of Nottingham and surrounding authority areas”¹⁰, there are no planning restrictions proposed on the geographical area from which waste would be derived and transported. Given the existing contractual arrangements with other waste firms serving Nottinghamshire, Nottingham and the surrounding areas, there can be no assurance that this would indeed be the case. In the absence of contractual arrangements and planning controls, the supply of waste to the proposed BEC development is unknown. Nor is there any clarity regarding the ‘types’ of waste that would be transported to the site, beyond the notion that there will be no more than 117,310tpa in total of Commercial & Industrial Waste and/or Municipal Solid Waste.
31. Another objective of Core Policy 10 is to deliver infrastructure that secures the highest viable resource and energy efficiency and reduction in emissions of greenhouse gases. However, the proposed BEC development involves technologies that are somewhat experimental. It is not therefore possible to predict energy efficiency with confidence. This is exacerbated by the fact that there is no certainty regarding the composition of the feedstock to be used in the Plasma Gasification Facility. In the absence of an Environment Agency design level R1 certificate, the Applicant has failed to robustly demonstrate that the proposed facility would meet the energy efficiency threshold to operate as a “recovery facility” or would in fact constitute a “disposal facility”. For these reasons, the proposals fail to demonstrate that they would satisfy Core Policy 10.
32. **NSCS Core Policy 12** seeks to conserve and enhance the biodiversity and geological diversity of the District. Similar objectives are sought by **NSCS Policy ShAP 1**. The application site lies within a Site of Importance for Nature Conservation, it is within close proximity of a Site of Special Scientific Interest and it lies within the boundary of the area identified by Natural England as requiring a risk-based assessment for impacts on nightjar and woodlark, due to meeting the principal criterion for the designation of a Special Protection Area (SPA).¹¹ Whilst the Waste Planning Authority will be advised of the impact on nature conservation interests by the appropriate bodies, including Natural England and The Nottinghamshire Wildlife Trust, it is important to point out that the Inspector who presided over the proposed incinerator application by Veolia ES Nottinghamshire Ltd near Rainworth concluded the following “...if Sherwood Forest were to be identified as a pSPA/SPA, permission for the [Energy Recovery Facility] should not be granted unless no alternative solutions are available and imperative reasons of overriding public interest indicate that the scheme should go ahead.”¹² The Secretary of State for Communities and Local Government confirmed his agreement with the Inspector’s reasoning and conclusions in this regard at Paragraph 12 of his Decision Letter.
33. **NSCS Core Policy 13** states that the Council will expect development proposals to positively address the implications of the Landscape Policy Zones in which proposals lie and demonstrate that such development would contribute towards meeting landscape conservation and enhancement aims for the area. A Landscape and Visual Impact Assessment is submitted to accompany the planning application. According to the Applicant, the landscape and visual effects arising from the proposed BEC development would be significant within the former colliery site

¹⁰ Information provided in response to question 22 on the planning application form

¹¹ The Nottinghamshire Wildlife Trust’s consultation response to the EIA Scoping Report, dated 29th April 2013

¹² Inspector’s Report to the Secretary of State for Communities and Local Government, para 1155 (dated 17 March 2011)

itself, but beyond this, only localised change would occur that would not affect the underlying character of the landscape¹³.

34. The application site is in open countryside, outside of the built-up area of Bilsthorpe. Whilst vestiges of the site's past use as part of the former Bilsthorpe colliery are visible, much of the surrounding area has been restored and provides an attractive landscape highly valued and enjoyed by residents of Bilsthorpe, Eakring and the surrounding villages.
35. The northern part of the site would accommodate a building housing the Plasma Gasification Facility and energy generation infrastructure that would extend to 31.8m in height, together with two 60m high chimneys. The building would be connected (via three high level enclosed conveyors) to a separate building located on the southern part of the site and accommodating the Materials Recovery Facility, reception and store. This building would extend to 15.8m in height. The overall amount of development proposed on the site would extend to **15,395m²** and the overall footprint of the site would be approximately 300m long and 120m wide.
36. Whilst it is recognised that the application site lies adjacent to the recently constructed Nottinghamshire County Council highways depot (to the west) and that there are a number of existing buildings to the northwest of the site in employment use, they are relatively small in scale both in terms of their height and footprint, and as a result they are better assimilated into the surrounding landscape. The proposed BEC development, on the other hand, is of substantial scale and would dominate both the immediate setting of the existing buildings on adjacent sites and the surrounding landscape. The 'Artists Impression' (NTS Figure 4) that is appended to the Environmental Statement (Volume 3: Non-Technical Summary) clearly demonstrates the significant adverse and dominating impact that the proposed BEC development would have on the site and surrounding landscape. The sheer scale of the proposals would evidentially be harmful to both the immediate and wider landscape, a landscape that is highly valued locally and protected under the terms of Core Policy 13 and other policies in the development plan.
37. The visible plume spreading from the two chimneys would further erode the qualities of the landscape and countryside. Whilst the buildings themselves may not be visible from some parts of the surrounding area due to intervening topography, the plume would be visible and it would be a constant reminder of the heavy industrial processes taking place on the site. The impact that plumes can have on the enjoyment of the landscape should not be underestimated.
38. Moreover, there is a genuine concern regarding the cumulative impact of the proposed BEC development in combination with the existing wind turbines, highways depot, the approved solar farm and the other existing buildings on the character and appearance of the landscape. This landscape has already experienced significant change and it is not considered that it can undergo further change in the manner proposed, without harming its overall integrity. For these reasons, the proposed BEC development fails to satisfy Core Policy 13.
39. **NSCS Core Policy 14** seeks to preserve and enhance the character, appearance and setting of the District's heritage assets and historic environment. The older buildings in Bilsthorpe village centred on the Church (a *Grade I* listed building) lie within a Conservation Area. In addition, the whole of Eakring village, which lies to the northeast of the application site, lies within a Conservation Area, including the paddocks to the west, east and north of the village. It is therefore necessary to consider the impact of the proposed BEC development on the setting of these designated heritage assets.
40. There is significant concern regarding the impact of the proposed BEC development on the setting of the Bilsthorpe and Eakring Conservation Areas due to its size and scale. The two chimneys would extend to 60m high and the building on the northern part of the site, accommodating the Plasma Gasification Facility and the energy generation infrastructure, would extend to 31.8m in height. These are buildings and structures of substantial size and scale that would fail to preserve

¹³ Chapter 7.0 of the Environmental Statement and Planning Statement, page 139

the setting of the Conservation Areas. Furthermore, the plume spreading from the two chimneys would be visible from within these Conservation Areas, further eroding the experience of their historic setting.

41. In addition, there is concern regarding the cumulative impact of the proposed BEC development when viewed alongside existing and approved development. Whilst the effects of previous developments on the setting of the Conservation Areas have in themselves been considered to be acceptable, it is considered that the *tipping point* would be breached by the proposed BEC development and the cumulative impact of the proposals alongside existing development would neither preserve nor enhance the character or appearance of the Conservation Areas, and their setting. For these reasons, the proposed BEC development fails to satisfy Core Policy 14.
42. For all of the aforementioned reasons, it is clear that the proposed BEC development conflicts with relevant policies in the Newark and Sherwood Core Strategy, when considered as a whole, and the proposal therefore fails to accord with one of the key local plan documents comprising the development plan.

Allocations and Development Management Policies DPD

43. The Allocations and Development Management Policies DPD ("the DPD") was recently adopted (in July 2013) and completes the Newark and Sherwood Local Plan. Map 11 on page 90 of the DPD shows the various land use designations in Bilsthorpe of existing and future developments. The application site is shown to lie outside of the village envelope boundary and therefore within open countryside. The site is also shown to lie within a Site of Importance for Nature Conservation (SINC). Whilst the Nottinghamshire County Council highways depot (immediately to the west of the site) is indicated on the Map, the application site is not designated for development.
44. **DPD Policies Bi/E/1 and Bi/E/2** relate specifically to allocated employment sites within Bilsthorpe. Policy Bi/E/1 allocates 2.67 hectares of land on the southern side of Brailwood Road for employment development and Policy Bi/E/2 allocates 0.35 hectares of land on the northern side of Brailwood Road for employment development. The application site is not an allocated employment site for the purposes of Policy Bi/E/1 or Bi/E/2.
45. **DPD Policy DM1** states that *within* the village envelopes of Principal Villages (including Bilsthorpe), proposals will be supported for employment development *appropriate to the size and location of the settlement*. No such provision is made for employment development on sites outside village envelopes. The proposed BEC development would therefore conflict with this policy. Similarly, **DPD Policy DM2** supports proposals on sites *allocated* for development for the intended use. Again, no such provision is made for development on sites not allocated for development. The proposed BEC development is in clear conflict with DPD Policies DM1 and DM2. Curiously, neither of these policies was identified the Applicant's Planning Statement.
46. **DPD Policy DM4** provides the criteria against which to assess proposals for renewable and low carbon energy generation supported by NSCS Core Policy 10. The policy is permissive of proposals where the benefits are *not* outweighed by detrimental impacts arising from the development upon, *inter alia*: - 1) landscape character, including the cumulative impact of proposals; 3) heritage assets and their settings; 4) amenity; 5) highway safety; and 6) ecology.
47. For reasons advanced elsewhere in this representation, the alleged benefits arising from the proposed BEC development would not outweigh its detrimental impact on landscape character, heritage assets, amenity, highway safety and ecology. The Applicant's claims in respect of energy efficiency and carbon reduction are severely undermined by the absence of information relating to feedstock and the derivation of waste, and the experimental nature of the proposed technology. For these reasons, the proposed BEC development would conflict with the objectives of Policy DM4.

48. **DPD Policy DM5** sets out a series of 'design' criteria against which all proposals are to be assessed. These include considerations of access, parking, amenity, local distinctiveness and character, biodiversity, ecology, flood risk and water management. For the reasons described elsewhere in this representation, it is considered that the proposed BEC development would have a harmful impact on the local highway network, on neighbouring amenity and the operation of surrounding land uses, on landscape character and on biodiversity and ecology. For these reasons, the proposed BEC development would also conflict with the objectives of Policy DM5.
49. **DPD Policy DM7** seeks to protect, promote and enhance green infrastructure and contribute to the ecological network both as part of on site development proposals and through off-site provision. Planning permission will not be granted for development proposals on, or affecting, Special Areas of Conservation (SAC) or Special Protection Areas (SPA) unless it is directly related to the management of the site for nature conservation and public access and does not significantly harm the integrity of the site.
50. The application site lies within the boundary of the area identified by Natural England as requiring a risk-based assessment of impacts on nightjar and woodlark. There are historical records of nightjar in Eakring Brail Wood, which is in close proximity to the site.¹⁴ In addition, the site lies within a designated SINC. The application site is in close proximity to an area known to support more than 1% of the total UK breeding population of woodlark and nightjar (Annex 1 species of the Birds Directive). These designations are significant and the proposed BEC development would fail to protect, promote and enhance important nature conservation interests. For these reasons, the proposed BEC development would conflict with the objectives of Policy DM7.
51. **DPD Policy DM8** relates specifically to development in open countryside, outside of built-up areas as defined by the Local Plan. The policy states that development in open countryside will be strictly controlled and limited (to the types of development set out in the policy). The proposed BEC development, comprising 15,395m² of built development, is not of a type identified in Policy DM8 as suitable in this open countryside location. The proposed BEC development is in clear conflict with the provisions of Policy DM8.
52. **DPD Policy DM9** seeks to protect and enhance the historic environment, including the setting of listed buildings and conservation areas. As explained above, the proposed BEC development by virtue of its size, height and scale would have a harmful impact on the setting of the Bilsthorpe Conservation Area, including its *Grade I* church, and Eakring Conservation Area.
53. In respect of the Bilsthorpe Conservation Area, one of the main views from the church is to the north and northeast towards the application site. Whilst the intervening buildings would to some extent shield the proposed BEC development from views in this direction, the chimneys at 60m high would be visible, as would the plume spreading from the chimneys. The proposed BEC development, both independently and cumulatively, would have a harmful impact on the setting of the Conservation Area and its historical significance.
54. In respect of the Eakring Conservation Area, the introduction of two 60m high chimneys in addition to the wind turbines that have recently been erected would, by reason of their height and appearance, dominate the western setting of the Conservation Area. The cumulative impact would harm the character and appearance of the Conservation Area in this respect. For these reasons, the proposed BEC development is contrary to Policy DM9.
55. **DPD Policy DM10** states that development proposals involving the potential for pollution should take account of and address their potential impacts in terms of health, the natural environment and general amenity on neighbouring land uses, the wider population, ground and surface water, air quality and biodiversity. The policy goes on to say that proposals that have the potential to lead to increased deposition of nitrogen should consider the potential for effects on European

¹⁴ The Nottinghamshire Wildlife Trust's consultation response to the EIA Scoping Report, dated 29th April 2013

sites (including SPA's) and any impact should be balanced against the economic and wider social need for the development.

56. By way of background, life expectancy in Bilsthorpe and Eakring is the worst in the Newark and Sherwood Area at 75.9 years compared with, for example, Southwell at 82.4 years and 78.3 years for England as a whole¹⁵. The proposed BEC development can only exacerbate this situation insofar as the only way to possibly mitigate the impacts on health from the development would be for it not to be built. Whilst it is recognised that it is current Government planning policy that Waste Planning Authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced¹⁶, this is a very different proposition to saying that there will be no pollutants at all. The impact on the local environment from pollution that would arise from the facility and associated traffic movements (which is not covered by the Environmental permitting process) is a material planning consideration. The dispersal modelling undertaken by the Applicant clearly shows that the pollutants generated by the proposed facility would disperse over the surrounding countryside and Eakring. Any increase in pollutants will have a disproportionate impact on the local population.
57. Turning to impacts on biodiversity, the application site lies within the buffer zone of the potential SPA, which is of international importance. An SPA is one of the highest designations attributed to any site for nature conservation interests. There are historical records of nightjar in Brail Wood. The Nottinghamshire Wildlife Trust is particularly concerned about the effects of the proposed BEC development on the woodland habitats of the Special Area of Conservation (SAC), drawing particular attention (in their response to the EIA scoping consultation, dated April 2013) to the need to assess the effects of nitrogen deposition on the heathland and acid grassland habitats of the SAC, *"which are very vulnerable to such nutrient inputs"*.
58. The instructing parties are of the opinion that the proposed BEC development, of the type and on the scale proposed, would be harmful to nature conservation interests and the sensitive biodiversity that the area currently supports. Any degradation in such interests would be disproportionately harmful. Conversely, the proposed generation of 46 jobs, the majority of which would require specialist experience sourced beyond the local area, would clearly fail to strike the right balance between nature conservation in the national and international interest and the economic benefits of the development. For these reasons, the proposed BEC development is contrary to Policy DM10.
59. The weight to be applied to these considerations in planning policy terms is increased through advice in complementary forms of legislation. For example, the Environment Agency's Advice Note states that - *"...it is already critical to consider the impact of development on nightjar and woodlark owing to their inclusion as Priority Species within the UK Biodiversity Action Plan. Both species therefore already represent a material consideration when considering planning applications, regardless of whether the Sherwood area is put forward for classification as SPA in due course."* In addition, Article 4(4) of the Birds Directive states that where there is no current designation or potential designation, as in the case of the Sherwood Forest potential SPA, competent authorities remain under a duty to take all steps necessary to ensure that the areas which may be designated are not threatened in the interim. In this regard, Article 4(4) also provides that - *"Outside these protection areas [i.e. outside SPAs and potential SPAs], Member States shall also strive to avoid pollution or deterioration of habitats"*.
60. These considerations are carried forward into Regulation 18 of the Waste Regulations 2011, which advises waste planning authorities that they must have regard to the provisions of Article 13 of the Waste Framework Directive when exercising their planning functions, to the extent that those functions relate to waste management. Article 13 (Protection of human health and the environment) states that - *"Member States shall take the necessary measures to ensure that waste*

¹⁵ Health Commissioning Group study for Newark and Sherwood District, November 2011

¹⁶ PPS10, Para 27

management is carried out without endangering human health, without harming the environment and, in particular:

- (a) without risk to water, air, soil, plants or animals;
- (b) without causing a nuisance through noise or odours; and
- (c) without adversely affecting the countryside or places of special interest."

61. **DPD Policy 12** carries forward the presumption in favour of sustainable development contained in paragraph 14 of the NPPF. For reasons advanced more fully below, the proposed BEC development does not comprise a sustainable form of development and it is in clear conflict with key policies in the development plan. Accordingly, the Applicant cannot rely on the presumption in favour of sustainable development in support of the proposals. Indeed, the proposed BEC development is in direct conflict with the substantial part of the development plan, when taken as a whole.
62. For all of the aforementioned reasons, it is clear that the proposed BEC development conflicts with the Newark and Sherwood Allocations and Development Management Policies DPD, when considered as a whole, and the proposals therefore fail to accord with a further key development plan document.
- Nottinghamshire and Nottingham Waste Core Strategy**
63. The Waste Core Strategy (WCS) was very recently adopted in December 2013 and therefore now forms part of the development plan, together with the remaining Saved Policies in the Nottinghamshire and Nottingham Waste Local Plan 2002 (WLP). At the time the planning application was submitted, the WCS had not been adopted and therefore comprised a 'material consideration' for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. However, following its adoption, it now comprises the starting point for the consideration of the planning application, alongside the other documents comprising the development plan. The WCS therefore attracts significant weight.
64. Section 5 of the WCS entitled "*Issues and Challenges for the Future*" is of particular interest as it sets out the context for the consideration and assessment of applications for waste management facilities and identifies the key issues at play. At paragraph 5.2, we are advised that sustainable waste management involves, amongst other things, providing the **right amount and type of waste management facilities in the right locations**. At the heart of sustainable waste management is the idea that communities should take responsibility for their own waste – "*Providing an adequate network of appropriate waste management infrastructure to minimise the distance over which waste is transported is therefore a priority for the Waste Core Strategy*".¹⁷
65. The WCS goes on to advise that one of the underling principles of sustainable waste management is to make sure that waste is managed safely without risk to the environment or human health and the need to balance possible impacts against the need for development is "*always a critical part of any planning decision*"¹⁸. The WCS therefore has to ensure that development is provided in the most appropriate locations in order to protect areas that are important for nature conservation, landscape, open space and cultural heritage, to avoid harm to natural resources and maintain local amenity and quality of life¹⁹. Significant constraints on future waste management development include the anticipated designation of a large area of central Nottinghamshire as an internationally important Special Protection Area for birds²⁰. The application site is expected to fall within the associated SPA "buffer zone". The WCS goes on to say that air quality concerns from transport also mean that reducing the distance waste travels and encouraging alternative methods of transport, such as water or rail, "*has to be a priority*".²¹ "*Whatever the reasons for climate change, we need to ensure that the impact of future development does not make existing*

¹⁷ Waste Core Strategy, para 5.8

¹⁸ Waste Core Strategy, para 5.9

¹⁹ Waste Core Strategy, para 5.9

²⁰ Waste Core Strategy, para 5.10

²¹ Waste Core Strategy, para 5.10

*problems worse*²² and planning policies can contribute to the delivery of sustainable waste management by locating facilities close to existing transport networks, re-using land and buildings wherever possible and ensuring that facilities are close to the main sources of waste.²³

66. The WCS contains a number of core policies designed to address the issues and challenges faced by Nottinghamshire and Nottingham in respect of waste management. Attention is therefore now turned to the consideration of whether the proposed BEC development accords with the relevant policies in the WCS, when taken as a whole.
67. **Policy WCS1** carries forward the presumption in favour of sustainable development contained in paragraph 14 of the NPPF. Policy 12 of the Newark and Sherwood Allocations and Development Management Policies DPD has the same objective.
68. In this case, the development plan is up to date and two of its four documents were recently adopted (in July and December 2013) and therefore accord with the NPPF (published March 2012). For the reasons outlined in this representation, it has been demonstrated that the proposed BEC development conflicts with a substantial part of the development plan. In addition, the proposals conflict with the thrust of policy objectives contained in national planning policy guidance, for the reasons advanced below. The proposed development is not therefore supported by Policy WCS1 and the approach to sustainable development that this advocates.
69. **Policy WCS3** relates to the provision of future waste management provision and aims to provide sufficient waste management capacity for the equivalent amount of waste that is produced in Nottinghamshire and Nottingham. Proposals will be assessed against **a)** the priority given to the development of new or extended waste recycling, composting and anaerobic digestion facilities; **b)** new or extended energy recovery facilities **only where** it can be shown that this would divert waste that would otherwise need to be disposed of **and** the heat and/or power generated can be used locally or fed into the national grid; and **c)** new or extended disposal capacity **only where** it can be shown that this is necessary to manage residual waste that cannot economically be recycled or recovered.
70. The underlying aim is to move waste up the hierarchy. Prevention is better than cure and this approach to waste underpins all European, national and local policies for waste. It is therefore a crucial part of the consideration of any proposal for a waste management facility. The waste hierarchy is shown in diagrammatic form on page 11 of the WCS. Prevention is at the top of the hierarchy (the most sustainable option) and disposal is at the bottom (the least sustainable option). There are significant concerns relating to the application of Policy WCS3 in respect of the consideration of the proposed BEC development.
71. Firstly, its primary purpose is neither as a waste recycling, composting or anaerobic digestion facility. Priority is not therefore given to the type of facility proposed.
72. Secondly, there is significant doubt (in the absence of an Environment Agency design level R1 certificate) as to whether the proposed facility in legal and planning terms comprises a "*recovery facility*", with the primary purposes of recovering energy from waste, or a "*disposal facility*", with the primary purpose of disposing of waste. The Applicant predicates the proposed facility as a recovery facility on the basis that it has been purportedly shown to have an R1 figure of 0.66, just (literally) above the recovery/disposal split of 0.65. However, such calculations are based on underlying assumptions and require sensitivity analysis and must therefore be subject to careful scrutiny. Disposal facilities are at the bottom of the waste hierarchy.
73. Thirdly, it has not been proven that the proposed facility would divert waste that would otherwise need to be disposed of. A significant flaw in the proposals is the fact that there is no reliable information about the feedstock to be transported to and used in the facility. There is no

²² Waste Core Strategy, para 5.12

²³ Waste Core Strategy, para 5.17

information about where the feedstock derives, no information about where it would be transported from and no information about its composition (beyond unproven claims regarding its assumed chemical make-up). Doubt in this regard is exacerbated by the fact that the Applicant openly admits that there are no contractual arrangements in place to serve the proposed facility, that there are no conditions proposed to restrict or otherwise limit the geographical area from which waste would be derived and transported and the Applicant openly admits that there is no certainty as to the proportion of waste transported to the site that is municipal waste and commercial & industrial waste. Clearly, all of the above factors play a crucial role in seeking to determine the precise nature of the waste facility proposed and the level to which it accords (or not) with national aims and objectives for sustainable waste management.

74. Finally, the Applicant purports that one of the major benefits of the proposed Gasification Facility would be its ability to recover energy and produce electricity and “*potentially heat*”.²⁴ However, in both cases the connection to the local electricity distribution network and the distribution of heat to potential users are not included within the development proposals.²⁵ This is contrary to criterion (b) of Waste Core Strategy Policy WCS3. Whilst the potential to connect to the grid and supply heat to neighbouring developments could be safeguarded by a condition of planning permission, there is nothing to suggest that this will definitely go ahead and there does not appear to be any information relating to any approaches that have been made to neighbouring developments and the outcome of these approaches. Retrofitting heat supplies to existing development is generally more difficult than supplying new build schemes and in the absence of identified support from end users, the weight to be attached to this element of the proposals, and indeed one of the “*major benefits*” purported to arise from the proposals, must be reduced.
75. **Policy WCS4** sets out the broad locations for waste treatment facilities. The policy supports the development of “*large-scale*” facilities of the type proposed where they are in or close to the built-up areas of Nottingham and Mansfield/Ashfield, as identified by “*Plan 4: Key Diagram*” (on page 69). For the purposes of this policy, the Applicant’s Planning Statement acknowledges that the proposed BEC development does comprise a “*large-scale*” waste management facility²⁶.
76. It is clear from the key diagram that the application site, situated to the northeast of Bilsthorpe village, lies **well beyond** the geographical areas identified as suitable for a large-scale waste facilities, which focus on major population and employment centres. By definition, the proposed BEC development is therefore contrary to Policy WCS4 in locational terms. The Applicant’s Planning Statement (albeit referring to the draft WCS as it then was) does not however acknowledge this, instead implying that the WCS does not identify broad locations for future development - “*...it should be noted that nowhere in either the policy wording or in the reasoned justification to the policy is there a definition of what would actually be considered ‘close’ to [Nottingham, Mansfield and Ashfield].*”²⁷ Clearly, the adopted WCS does identify the relevant geographical areas for the purposes of Policy WCS4 and the application site does **not** lie near to or within them.
77. Furthermore, the application site comprises greenfield land within open countryside for the purposes of the Newark and Sherwood Local Plan. Policy WCS4 states that development of facilities within the open countryside will only be supported where such locations are justified by a clear local need, particularly where they would provide enhanced employment opportunities and/or would enable the re-use of existing buildings. In this case, there is no clear ‘local’ need for a facility of this scale in this particular location, it would provide only limited employment opportunities, the majority of which would not be suitable for the skills set in the local area, and there are no existing buildings on site suitable for the intended use.

²⁴ Environment Statement (Vol 1), para 4.4.1 on page 68

²⁵ Environment Statement (Vol 1), para’s 4.4.2 & 4.4.3 on page 68

²⁶ Planning Statement, page 165

²⁷ Planning Statement, para 165

78. For the above reasons, the proposed development is in direct conflict with the clear policies of the WCS relating to the broad locations for large-scale waste treatment facilities.
79. **Policy WCS7** sets out general site criteria for different types of waste management facilities. In this case, for the purposes of the Newark and Sherwood Local Plan, the application site comprises greenfield land within open countryside. Whilst the Applicant seeks to claim that the site is an *"existing committed employment site"*²⁸, in terms of the statutory development plan this is incorrect as a matter of fact. The land is neither allocated in any development plan document nor is there any extant permission for its use for employment purposes.
80. According to Policy WCS7, sites within the **open countryside that are not covered by any environmental designation** are **only** suitable for small-scale materials recovery facilities, composting, small-scale anaerobic digestion facilities, small-scale waste transfer stations and small-scale waste water treatment facilities. The application site does of course lie within a Site of Importance for Nature Conservation and within the potential buffer zone of a potential Special Protection Area for birds, and therefore even small-scale facilities would not be appropriate in this location. For these reasons, the proposed development not only fails to accord with the broad locations of large-scale waste treatment facilities as set out in Policy WCS4 but it also fails to accord with the general site criteria as outlined in Policy WCS7.
81. **Policy WCS9** supports waste management facilities that make use of new or emerging technologies where this will lead to the more efficient and sustainable management of waste. As previously explained, for a variety of reasons, there is uncertainty about how sustainable and how energy efficient the proposed facility will be in reality. The absence of any determinates within the proposals in respect of the derivation and transportation of waste arisings and feedstock composition place significant doubt on the sustainability credentials of the proposed facility. Furthermore, it is unclear whether the proposed facility is genuinely a *"recovery facility"* or whether it is a *"disposal facility"* and this has significant implications on the position of the proposed facility within the waste hierarchy. For these reasons and taking account of the precautionary approach, the proposed development fails to accord with Policy WCS9.
82. **Policy WCS11** states that all waste management proposals should seek to maximise the use of alternatives to road transport such as rail, water, pipeline or conveyor. Proposals should also seek to make the best use of the existing transport network and minimise distances travelled in undertaking waste management. The proposed development fails to achieve both of these objectives.
83. There is no opportunity to transport waste to the application site by means other than road. Whilst there was once a railway in use in association with the former colliery, the tracks have been removed and it is no longer in use. Nor is there any prospect that it will be reinstated for use as a railway in the foreseeable future. As previously explained, there is no information contained within the proposals in respect of the derivation and transportation of waste arisings beyond merely a *suggestion* that it will be used to manage waste from Nottinghamshire, Nottingham and the surrounding authorities²⁹ and no geographical limitations are proposed on the supply and transportation of waste. On this basis also, the proposed BEC development conflicts with the objectives of Policy WCS11.
84. **Policy WCS12** relates to waste management facilities that are likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham. This includes the proposed development where reference is specifically made in the application to the facility using waste arisings from the *"surrounding authorities"*. The policy states that in such circumstances, permission will be granted where **a)** the facility makes *"a significant contribution"* to the movement of waste up the hierarchy, **b)** there are no facilities or potential sites in more sustainable locations in relation to

²⁸ Planning Statement, page 167

²⁹ Information provided in response to question 22 on the planning application form

the anticipated source of the identified waste stream, or c) there are wider social, economic or environmental sustainability benefits that clearly support the proposal.

85. As previously explained, it is unclear whether the proposed facility is in fact a recovery facility or whether it is actually a disposal facility. The R1 calculation presented in the application by the Applicant (at 0.66) is very close to the 0.65 recovery/disposal split and the calculations are based on assumptions and sensitivities, slight changes to which would render the proposal a disposal facility at the bottom of the waste hierarchy. The lack of reliable and robust evidence to prove the derivation of waste arisings to be used at the facility place significant doubt as to whether there are more sustainable facilities that can process the waste. Furthermore, the proposal cannot be said to generate significant wider social, economic and environmental sustainability benefits through the creation of 46 jobs within the potential buffer zone of a internationally designated Special Protection Area for birds. The proposed development would therefore also be contrary to Policy WCS12.
86. **Policy WCS13** states that new waste treatment or disposal facilities will **only** be supported where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact.
87. For the reasons described elsewhere within this representation, the instructing parties are of the opinion, based on the available evidence, that the proposed BEC development would neither protect nor enhance the local environment. The application site comprises greenfield land within open countryside in planning policy terms; it lies within the potential buffer zone of a Special Protection Area and it lies within a Site of Importance for Nature Conservation. In addition, this area has already suffered harm to landscape quality and character as a result of a number of recent developments, meaning the proposed BEC development would give rise to both unacceptable environmental and quality of life impacts and an unacceptable cumulative impact. For these reasons, the proposed BEC development conflicts with Policy WCS13.
88. **Policy WCS14** states that all new waste management facilities should be located, designed and operated so as to minimise any potential impacts on, and increase adaptability to, climate change. There is a national commitment to combatting the causes of climate change and this is reflected in an array of national and local planning policies. As previously explained, whilst the proposed BEC development would, it is suggested, produce 13.6 Megawatts (MW) of electricity through the gasification of the feedstock, in addition to the "*potential*" to produce 5.5MW of heat in the form of hot water, one of the key objectives in respect to climate change is to deliver growth that makes the fullest possible use of sustainable transport for moving freight. However, as previously pointed out, the application site has no potential to transport waste by means other than by road.
89. Moreover, whilst the application suggests that waste will be "*sourced from within Nottinghamshire, the City of Nottingham and surrounding authority areas*"³⁰, there is no mechanism proposed to define or limit the geographical area from which waste could be transported. Nor is there any assurance over the types of waste being transported to the site, beyond the notion that there will be no more than a total of 117,310tpa of Commercial & Industrial Waste (C&I) and/or Municipal Solid Waste (MSW). For these reasons, the proposed development conflicts with Policy WCS14.
90. The Waste Core Strategy was very recently adopted in December 2013. It forms part of the development plan and therefore attracts significant weight. For all of the aforementioned reasons, it is clear that the proposed BEC development conflicts with a substantial part of the Waste Core Strategy and its underlying aims and objectives when considered as a whole, and the proposal therefore fails to accord with a further key development plan document.

Nottinghamshire and Nottingham Waste Local Plan

³⁰ Information provided in response to question 22 on the planning application form

91. The Waste Local Plan (WLP) was adopted in 2002 and it is therefore somewhat of an aged document. Nonetheless, it remains part of the development plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. A list of policies that have been superseded by the adoption of the WCS is set out in Appendix 1 of the WCS. Only those policies that have been saved and therefore remain relevant to the consideration of the proposed development are identified below.
92. **Policy W3.1** states that the *need* for the proposed facility is a relevant consideration in the assessment of planning applications. Clearly, if there is no need for a facility in a particular location, then planning permission should not be granted.
93. We have already explained above how, in locational terms, the application site lies outside of the broad locations identified as potentially suitable for a large-scale waste management facility (in conflict with Policy WCS4) in Nottinghamshire, set out in the Waste Core Strategy. Simply put, this is not the right location for the scale and type of waste management facility proposed. In addition, there is also a question of need for the proposed facility that we address below.
94. The Applicant is of the opinion that the need for the proposed facility should be considered in the context of waste and energy policy/strategy – *"The proposal would not exist if it did not generate energy and equally there would be no scheme if it did not manage waste. As such, there is no issue as to what may be the primary purpose of the scheme..."*³¹. However, there is significant concern in respect of the precise nature of the proposed facility and in particular, whether it comprises an "energy recovery" facility or a "disposal facility". Disposal is at the bottom of the waste hierarchy.
95. The Applicant goes on to assert that where a planning application accords with the statutory development plan, there is no requirement to demonstrate either a quantitative or market need, or the absence of alternatives. Reference is then made to paragraph 22 of PPS10 in this respect.³² However, it has been demonstrated above that the proposed development conflicts with a substantial part of the development plan, in a number of respects. The proposals are not consistent with the up-to-date development plan, when considered as a whole, and the concessions made in policy terms in this respect do not therefore apply. The fact that the Applicant has devoted an entire chapter (3.0) to the issue of need in the Planning Statement extending to over 60 pages of text is an indication in itself that there is ambiguity regarding the need to establish need.
96. In our opinion, there is a need to demonstrate that the proposed development is required and there are a number of factors that suggest that a waste management facility of the scale and type proposed is not "needed" in this location.
97. According to Table 4b of the Waste Core Strategy, no additional energy recovery requirement is needed for **municipal waste** because there would be surplus capacity available based on the tonnages that are currently estimated.³³
98. It will be difficult for Peel to defend many of their claims when they do not know what waste would be burned, and where it would be coming from or what would otherwise happen to it. The application comprises a speculative proposal for what is described as a 'merchant' facility that does not currently enjoy any contracts for the provision of waste or waste derived fuel for delivery to the proposed facility from either municipal or commercial & industrial sources. Indeed, as far as we are aware, the facility forms no part of any existing or proposed municipal waste management contract.
99. According to their planning application, the Applicant anticipates processing up to 117,310tpa of waste from Nottinghamshire, Nottingham and surrounding authorities, although they argue

³¹ Planning Statement, para 3.1.3

³² Planning Statement, para 3.1.4

³³ Information provided in the Waste Core Strategy, page 32, footnote 31

against the imposition of a planning condition limiting feedstock to a defined geographical catchment area. This tonnage *"would either arrive pre-treated (i.e. as a Solid Recovered Fuel (SRF) ready for gasification), or requiring pre-treatment within the MRF to recover [some] recyclables and produce a SRF for gasification"*. The "surrounding authorities" to which the Applicant refers are not defined in the planning application submission.

100. This volume of waste is extremely unlikely to be available to the Applicant from within Nottinghamshire, Nottingham and surrounding authorities, not least because most of the relevant local authorities responsible for waste disposal are locked-in to existing long-term waste management contracts, and all of the relevant local authorities in and around Nottinghamshire have (or are expected to have) access to residual waste treatment facilities, including incineration capacity, located nearer to the source of waste than the proposed BEC development.
101. For example, there is an existing contract binding Nottingham City and Nottinghamshire County Councils' to supplying the existing Eastcroft incinerator with at least 140,000tpa, with plans to extend the capacity to 300,000tpa, and a stated intention to further extend the capacity to 400,000tpa.
102. Additionally, planning permission was granted to Veolia in April 2013 to import up to 65,000tpa from Bassetlaw, Newark & Sherwood, Ashfield and Mansfield. As far as we are aware, there would be no Local Authority Collected Waste from either Nottingham City or Nottinghamshire County Councils, or from any of the Districts within Nottinghamshire, available to act as feedstock for the proposed BEC development.
103. Nottingham City and Nottinghamshire County Councils are already sending 27% of the area's municipal waste for incineration. As their latest Waste Core Strategy anticipates incinerating only around 20%, one can expect even more of the existing capacity to be freed up to take Commercial & Industrial waste.
104. Sheffield City Council also has a waste management contract with Veolia, who operate the 225,000tpa incinerator in Sheffield. Barnsley, Doncaster and Rotherham have formed the BDR Waste Partnership and have signed a waste management contract with '3SE'. This contract appears to rule out the provision of any Local Authority Collected Waste from any of the Waste Disposal Authorities in South Yorkshire being available to provide feedstock for the proposed BEC development.
105. The 150,000tpa incinerator at North Hykeham, near Lincoln has begun burning Local Authority Collected Waste as part of a waste contract between FCC (the same company that runs the Eastcroft incinerator) and the Lincolnshire Waste Partnership. There is also an incinerator in Grimsby that can handle up to 56,000tpa. Furthermore, a 350,000tpa incinerator in South Lincolnshire was granted planning permission in May 2013. These existing and emerging arrangements and facilities appear to rule out the provision of any Local Authority Collected Waste from anywhere in Lincolnshire to provide feedstock for the proposed BEC development.
106. Local Authority Collected Waste from Leicestershire is managed by the Leicestershire Waste Partnership. The Partnership currently sends about 15,000tpa of Leicestershire's waste to the incinerator in Coventry. Biffa's planning application for a 300,000tpa incinerator near Loughborough was granted planning permission on appeal on the 28th June 2012. These existing and emerging arrangements and facilities appear to rule out the provision of any Local Authority Collected Waste from Leicestershire to provide feedstock for the proposed BEC development.
107. Both Derbyshire County Council and Derby City Council are locked-in to a waste management contract with 'ReSource Recovery Solutions' that requires them to provide waste to act as feedstock for the 190,000tpa incinerator in Derby. This arrangement appears to rule out the provision of any Local Authority Collected Waste from either Derby or Derbyshire to provide feedstock for the proposed BEC development.

108. Further to the above, in their examination of regional waste arisings, the Applicant has not taken account of the ambitions of individual local authorities to reduce waste arisings and increase recycling rates and have therefore not been able to determine the extent to which this would free up existing and emerging regional residual waste treatment capacity. Furthermore, the Applicant has failed to examine the quantities of genuinely residual combustible C&I that would arise within the region for the operational lifetime of the proposed BEC. Importantly, the Applicant has failed to properly consider what proportion of any genuinely residual MSW or C&I would be of a composition that would be suitable for their facility, and whether there would be a regional shortfall for that type of waste rather than a more general shortfall, taking into account the potential that this waste may be unavailable to the Applicant, e.g. because it will be exported as RDF to Europe.
109. In our opinion, there is a requirement in this case to demonstrate need and the Applicant has failed to demonstrate that the type of facility proposed is needed and in this location. For these reasons, the proposed BEC development fails to accord with Policy W3.1.
110. **Policy W3.14** states that planning permission for a waste management facility will not be granted where the vehicle movements likely to be generated cannot satisfactorily be accommodated by the highway network or would cause unacceptable disturbance to local communities.
111. Those instructing are particularly concerned about the impact that the proposed BEC development will have on the local highway network in respect of noise, disturbance and safety. It is noted that the Transport Assessment submitted to accompany the application identifies **"Anticipated Operational HGV Trip Demand: Waste Inputs"** to the site being 46 bulk movements per day, based on a 5.5 day operating week and modelling of 40% of waste supplied locally via lower payload RCVs.³⁴ Whilst this is in itself a considerable number of HGV movements, the assumption that this would only occur on 5.5 days per week (when a gasification facility requires a continuous waste feed) appears to be flawed. Moreover, given that there is no reliable information regarding the source of the "feedstock" to be used at the facility, it is impossible to rely on a figure of "40% of waste being supplied locally via lower payload RCVs". These concerns are exacerbated by the fact that the Applicant is not proposing to geographically limit the area from which waste is derived and there are no contracts in place for the supply of waste to the proposed facility. Similar concerns exist for the **"Anticipated Operational HGV Trip Demand: Process Exports"** which is said to be 10 bulk HGV movements per day³⁵.
112. In addition to the above, the **"Anticipated Operational HGV Trip Demand: Total HGV Demand"** is of particular concern. It is proposed that the proposed BEC development would generate of the order of **112 HGV movements per day** (in + out).³⁶ This is a substantial number of vehicle movements per day and represents 784 vehicle movements per week. Compared to the numbers of vehicle movements currently accessing the Bilsthorpe Business Park, this represents a substantial increase in vehicle movements. This would undoubtedly have a harmful impact on the local highway network and on the amenity of the local community. Vehicle movements associated with other sources, including staff and visitor trips, will increase the amount of traffic accessing the site even further.
113. Further concerns are raised in respect of the ability of the junction between Deerdale Lane and the A614 to accept these additional traffic movements. The junction is already extremely dangerous and the Highway Authority drew particular attention to the impact of the proposals on the safety and capacity of this junction in its consultation response to the EIA scoping report. No improvement works are proposed at the junction of Deerdale Lane and the A614. This is despite the fact that the extant Section 106 Agreement for the Bilsthorpe Business Park identifies 10,000m² of additional development as the threshold level beyond which there would be a need

³⁴ Transport Statement, para 8.26

³⁵ Transport Statement, para 8.28

³⁶ Transport Statement, para 8.29

for significant works to the junction³⁷, and the proposed development extends to 15,395m² of new development.

114. For the above reasons, it is considered that the proposed development would be harmful to highway safety by reason of the amount of traffic generated by the proposed development and the safety and capacity of the Deerdale Lane and A614 junction, and the amount of additional traffic generated by the proposals would cause unacceptable disturbance to local communities. The proposed development is therefore in conflict with Policy WC3.14.
115. **Policy W3.19** states that planning permission for a waste management facility, which would destroy or degrade ancient woodlands will not be granted. The justification text to **Policy W3.20**, at paragraph 3.65, goes on to say that lowland heathland represents a valuable wildlife and amenity resource, but one that has suffered a major decline in many parts of Great Britain. These natural features are protected by **Policy W3.20** of the WLP. Similarly, **Policies W3.22** and **W3.23** seek to protect nature conservation interests and to prevent waste management facilities that would harm or destroy a species or habitats of importance.
116. Eakring Brail Wood, an ancient woodland, lies within close proximity (0.94km)³⁸ of the application site. The ecology of the woodland is sensitive to any increase in nitrogen levels and due to the impact of the proposed development on the woodland, further consideration was made of the process contribution at Eakring Brail Wood.³⁹ At paragraph 9.4.1 of the Air Quality Assessment, the impact of the proposed BEC development on Eakring Brail Wood is set out and it is concluded that *"As this is a non-statutory designated site and the PEC [Predicted Environmental Concentration] is not predicted to exceed the Critical Level, this is not a significant impact"*.
117. Whilst the Nottinghamshire Wildlife Trust and Natural England will advise on the technical information contained within the report and the implications arising, it is considered that the non-statutory designation of Eakring Brail Wood should not lessen the concerns from any harm arising to it from the proposed BEC development. There are historical records of nightjar in Eakring Brail Wood and the woodland lies within an area that would be within the buffer zone associated with the anticipated Special Protection Area for birds, an area that is of international importance and significance.⁴⁰ Similar concerns are made in respect of the impact of any increase in nitrogen on the heathland and grassland habitats of the Special Area of Conservation, which according to the Nottinghamshire Wildlife Trust, are very vulnerable to such inputs.
118. Any harm to or degradation of species or habitats of importance would be contrary to the objectives of **Policies W3.22** and **W3.23** of the Waste Local Plan and the advice in paragraph 118 of the NPPF where it advises local planning authorities that they should refuse planning permission for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland unless the *"need for, and benefits of, the development in that location clearly outweigh the loss."* (Our emphasis)
119. **Policy W3.28** states that proposals for waste management development that would harm the character, appearance, condition or setting of Conservation Areas, Listed Buildings and Historic Parks and Gardens will not be permitted.
120. We have already explained above how and in what ways the proposed BEC development will unduly impact on the setting of the Bilsthorpe and Eakring Conservation Areas due to its size and scale. The two chimneys would extend to 60m high and the building on the northern part of the site, accommodating the Plasma Gasification Facility and energy generation infrastructure, would extend to 31.8m in height. These are building's of substantial size and scale and will, in our opinion, fail to preserve the setting of the Conservation Areas. In addition, there is concern

³⁷ Transport Statement, para 8.34

³⁸ Air Quality Assessment, Table 5.2 on page 20

³⁹ Air Quality Assessment, para 9.4 on page 43

⁴⁰ Nottinghamshire Wildlife Trust response to the EIA scoping report, dated 29th April 2013

regarding the cumulative impact of the proposed BEC development and existing and planned development in this area on the setting of the Conservation Areas. Whilst the effect of other approved developments on the setting of the Conservation Areas have in themselves been considered to be acceptable, the instructing parties are concerned that the *tipping point* would be breached by the proposals and the cumulative impact of the proposed BEC development alongside existing development would neither preserve nor enhance the character or appearance of the Conservation Areas, or their settings. For these reasons, the proposed BEC development also fails to satisfy Policy W3.28.

121. **Policy W3.29** states that planning permission will not be granted for waste management facilities that would result cumulatively in a significant adverse impact on existing landscape character and/or the amenity of nearby settlements.
122. The landscape within which the proposed BEC development would lie has been significantly affected already by recent existing developments. Although the site is a former colliery site, it has been successfully restored and when viewed from the public footpaths and bridleways on higher ground to the west of Eakring, the site is seen as part of a wider open landscape that is valued and enjoyed by the local community and tourists to the area, including those visiting 'Center Parcs' located a short distance away from the application site. The landscape has been degraded by the recent introduction of a series of wind turbines and there is an approved solar farm that will undoubtedly affect the character and quality of the landscape, but none-the-less it remains a valuable resource in recreational terms.
123. The introduction of the proposed BEC development of the size and scale proposed would dominate the site and the views enjoyed of the wider landscape. The two proposed chimneys (extending to 60m in height) and their visible plumes would be seen from many parts of the surrounding public footpaths and bridleways, alongside the existing wind turbines, and the proposed BEC development would dominate the existing buildings on the Bilsthorpe Business Park site, which are significantly smaller in height and scale. The existing buildings are generally no more than 10 – 12m in height and yet the building housing the Gasification Facility would be over 30m in height and of substantially larger scale. Cumulatively, the proposed BEC development would result in a significant adverse impact on the existing landscape character of the area and its value as a recreational resource enjoyed by local people and visitors to Sherwood Forest alike. For these reasons, the proposed BEC development also fails to satisfy Policy W3.29.
124. For all of the aforementioned reasons, it is clear that the proposed BEC development conflicts with a substantial part of the Nottinghamshire and Nottingham Waste Local Plan and its underlying aims and objectives when considered as a whole and the proposed BEC development therefore fails to accord with a further key development plan document.

Alternative Site Search

125. The Applicant has commissioned an 'Alternative Site Assessment' in support of the planning application. In normal circumstances, site search assessments are undertaken at the outset of a development proposal to assist in identifying the most suitable site on which to accommodate the proposed development, taking account of factors such as site availability and deliverability. In this case, the objective of the Applicant's Alternative Site Assessment is not to prove or disprove that the application site is more or less appropriate for the type of development proposed 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..."*⁴¹ A cautionary approach must therefore be applied to the genuine benefit of the alternative site assessment in the consideration of the proposals.
126. The methodology for the alternative site assessment is set out in section 2.0 of the report. At paragraph 2.2.1, we are advised - *"Given that the proposed development would primarily serve*

⁴¹ Alternative Site Assessment, para 1.2 on page 1

Nottinghamshire, but may accept waste from neighbouring authorities, sites have only been identified within Nottinghamshire...". Whilst the proposed BEC development is predicated on the basis that the supply of Commercial & Industrial Waste and/or Municipal Solid Waste would be "sourced from within Nottinghamshire, the City of Nottingham and surrounding authority areas"⁴², there are no contracts currently in place to confirm this would be the case and the Applicant is not proposing to accept any conditions restricting the geographical catchment area from which waste would be derived. On this basis, the proposed BEC facility cannot be determined on the basis that it is primarily a local facility serving the local area. For these reasons, the methodology employed for the area of search is fundamentally flawed.

127. In addition, the location of the application site well beyond Nottingham, Mansfield and Ashfield and their surrounding hinterlands is in clear conflict with the broad locations for large-scale waste management facilities as defined by Policy WCS4 of the Waste Core Strategy. The *Plan 4: Key Diagram* (on page 69) clearly identifies the broad area in which a waste management facility of the type and on the scale proposed would be acceptable. The application site lies well beyond the areas considered suitable and as such, the site should have been discounted as unsuitable in planning policy terms at an early stage in the process.
128. The application site was ultimately selected, in part, for reasons that it does *"on balance have less potentially significant environmental and technical constraints to its development and is therefore more likely to deliver the best environmental outcome of the two."*⁴³ The other site also considered to be suitable is at Oddicroft Lane, Kirkby-in-Ashfield but this site was discounted for reasons that *"...it has not been possible to confirm from the land agent whether the site at Oddicroft Lane is available for the proposed development..."*⁴⁴
129. The above gives rise to three concerns. Firstly, in circumstances where the type and composition of feedstock and the locations from which waste arisings would be transported are unknown, it is difficult to support the conclusion that the application site comprises the *"best environmental outcome"*. Secondly, contrary to local and national policy guidance on the location of large-scale waste management facilities, there is no potential for access by more sustainable means of transport either now or in the future. Finally, the application site is both remote from Nottingham and its surrounding hinterland and from Mansfield/Ashfield and its surrounding hinterland, with resultant increases in the transportation distances. It has not therefore been robustly demonstrated that the application site comprises the best environmental option and in any case, its location is contrary to the development plan.

PPS10: Planning for Sustainable Waste Management

130. The various documents outlined above together comprise the development plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The policies in the development plan therefore form the starting point for the consideration of the planning application. Guidance produced at the national level are material considerations in the assessment of planning applications and in planning terms, the most significant document is PPS10 (revised March 2011).
131. PPS10 gives broad support to the provision of waste management facilities on unallocated sites so long as the proposals are consistent with policies in the PPS and the Waste Core Strategy.
132. Waste planning authorities are advised that they should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their area.⁴⁵ This advice is carried forward into Policy WCS4 of the Nottinghamshire and Nottingham Waste Core Strategy, which defines two areas for the provision

⁴² Information provided in response to question 22 on the planning application form and at paragraphs 1.2.1 and 1.2.3 of the Planning Statement

⁴³ Alternative Site Assessment, para 6.8 on page 17

⁴⁴ Alternative Site Assessment, para 6.7 on page 17

⁴⁵ PPS10, para 17

of new large-scale waste management facilities. At paragraph 7.18, the WCS advises that “...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.” The application site lies outside of the areas identified as suitable for large-scale facilities and the proposed development is therefore contrary to PPS10 in this respect.

133. Given the existence of an up-to-date waste core strategy, the proposed BEC development should properly be considered against the policies in the Nottinghamshire and Nottingham Waste Core Strategy, together with the other documents comprising the development plan. An assessment of the proposals against the policies in the development plan reveals conflict with a substantial part of the development plan, and in particular the Waste Core Strategy. It is clear, however, that the proposed BEC development also conflict with the criteria for identifying suitable sites and areas for waste management facilities as set out in paragraph 21 of PPS10 insofar as the application site comprises greenfield land and not previously developed land⁴⁶, to which PPS10 gives priority for re-use, and the inherent limitations with the capacity of the existing transport infrastructure to support the sustainable movement of waste, including the lack of alternatives modes of transport for the delivery of waste.
134. Planning applications for waste management facilities on unallocated sites should be considered favourably when consistent with the policies in the PPS and the waste core strategy.⁴⁷ In this case, it has been explained in detail above the reasons why the proposed BEC development in this location is contrary to the Waste Core Strategy and to the advice in PPS10. On this basis, planning permission should be refused.
135. In the case of waste ‘disposal’ facilities, applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the waste hierarchy.⁴⁸ There are serious concerns with regards to the proposed BEC development in this respect for a number of reasons.
136. Firstly, in sustainability terms, it is generally preferred in Government policy for waste to go to energy recovery rather than disposal if that is where it is bound to end up. This is consistent with the waste hierarchy described in PPS10 and in the (2013) Waste Management Plan for England. However, it is by no means clear as to whether the proposed facility should properly be considered as a “recovery facility” or whether it should be treated as a “disposal facility”. The recovery/disposal split in the R1 calculation is very close to the 0.65 threshold and the disposal of waste is below energy recovery in the (2008) Waste Framework Directive’s hierarchy.
137. Secondly, in the absence of detailed information relating to the source, type and composition of the feedstock to be used at the proposed facility, it is difficult to be assured that the proposed BEC facility will assist in moving waste up the hierarchy. As PPS10 points out, development control decisions should be consistent with driving waste up the hierarchy and waste disposal should be seen as a last resort. In the absence of any contracts, it is difficult to determine whether the proposed facility would indeed move waste up the hierarchy.
138. Finally, in the absence of reliable information about the locations of waste arisings to be used at the proposed facility and the distances waste is to be transported, it is difficult to assess whether the proposed facility does indeed present the best environmental option for the recovery and disposal of waste.
139. The Applicant has failed to show that the use of the proposed facility would not prejudice further movement up the waste hierarchy or that it presents the best environmental option for the treatment of waste.

⁴⁶ According to the definition contained in Annex 2 (Glossary) of the NPPF

⁴⁷ PPS10, para 24

⁴⁸ PPS10, para 25

140. Annex E of PPS10 sets out a series of criteria against which the suitability of proposed waste management facilities will be assessed. These include considerations of water resources, land instability, visual intrusion, nature conservation, historic environment and built heritage, traffic and access, air emissions, odours, vermin and birds, noise and vibration, litter and potential land use conflicts. This representation has considered the impacts arising from the proposed BEC development in respect of these considerations above within the context of the relevant development plan policies, and it is clear that the proposals give rise to conflict with a substantial part of the development plan, when taken as a whole.
141. For the above reasons, it is also the case that the proposed BEC development is not consistent with the aims and objectives of national planning policy in the form of PPS10.

National Planning Policy Framework

142. The purpose of the planning system is to achieve sustainable development. Sustainable development is about change for the better in our built, natural and historic environment.⁴⁹ Tackling climate change and the causes of climate change is central to the economic, social and environmental dimensions of sustainable development.⁵⁰ To support the move to a low carbon future, new developments should be provided in locations that reduce greenhouse gas emissions.⁵¹ One of these objectives is to ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.⁵² Another is to deliver infrastructure that secures the highest viable resource and energy efficiency and reduction in emissions of greenhouse gases.
143. As previously explained, the source of the waste arisings to be used at the proposed facility is unknown. Whilst reference is made to Nottinghamshire, Nottingham and the surrounding authorities, there are no contractual arrangements in place to determine the source of waste and no conditions are proposed to restrict the geographical catchment area from which waste is to be derived. Accordingly, there can be no certainty that the proposed facility would assist in tackling the causes of climate change. Moreover, there is no potential for transporting waste by rail or water and therefore no opportunity for using more sustainable modes of transport. This is contrary to the underlying principles of the planning system as outlined in the NPPF.
144. Furthermore, it is understood that the proposed BEC development represents technology that is somewhat experimental and therefore not wholly reliable. The potential variability in feedstock further undermines confidence in the predicted energy efficiency levels generated by the facility and the proportion that could be classed as renewable. Moreover, there can be no weight attached to the proposals in respect of the opportunity to provide heat take-off to a number of sources locally⁵³ because they are not part of the current application.⁵⁴
145. For the above reasons, it is also the case that the proposed BEC development is not consistent with the aims and objectives of national planning policy as set out in the NPPF insofar as the location and technology of the proposed BEC development do not necessarily represent the best available waste management solution with regard to reducing the causes of climate change.

Planning practice guidance for renewable and low carbon energy

146. The Applicant makes various claims regarding renewable and low carbon status of the energy. Even if these arguments were accepted, which they are not, Government policy makes clear that they can be outweighed by other considerations.

⁴⁹ NPPF, Ministerial forward on page (i)

⁵⁰ NPPF, para 93 on page 32

⁵¹ NPPF, para 95 on page 32

⁵² NPPF, para 34 on page 10

⁵³ Environment Statement (Vol 1), para 4.4.10 on page 69

⁵⁴ Environment Statement (Vol 1), para 4.4.11 on page 69

147. In the above connection, the following advice in the (2013) Planning Practice Guidance for Renewable and Low Carbon Energy produced by the Department for Communities and Local Government is of significance: -

"This guidance provides advice on the planning issues associated with the development of renewable energy. (Para 1)

Government planning practice guidance can be a material consideration in planning decisions and should generally be followed unless there are clear reasons not to. (Para 2)

The expectation should always be that an application should only be approved if the impact is (or can be made) acceptable. (Para 11)

In shaping local criteria for inclusion in Local Plans and considering planning applications in the meantime, it is important to be clear that: (Para 15)

- *the need for renewable or low carbon energy does not automatically override environmental protections*
- *cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases...*
- *protecting local amenity is an important consideration which should be given proper weight in planning decisions*

Renewable energy developments should be acceptable for their proposed location..." (Para 22)

Overall Conclusions

148. For all of the aforementioned reasons, the development proposals currently before the Waste Planning Authority for consideration are in clear and direct conflict with the development plan and other material considerations.
149. The application is predicated on the basis that the presumption in favour of sustainable development in paragraph 14 of the Framework is applicable in this case and supports the grant of planning permission. This is not however the case. The presumption in favour of sustainable development upon which the application is propagated does **not** apply where **proposals conflict with up to date policies** in the development plan. It does not apply where the **adverse impacts** of a development proposal would **significantly and demonstrably outweigh the benefits**, when assessed against the Framework as a whole. It does not apply where **specific policies** in the Framework **indicate that development should be resisted**.
150. The Applicant purports to suggest that there are a "*significant number of benefits associated with the proposed BEC development*" and that a number of these are "*very significant and indeed of national / regional levels of importance*"⁵⁵. A closer inspection of the application reveals that this is also not the case. Notwithstanding the fact that many of the benefits purported to arise from the proposals are in fact mitigation for the impacts of the proposals, the instructing parties are of the opinion that the adverse impacts arising from the proposed BEC development are considerable, numerous and listed below: -
- 1) Conflict with the development plan and in particular the Nottinghamshire and Nottingham Waste Core Strategy;
 - 2) Conflict with important material considerations, including national planning policy advice;
 - 3) Conflict with the overarching purpose of planning, to help achieve sustainable development;

⁵⁵ Planning Statement, para 4.5.5

- 4) Conflict with the lawful land use designation of the site for the purposes of the Newark and Sherwood Local Plan and with the types of development allowed on greenfield sites within open countryside;
- 5) Conflict with those policies that seek to protect landscape character and appearance, taking account of the cumulative impacts of development;
- 6) Conflict with those policies that seek to protect designated heritage assets and the historic environment;
- 7) Conflict with those policies that seek to protect neighbouring residential amenity and the locality in general;
- 8) Conflict with those policies that seek to protect ecological interests and in particular nature conservation interests of international importance;
- 9) Conflict with those policies that seek to avoid detrimental impacts on the safety and capacity of the highway network;
- 10) Conflict with the priority that PPS10 gives to the re-use of previously developed land;
- 11) Conflict with the locational policies of the Waste Core Strategy relating to the provision of large-scale waste management facilities;
- 12) Concern as to whether the proposals comprise a waste recovery facility or a waste disposal facility;
- 13) Concern that the proposals have failed to demonstrate that the proposed BEC development would not prejudice the movement of waste up the waste hierarchy; and
- 14) Concern that the proposals do not achieve the best environmental option in terms of technology and location, particularly in the absence of reliable information relating to the derivation of waste, transportation and the composition of feedstock.

151. For all of the aforementioned reasons, planning permission should therefore be refused in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

152. We trust you will take all of the above comments into account in your assessment of the proposals and we ask that you keep us informed of progress with the application.

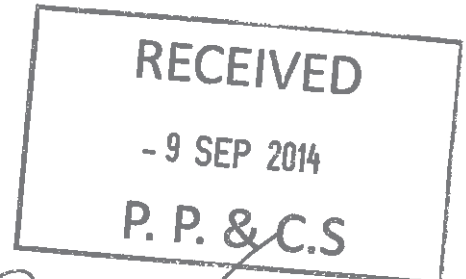
Yours sincerely



Rob Hughes
MTCP, MRTPI
Principal Partner



Mr Mike Hankin
Nottinghamshire County Council
Development Management
County Hall
West Bridgford
Nottingham
NG2 7QP



2nd September 2014

Dear Mr Hankin

Formal Representation of Residents Against Gasification Experiment (RAGE) and the Parish Councils of Bilsthorpe, Eakring, Kirklington and Rufford Parish Councils

Application Ref: ES/2950

Application by Peel Environmental Management Ltd & Bilsthorpe Waste Ltd

Detailed Application for "Proposed development of the Bilsthorpe Energy Centre (BEC) to manage unprocessed and pre-treated waste materials through the construction and operation of a Plasma Gasification Facility, Materials Recovery Facility and Energy Generation Infrastructure together with supporting infrastructure"

1. Further to receipt of the further information provided under the provisions of Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, we set out below our comments for your consideration.

Context to Representation

2. Objections are made on behalf of the Residents Against Gasification Experiment ("RAGE") and the Parish Councils of **Bilsthorpe, Eakring, Kirklington and Rufford** ("the Parish Councils") to the planning application, having regard to policies in the statutory development plan and other material considerations, including national planning policies on sustainable waste development.
3. RAGE is aware from your letter dated 18th July 2014 that the comments already submitted in response to the Council's original consultation letter will continue to be taken into account in your overall assessment of the proposals, together with consultation response from other parties, including the comments you will have already received from United Kingdom Without Incineration Network (UKWIN). The comments made in this representation therefore seek to address the matters arising in respect of the further information provided by the applicant under the provisions of Regulation 22 and to complement but not duplicate the representations made by UKWIN, which are supported by RAGE.



RTPI

mediation of space - making of place

Hughes Planning LLP, 53 Dalby Road, Melton Mowbray, LE13 0BG
01664 566 162 | enquiries@hughesplanning.co.uk | www.hughesplanning.co.uk

The Additional Information

4. We are aware that Nottinghamshire County Council requested further information and clarification to address areas of concern that have been identified by statutory organisations, the local community and officers of the Council.¹ It is our understanding that the additional information submitted in support of the application for planning permission relates to the following key matters²: -
- Ecological compensation
 - Ecological noise assessment
 - Habitat creation in attenuation pond
 - Air quality assessment relating to Birklands and Bilhaugh Special Area of Conservation (SAC) and Redgate Woods & Mansey Common SSSI
 - Woodlark survey
 - Nightjar within Cutt's wood
 - Noise impacts to bats
 - R1 (Recovery) Status
 - Operation of materials recovery plant (MRF)
 - Composition of Waste Stream
 - Compliance with Waste Hierarchy
 - Compliance with Replacement Waste Local Plan Policy WCS11
 - Similar operational facilities
 - Assessment of alternative technologies
 - Waste Permit
 - Other matters
5. We are mindful that other consultees (most notably UKWIN and the Notts Wildlife Trust) are better placed than RAGE or the Parish Councils to comment on many of the documents and further information that has been submitted by the applicant. Our objections on behalf of RAGE therefore concentrate on sections 2, 3, 5, 10 and 11 of the Environmental Statement Regulation 22 Submission (July 2014).

Section 2 – Ecological Considerations

6. **Policy W3.19** of the Adopted Waste Local Plan (WLP) states that planning permission for a waste management facility, which would destroy or degrade ancient woodlands, will not be granted. The justification text to **Policy W3.20**, at paragraph 3.65, goes on to say that lowland heathland represents a valuable wildlife and amenity resource, but one that has suffered a major decline in many parts of Great Britain. These natural features are protected by **Policy W3.20** of the WLP. Similarly, **Policies W3.22** and **W3.23** of the WLP seek to protect nature conservation interests and to prevent waste management facilities that would harm or destroy a species or habitats of importance.
7. In the above connection, we are aware that the Nottinghamshire Wildlife Trust is objecting to the proposed development on environmental and ecological grounds in light of the original and additional Regulation 22 information submitted by the applicant. The basis for these objections is set out in its consultation response dated 16th August 2014.
8. Any harm to or degradation of species or habitats of importance would be contrary to the objectives of **Policies W3.22** and **W3.23** of the Waste Local Plan and the advice in paragraph 118 of the NPPF where it advises local planning authorities that they should refuse planning permission for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland unless the need for, and benefits of, the development in that location

¹ Letter to Axis from Mike Hankin dated 19th March 2014

² As outlined in paragraph X of the applicant's Environmental Statement Regulation 22 Submission

clearly outweigh the loss. For the reasons advanced by the Nottinghamshire Wildlife Trust, planning permission should therefore be refused on environmental and ecological grounds.

Section 3 – R1 Recovery Status

9. Nottinghamshire County Council has made it clear that the need to demonstrate that the proposed BEC development is a *recovery process* rather than a *disposal facility* is a material planning consideration in the context of the development plan assessment³. Consequently, the Council has invited the applicant to apply to the Environment Agency for an Environmental Permit, in which the R1 design specification of the proposed facility would be fully assessed.
10. Despite this request, the applicant has confirmed that it does not intend to apply for an Environmental Permit ahead of the determination of the planning application because “...an application to the Environment Agency would need to be based upon detailed process design information which is not yet available...”⁴
11. The applicant goes on to suggest that it is “confident that the Energy Centre would ultimately be defined as a Recovery process [and that] they are willing to accept that a planning condition be imposed which requires them to obtain provisional R1 status, or to demonstrate to the satisfaction of the Waste Planning Authority that the syngas can be defined as a product, before operations commence”.⁵
12. In the opinion of RAGE and the Parish Councils, this approach is tantamount to putting the cart before the horse. The need to demonstrate that the proposed BEC development is a recovery process is fundamental to the consideration of the acceptability (or not) of the proposed development. Moreover, in circumstances where this information goes to the heart of the proposal, it is difficult to envisage how any such condition can be deemed to be appropriate.⁶ RAGE and the Parish Councils are therefore of the opinion that in the absence of confirmation from the Environment Agency that the proposed facility would be above ‘disposal’ in the waste hierarchy, the Council is not in a position to approve the proposed development as a recovery process.
13. Accordingly, the application should be treated as one for a disposal facility, taking account of the advice in national planning policy guidance⁷ and the objectives of the development plan⁸ in respect of such proposals (i.e. insofar as they place the ‘disposal’ of waste at the bottom of the waste hierarchy, which is the “least desirable solution” in environmental terms).⁹
14. **Policy WCS3** of the Adopted Waste Core Strategy (WCS) relates to the provision of future waste management provision and aims to provide sufficient waste management capacity for the equivalent amount of waste that is produced in Nottinghamshire and Nottingham. Proposals will be assessed against **a)** the priority given to the development of new or extended waste recycling, composting and anaerobic digestion facilities; **b)** new or extended energy recovery facilities **only where** it can be shown that this would divert waste that would otherwise need to be disposed of **and** the heat and/or power generated can be used locally or fed into the national grid; and **c)** new or extended disposal capacity **only where** it can be shown that this is necessary to manage residual waste that cannot economically be recycled or recovered.
15. The underlying aim of the policy is to move waste up the hierarchy. Prevention is better than cure and this approach to waste underpins all European, national and local policies for waste. It is

³ As explained in paragraph 8 of Mr Hankin’s letter to Axis dated 19th March 2014

⁴ As confirmed in paragraph 3.2.2 of the Environmental Statement Regulation 22 Submission

⁵ As explained in paragraph 3.2.4 of the Environmental Statement Regulation 22 Submission

⁶ Taking account of the application of the six ‘tests’ as set out in paragraph 206 of the NPPF (i.e. which require conditions to be (i) necessary, (ii) relevant to planning, (iii) relevant to the development to be permitted, (iv) enforceable, (v) precise and (vi) reasonable in all other respects).

⁷ As set out primarily in the form of Planning Policy Statement 10: Planning for Sustainable Waste Management

⁸ In the form of the Nottinghamshire and Nottingham Waste Core Strategy (December 2013)

⁹ PPS10, Annex C: The Waste Hierarchy

therefore a crucial part of the consideration of any proposal for a waste management facility. The waste hierarchy is shown in diagrammatic form on page 11 of the WCS. Prevention is at the top of the hierarchy (the most sustainable option) and disposal is at the bottom (the least sustainable option). In light of the above, there are significant concerns relating to the application of Policy WCS3 in respect of the consideration of the nature of the proposed BEC facility.

16. **Policy WCS12** of the WCS relates to waste management facilities that are likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham. This includes the proposed development where reference is specifically made in the application to the facility using waste arisings from the “*surrounding authorities*”. The policy states that in such circumstances, permission will be granted where **a)** the facility makes “*a significant contribution*” to the movement of waste up the hierarchy, **b)** there are no facilities or potential sites in more sustainable locations in relation to the anticipated source of the identified waste stream, or **c)** there are wider social, economic or environmental sustainability benefits that clearly support the proposal.
17. As previously explained, it is unclear whether the proposed facility is in fact a recovery facility or whether it is actually a disposal facility. The R1 calculation presented in the application by the Applicant (at 0.66) is very close to the 0.65 recovery/disposal split and the calculations are based on assumptions and sensitivities, slight changes to which would render the proposal a disposal facility at the bottom of the waste hierarchy. The lack of reliable and robust evidence to prove the derivation of waste arisings to be used at the facility place significant doubt as to whether there are more sustainable facilities that can process the waste. Moreover, even in the event that the proposed facility were to be classed as a form of ‘recovery’, the facility would still not make a “significant contribution” to the movement of waste up the hierarchy, as ‘recovery’ is only just above ‘disposal’ and the material could potentially be reduced, reused, recycled, composted or sent to an existing facility. Furthermore, the proposal cannot be said to generate significant wider social, economic and environmental sustainability benefits through the creation of only 46 jobs within the potential buffer zone of an internationally designated Special Protection Area for birds. The proposed development would therefore also be contrary to Policy WCS12.

Section 5 – Statement of Compliance with Waste Local Plan Policy WCS11

18. Nottinghamshire County Council has requested clarification from the applicant as to how the proposed development would comply with Policy WCS11 of the Waste Core Strategy. **Policy WCS11 (Sustainable Transport)** states that all waste management proposals should seek to maximise the use of alternatives to road transport such as rail, water, pipeline or conveyor. Proposals should also seek to make the best use of the existing transport network and minimise distances travelled in undertaking waste management.
19. By way of background, the applicant asserts that the Bilsthorpe Business Park was identified as the most appropriate site for the location of the proposed development following a comprehensive alternative site search exercise that considered over 483 possible sites within Nottinghamshire.¹⁰ However, as pointed out in the earlier observations made on behalf of RAGE and the Parish Councils, the significant flaw in the methodology for the alternative site search assessment is that only sites within Nottinghamshire have been identified and considered. The concern with this approach is that the proposed BEC development is predicated on the basis that the supply of Commercial & Industrial Waste and/or Municipal Solid Waste would be “*sourced from within Nottinghamshire, the City of Nottingham and surrounding authority areas*”¹¹, and yet there are no contracts currently in place to confirm this would be the case. On this basis, the proposed BEC facility cannot be determined on the basis that it is primarily a local facility serving the local area. For these reasons, the methodology employed for the area of search is fundamentally flawed.

¹⁰ As explained in paragraph 5.2.1 of the Environmental Statement Regulation 22 Submission

¹¹ Information provided in response to question 22 on the planning application form and at paragraphs 1.2.1 and 1.2.3 of the Planning Statement

20. In addition, notwithstanding the applicant's assertions that the location of the proposed facility "is consistent with the broad locations for larger scale waste treatment facilities identified within the emerging Nottinghamshire and Nottingham Waste Core Strategy Policy WCS3"¹², the application site is situated well beyond Nottingham, Mansfield and Ashfield and their surrounding hinterlands and the location is in clear conflict with the broad locations for large-scale waste management facilities as defined by **Policy WCS4** of the Waste Core Strategy. The *Plan 4: Key Diagram* (on page 69) clearly identifies the broad area in which a waste management facility of the type and on the scale proposed would be acceptable. The application site lies well beyond the areas considered suitable and as such, the site should have been discounted as unsuitable in planning policy terms at an early stage in the process.
21. The application site was ultimately selected, in part, for reasons that it does "on balance have less potentially significant environmental and technical constraints to its development and is therefore more likely to deliver the best environmental outcome of the two."¹³ The other site also considered to be suitable is at Oddicroft Lane, Kirkby-in-Ashfield but this site was discounted for reasons that "...it has not been possible to confirm from the land agent whether the site at Oddicroft Lane is available for the proposed development..."¹⁴
22. The above gives rise to three concerns.
23. Firstly, in circumstances where the type and composition of feedstock and the locations from which waste arisings would be transported are unknown, it is difficult to support the conclusion that the application site comprises the "best environmental outcome".
24. Secondly, contrary to local and national policy guidance on the location of large-scale waste management facilities, there is no opportunity to transport waste to the application site by means other than road. Whilst there was once a railway in use in association with the former colliery, the tracks have been removed and it is no longer in use. Nor is there any prospect that it will be reinstated for use as a railway in the foreseeable future. As previously explained, there is no information contained within the proposals in respect of the derivation and transportation of waste arisings beyond merely a *suggestion* that it will be used to manage waste from Nottinghamshire, Nottingham and the surrounding authorities¹⁵ and no geographical limitations are proposed on the supply and transportation of waste. In the above connection, the applicant acknowledges that the proposal is 'large-scale'.¹⁶
25. Finally, the application site is both remote from Nottingham and its surrounding hinterland and from Mansfield / Ashfield and their surrounding hinterland, with resultant increases in the transportation distances. It has not therefore been robustly demonstrated that the application site comprises the best environmental option and in any case, its location is contrary to the development plan.
26. For these reasons, the proposed BEC development is in clear conflict with the transport sustainability objectives of **Policy WCS11**. Given the importance that the Government places on transport sustainability, comprising one of the core planning principles, the proposed development is also contrary to national planning policy guidance in this respect.

Section 10 – Landscape and Visual Assessment

27. **Policy W3.29** of the Waste Local Plan states that planning permission will not be granted for waste management facilities that would result cumulatively in a significant adverse impact on existing landscape character.

¹² As explained in paragraph 5.2.2 of the Environmental Statement Regulation 22 Submission

¹³ Alternative Site Assessment, para 6.8 on page 17

¹⁴ Alternative Site Assessment, para 6.7 on page 17

¹⁵ Information provided in response to question 22 on the planning application form

¹⁶ On page 165 of the Planning Statement

28. The landscape within which the proposed BEC development would lie has been significantly affected already by recent existing developments. Although the site is a former colliery site, it has been successfully restored and when viewed from the public footpaths and bridleways on higher ground to the west of Eakring, the site is seen as part of a wider open landscape that is valued and enjoyed by the local community and tourists to the area, including those visiting 'Center Parcs' located a short distance away from the application site. The landscape has been degraded by the recent introduction of a series of wind turbines and there is an approved solar farm that will undoubtedly affect the character and quality of the landscape, but nonetheless it remains a valuable resource in recreational terms.
29. The introduction of the proposed BEC development of the size and scale proposed would dominate the site and the views enjoyed of the wider landscape. The two proposed chimneys (extending to 60m in height) and their visible plumes would be seen from many parts of the surrounding public footpaths and bridleways, alongside the existing wind turbines, and the proposed BEC development would dominate the existing buildings on the Bilsthorpe Business Park site, which are significantly smaller in height and scale. The existing buildings are generally no more than 10 – 12m in height and yet the building housing the Gasification Facility would be over 30m in height and of substantially larger scale. Cumulatively, the proposed BEC development would result in a significant adverse impact on the existing landscape character of the area and its value as a recreational resource enjoyed by local people and visitors to Sherwood Forest alike. For these reasons, the proposed BEC development also fails to satisfy **Policy W3.29** of the Waste Local Plan.
30. The applicant explains that a meeting has been held with Nottinghamshire County Council's Landscape Officer seeking to address their concerns in relation to landscape and visual impact. The Landscape Officer's comments on the proposed development is set out in an internal memo to Mike Hankin, dated 3rd March 2014 (Appendix 10-2). It is clear from this memo that, following receipt of additional information, the Landscape Officer considers that the proposed development would have an **adverse impact** on the landscape. Contrary to the applicant's assertions, the Landscape Officer **does not** consider that the proposed development would be beneficial to the landscape character of the Policy Zone and the adverse impact on the landscape would not improve in time because the proposed landscape treatment is not designed as mitigation to screen the development.
31. It is clear from the above therefore that the proposed development would be harmful to the landscape character of the area and its visual amenity. Accordingly, the proposed BEC development would be contrary to the policy objectives in the development plan and national planning guidance.

Section 10 – Traffic and Transportation

32. The applicant has sought to address the concerns relating to traffic and transportation within the Environmental Statement Regulation 22 Submission.¹⁷ However, RAGE and the Parish Councils are of the opinion that the proposed traffic and transportation mitigation measures do not overcome the key areas of concern in relation to the proposed development, as reiterated below.
33. **Policy W3.14** of the Waste Local Plan states that planning permission for a waste management facility will not be granted where the vehicle movements likely to be generated cannot satisfactorily be accommodated by the highway network or would cause unacceptable disturbance to local communities.
34. Those instructing are particularly concerned about the impact that the proposed BEC development will have on the local highway network in respect of noise, disturbance and safety. It is noted that the Transport Assessment submitted to accompany the application identifies "*Anticipated Operational HGV Trip Demand: Waste Inputs*" to the site being 46 bulk movements

¹⁷ As set out in paragraphs 10.3.1 to 10.3.6 of the Environmental Statement Regulation 22 Submission

per day, based on a 5.5 day operating week and modelling of 40% of waste supplied locally via lower payload RCVs.¹⁸ This is a considerable number of HGV movements. It is also possible that the proposed facility could entail a larger number of smaller loads for both the delivery of feedstock and the transport of outgoing recyclate, increasing the numbers of vehicle movements to and from the site above and beyond those predicted. Moreover, given that there is no reliable information regarding the source of the "feedstock" to be used at the facility, it is impossible to rely on a figure of "40% of waste being supplied locally via lower payload RCVs". These concerns are exacerbated by the fact that the Applicant is not proposing to geographically limit the area from which waste is derived and there are no contracts in place for the supply of waste to the proposed facility. Similar concerns exist for the "Anticipated Operational HGV Trip Demand: Process Exports" which is said to be 10 bulk HGV movements per day¹⁹.

35. In addition to the above, the "Anticipated Operational HGV Trip Demand: Total HGV Demand" is of particular concern. It is proposed that the proposed BEC development would generate in the order of 112 HGV movements per day (in + out).²⁰ This is a substantial number of vehicle movements per day and represents 784 vehicle movements per week. Compared to the numbers of vehicle movements currently accessing the Bilsthorpe Business Park, this represents a substantial increase in vehicle movements. This would undoubtedly have a harmful impact on the local highway network and on the amenity of the local community. Vehicle movements associated with other sources, including staff and visitor trips, will increase the amount of traffic accessing the site even further.
36. Further concerns are raised in respect of the ability of the junction between Deerdale Lane and the A614 to accept these additional traffic movements. The junction is already extremely dangerous and the Highway Authority drew particular attention to the impact of the proposals on the safety and capacity of this junction in its consultation response to the EIA scoping report. No improvement works are proposed at the junction of Deerdale Lane and the A614. This is despite the fact that the extant Section 106 Agreement for the Bilsthorpe Business Park identifies 10,000m² of additional development as the threshold level beyond which there would be a need for significant works to the junction²¹, and the proposed development extends to 15,395m² of new development.
37. For the above reasons, it is considered that the proposed development would be harmful to highway safety by reason of the amount of traffic generated by the proposed BEC facility and the safety and capacity of the Deerdale Lane and A614 junction, and the amount of additional traffic generated by the proposals would cause unacceptable disturbance to local communities. The proposed development is therefore in conflict with **Policy W3.14** of the Waste Local Plan.

Section 11 - Conclusions

38. The applicant is of the opinion that, on the basis of the information contained within the Environment Statement and the further and other environmental information provided by the applicants, the Council now has sufficient environmental information to enable the planning application to be determined.
39. In the opinion of RAGE and the Parish Councils, the information and documentation that was submitted with the original application together with the additional information submitted in response to the Regulation 22 request indicate that the proposed development is contrary to the provisions of the development plan and to the advice in national planning policy guidance, for the reasons advanced above and in our earlier representation.
40. The application is predicated on the basis that the presumption in favour of sustainable development in paragraph 14 of the Framework is applicable in this case and supports the grant

¹⁸ Transport Statement, para 8.26

¹⁹ Transport Statement, para 8.28

²⁰ Transport Statement, para 8.29

²¹ Transport Statement, para 8.34

of planning permission. This is not however the case. The presumption in favour of sustainable development upon which the application is propagated does **not** apply where **proposals conflict with up to date policies** in the development plan. It does not apply where the **adverse impacts** of a development proposal would **significantly and demonstrably outweigh the benefits**, when assessed against the Framework as a whole. It does not apply where **specific policies** in the Framework **indicate that development should be resisted**.

41. Furthermore, the recently published National Planning Practice Guidance ("the NPPG") advises²² that in considering planning applications, it is important to be clear that, amongst other things: -

- the need for renewable or low carbon energy does not automatically override environmental protections;
- cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases;
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting; and
- protecting local amenity is an important consideration which should be given proper weight in planning decisions.

42. The Applicant purports to suggest that there are a "*significant number of benefits associated with the proposed BEC development*" and that a number of these are "*very significant and indeed of national / regional levels of importance*"²³. A closer inspection of the application reveals that this is not the case. Notwithstanding the fact that many of the benefits purported to arise from the proposals are in fact mitigation for the impacts of the proposals, the instructing parties are of the opinion that the adverse impacts arising from the proposed BEC development are considerable, numerous and listed below: -

- 1) Conflict with the development plan and in particular the Nottinghamshire and Nottingham Waste Core Strategy;
- 2) Conflict with important material considerations, including national planning policy advice;
- 3) Conflict with the overarching purpose of planning, to help achieve sustainable development;
- 4) Conflict with the lawful land use designation of the site for the purposes of the Newark and Sherwood Local Plan and with the types of development allowed on greenfield sites within open countryside;
- 5) Conflict with those policies that seek to protect landscape character and appearance, taking account of the cumulative impacts of development;
- 6) Conflict with those policies that seek to protect designated heritage assets and the historic environment;
- 7) Conflict with those policies that seek to protect neighbouring residential amenity and the locality in general;
- 8) Conflict with those policies that seek to protect ecological interests and in particular nature conservation interests of international importance;
- 9) Conflict with those policies that seek to avoid detrimental impacts on the safety and capacity of the highway network;
- 10) Conflict with the priority that PPS10 gives to the re-use of previously developed land;
- 11) Conflict with the locational policies of the Waste Core Strategy relating to the provision of large-scale waste management facilities;
- 12) Concern as to whether the proposals comprise a waste recovery facility or a waste disposal facility;

²² At paragraph 007 Ref ID: 5-007-20140306

²³ Planning Statement, para 4.5.5

- 13) Concern that the proposals have failed to demonstrate that the proposed BEC development would not prejudice the movement of waste up the waste hierarchy; and
 - 14) Concern that the proposals do not achieve the best environmental option in terms of technology and location, particularly in the absence of reliable information relating to the derivation of waste, transportation and the composition of feedstock.
43. For all of the aforementioned reasons, planning permission should therefore be refused in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
44. We trust you will take all of the above comments into account in your assessment of the proposals and we ask that you keep us informed of progress with the application.

Yours sincerely,

DATA PROTECTION

ROB HUGHES
MTCP, MRTPI
Principal Partner