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# Appeal Decision

Inquiry held on 27-30 September, 4-6, 11-14, 18-21, 25 and 27 October, and 4 November 2011

Site visit made on 28 October 2011

**By John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI**  
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 January 2012

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**Appeal Ref: APP/L3245/A/11/2146219**

**Battlefield Enterprise Park, Vanguard Way, Shrewsbury,  
Shropshire SY1 3TG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (hereinafter the 1990 Act) against a refusal to grant planning permission.
  - The appeal is made by Veolia ES Shropshire Limited (hereinafter abbreviated to VESS) against the decision of Shropshire Council (hereinafter the Council).
  - The application No.SC/MS2009/0125/SY, dated 20 January 2009, was refused by notice dated 22 September 2010.
  - The development proposed is an energy from waste facility for the combustion of residual municipal and similar wastes and the erection of ancillary buildings and plant and extension to the existing household recycling centre.
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## Decision

1. I allow the appeal and grant planning permission for an energy from waste facility for the combustion of residual municipal and similar wastes and the erection of ancillary buildings and plant and extension to the existing household recycling centre, at Battlefield Enterprise Park, Vanguard Way, Shrewsbury, Shropshire SY1 3TG, subject to the conditions set out in Schedule One of this decision.

## Preliminary matters

2. A list of abbreviations used below is included on the last two pages of this decision.
3. Shropshire County Council, as waste disposal authority, and VESS entered into a project agreement in 2007 concerning the design, construction, funding and operation of suitable waste management facilities and the delivery of services in accordance with the terms of a Private Finance Initiative (PFI) contract (hereinafter the Contract).<sup>1</sup> The Contract includes supplemental agreements made in 2008 and 2009, which altogether provide for an integrated waste collection and treatment service for Shropshire. VESS's proposals for an integrated waste management service include; a waste minimisation and education plan, developing services to increase recycling and composting, such as kerbside collection of plastic bottles, new integrated waste management facilities (IWMF) at Oswestry and Bridgnorth, with expansion of the IWMF at Craven Arms, an in-vessel composting (IVC) facility to handle 50,000 tonnes per annum (tpa) of green waste at Granville Telford, the appeal proposal for a

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<sup>1</sup> CD 38.

90,000 tpa energy recovery facility, along with planned, constructed and licensed landfill sites to receive residual waste after recycling, composting and recovery activities.<sup>2</sup>

4. The planning application for the appeal scheme was accompanied by an Environmental Statement (ES) dated January 2009. The ES was produced in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (EIA Regulations).<sup>3</sup> The Council requested further information under EIA Regulation 19, which was submitted in November 2009.<sup>4</sup> The application was subsequently considered on the basis of some changes made to the scheme originally submitted. These concerned off-site planting and the further definition of the newt relocation pond and consequential adjustments to the site landscaping scheme, which I deal with later in the section on conditions.<sup>5</sup>
5. The proposed energy from waste facility (EWF) requires an Environmental Permit (EP) from the Environment Agency (EA), which was issued in June 2010 pursuant to the Environmental Permitting Regulations 2010 (EP Regulations).<sup>6</sup>
6. The Council had received 447 objections and three representations in support of the proposal by July 2010. Further representations were included in the Supplementary Report to the Council's Strategic Planning Committee meeting in September 2010. The Council refused the application for five reasons. Reason for Refusal 5 concerned the transportation of ash and flue gas residues for disposal or reprocessing elsewhere contrary to the requirement for communities to take responsibility for their own waste. However, the Council confirmed in its later Statement of Case that it would no longer be presenting evidence with reference to Reason for Refusal 5, and that the appellant had been advised accordingly.
7. The appellant, by letter dated 22 July 2011, submitted a Supplementary Environmental Statement (SES) about a proposed change from a semi-dry Flue Gas Treatment (FGT) system to a dry FGT system, and updating the air quality assessment in the ES to take account of revised environment assessment levels for some metals.<sup>7</sup> The SES was publicised in accordance with EIA Regulation 19(3) to 19(9). The appellant considered the details of the FGT to be a matter for the EA in determining an application to vary the EP, and advised that it did not intend to make submissions to the Inquiry that the appeal should proceed on the basis of an amended planning scheme. However, it indicated a willingness to consider possible conditions in relation to energy efficiency.<sup>8</sup> I deal with this below under possible conditions. A Notice of Variation to the EP was subsequently issued by the EA in October 2011, to enable a change of acid gas abatement techniques from a semi-dry to a dry scrubbing system.<sup>9</sup>
8. The Inquiry proceeded on the basis that both the semi-dry and dry FGT systems were before it, and the matter was considered at the without-prejudice discussion about possible conditions. I indicated at the Inquiry that I would deal

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<sup>2</sup> Based on document VESS/1.2. Reference was made at the Inquiry to the proposed IVC having a capacity of 64,000 tpa.

<sup>3</sup> Which continue to apply in accordance with the transitional arrangements for the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

<sup>4</sup> CD 6.a and CD 6.b.

<sup>5</sup> Statement of Common Ground (SoCG1) at CD 121.

<sup>6</sup> CD 41.

<sup>7</sup> CD 94. This is "any other information" pursuant to EIA Regulation 19.

<sup>8</sup> CD 105.

<sup>9</sup> ID 49.

with this as a preliminary matter in my decision. The use of a dry FGT system would not adversely affect the external appearance of the proposed development. It is evident from the SES that there would be some significant differences in the likely effects of the FGT systems with respect to energy efficiency, but in my judgement these are not great enough to amount to a substantially different scheme. A change of technology to a dry FGT would not, in substance, result in a substantially different development from that which was considered by the Council in determining the application. Nor would dealing with the appeal on this basis be prejudicial to the interests of any party or persons, given the publicity and opportunity to comment on the SES. I am satisfied that the use of a dry FGT system is a matter that is capable of being dealt with by the imposition of an appropriate planning condition. I consider below whether it would be necessary and reasonable to do so in this case.

9. I have taken into account the 31 written representations submitted about the appeal and the SES. Three Rule 6(6) parties participated in the Inquiry; Shrewsbury Friends of the Earth (SFoE), Mrs Jagger for Battlefield 1403 (BF1403) and Mr Ryan. SFoE submitted a petition at the Inquiry with 1,872 signatures from objectors. The petitioners support the Council's refusal of the application for the following reasons;
  - (a) an incinerator is not part of the Waste Local Plan for the site,
  - (b) the size of the building would be out of character with the area, the battlefield and listed buildings,
  - (c) an incinerator would hinder recycling efforts,
  - (d) concern about health effects,
  - (e) concern about importing waste from all parts of Shropshire, and transporting ash and residues for disposal, when spare capacity exists in nearby incinerators.<sup>10</sup>
10. I am satisfied that the ES, Regulation 19 responses and SES reasonably comply with the provisions of Schedule 4 of the EIA Regulations. I have taken into account the environmental information, as defined in the EIA Regulations (hereinafter the Environmental Information), in determining the appeal. The Council points out that the choice of site, technology (and therefore scale) of the proposed development was fixed during negotiations for the Contract, before the planning process was substantially commenced, and was therefore uninformed by any iterative environmental assessment process under the EIA regulations. Even if this was so, the appeal before me falls to be determined on its merits, having regard to the Environmental Information.
11. In addition to the accompanied site visit to the appeal site and the local area, I also visited Veolia's energy from waste facility at Chineham. With the agreement of the parties, I also made unaccompanied visits to vantage points in and around Shrewsbury, both during the day and at night.
12. The Inquiry was referred to a consultation draft of English Heritage's (EH) *The Setting of Heritage Assets*, dated 2010.<sup>11</sup> The document was published on 4 November 2011. The parties were, therefore, given the opportunity after the close of the Inquiry to comment on the final version. I have taken the resultant written representations into account.
13. A planning agreement, dated 3 November 2011, between the Council and VESS was submitted at the Inquiry (hereinafter the Planning Agreement).

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<sup>10</sup> ID 4.1.

<sup>11</sup> CD 65.1. I have added the published version as CD 65.2.

## Main issues

14. The main issues in this appeal are:

- (a) The effects of the proposed development on the character and appearance of the area.
- (b) The effects of the proposed development on the setting of Shrewsbury Battlefield, and on other heritage assets.
- (c) The implications of any actual or perceived effects of the proposed development on health, agriculture, food production and food processing.
- (d) The compatibility of the proposal with national and local waste policy.

I have also considered whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused.

## The appeal site and surrounds <sup>12</sup>

15. The appeal site has an area of 4.3 ha. It is in part a vacant plot, with the remainder comprising an existing Household Recycling Centre (HRC) and Waste Transfer Station/Materials Recycling Centre (WTS), which together are described as an IWMF. This is a large building about 14 m high. Its roof incorporates three curved elements along its length. The appeal site forms part of the Battlefield Enterprise Park, an extensive mixed commercial and industrial estate that adjoins the Harlescott Industrial Estate. The site is located about 4 km north of Shrewsbury town centre. It is accessed from a roundabout on Vanguard Way. Vanguard Way extends to Harlescott Lane to the south, and to Battlefield Way to the west. Battlefield Way joins the Battlefield Link Road (hereinafter the link road), which is part of the A5124, at Enterprise Roundabout. The link road, which is set partially within a cutting or mounded landscaping, intersects with the A53 and A49 further to the east at Battlefield Roundabout. To the west it provides a link to the A528.

16. The site slopes gently down to Battlefield Brook, which marks its northern boundary. Beyond is vacant land up to the existing landscaping along the link road. A cul-de-sac service road which links onto Vanguard Way has been constructed on part of this land. To the north of the link road is agricultural land that is crossed by electricity pylons about 50 m high, and by several public footpaths and bridleways (PRoW). This includes an area of ridge and furrow. The nearest PRoW is about 270 m from the appeal site. The Brook flows via a culvert under the Shrewsbury/Crewe railway line to the east of the appeal site. There is further industrial development to the east of the railway line, including ABP, which is an abattoir and meat processing/packing business in a building up to about 17 m high. On the opposite side of Vanguard Way to the appeal site are industrial units, including those occupied by Stadco, a large building, which is up to about 19 m high. To the immediate west of the appeal site is a centre comprising a number of units for food related uses and a café, recently developed as part of the Shropshire Food Enterprise Park, as an incubator building.<sup>13</sup> This Food Enterprise Centre is a modern building about 8.8 m high.<sup>14</sup> New industrial and commercial development is under construction to the west of

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<sup>12</sup> Based on SoCG1 at CD 121.

<sup>13</sup> This is now marketed as the Greenhills Enterprise Centre.

<sup>14</sup> CD 102 and at ID 39.

Battlefield Way between Knights Way and the link road, including a unit 12.6 m to roof ridge.<sup>15</sup>

17. The nearest residential dwellings are located some 345 m to 580 m to the east of the site beyond the railway embankment and ABP. There are also dwellings in Harlescott, about 430 m to the south-west of the appeal site. Isolated residential properties are located to the north and north-east between 770 m and 1,000 m from the site. Field House and Church Cottage are about 800 m distant and lie within the site of the Battle of Shrewsbury, which was registered as a battlefield by EH in 1995. The registered battlefield extends from the railway embankment in the east to the complex of buildings at Albright Hussey in the west.<sup>16</sup> It lies to the north of the link road, with the exception of two triangular areas through which the road passes. The appeal site is 153 m from the nearest part of the registered battlefield, which is one of the triangular areas to the south of the link road.<sup>17</sup> Part of the registered battlefield is a country park, with a viewing mound accessed from a car park located off Enterprise Roundabout. The battlefield is signed from the link road and includes interpretative material on the registered site. The Council has issued a Heritage Walk leaflet, which highlights parts of the PRoW as the Hotspur and Royal trails.
18. Other designated heritage assets in the locality include the Grade II\* listed Church of St Mary Magdalene (hereinafter referred to as the battlefield church), which occupies a central location within the registered battlefield. The church was built as a chantry and established by King Henry IV to commemorate the Battle of Shrewsbury. A secular college with fish ponds and a moat is thought to have been sited to the south of battlefield church. The remains of these earthworks are now crossed by board walks in a wooded area near the church. The collegiate site is a Scheduled Ancient Monument (SAM). The house at Albright Hussey, now a hotel/restaurant, is a Grade II\* listed building, dating from 1524, and is set within a moated site just to the west of the registered battlefield. Its adjoining garden wall is listed Grade II. The field which contains the ridge and furrow earthworks to the north of the link road was in place in the thirteenth century, but no date has been assigned to the field system. An earthwork enclosure, located between the battlefield church and buildings at Battlefield Farm to the north, is a possible enclosure associated with a medieval fair. The latter two heritage assets are undesignated. The site lies within 600 m of the Chatwood (Harlescott) Village Conservation Area.
19. Part of the registered battlefield is owned by Battlefield Farm. Some of the farm buildings have been converted to a free visitor centre, with a comprehensive display about the battle, which is next to a farm shop and café/restaurant. This includes some outdoor seating. There is a large car park next to the farm buildings, and permissive paths link the complex with the battlefield church and the registered battlefield. The visitor centre is signed from the A49. Mrs Jagger represented the interests of Battlefield Farm at the Inquiry.

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<sup>15</sup> ID 39.

<sup>16</sup> CD 70.

<sup>17</sup> ID 53 and ID 68.

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## The proposed development <sup>18</sup>

20. The scheme proposes an EWF with a design capacity of around 90,000 tpa.<sup>19</sup> At the Inquiry the appellant suggested the imposition of a condition that would limit feedstock to municipal waste collected by or on behalf of the Waste Collection Authority and non-inert street sweepings and litter arising from the statutory duties of local councils, which is referred to as municipal solid waste (MSW) in this decision, along with non-hazardous commercial and industrial waste delivered by others (C&I waste).<sup>20</sup> The EWF would have a single line, incorporating a steam-driven turbine generator. This would produce up to 8 MWe for use by the plant and for export to the national grid, which is the equivalent to the requirements of up to 10,000 homes.<sup>21</sup> It would also have potential to supply heat to suitable external users. The statement supporting the application provides that the facility would include a heat take-off point for potential use by adjacent industrial users should this prove feasible.<sup>22</sup> The EWF would operate continuously, except during periods of planned maintenance. Waste would be burnt on an inclined moving grate. Combustion gases would pass via a gas scrubbing system and fabric filters to a 65 m high chimney stack, with a diameter of 1.5 m, which would be partially incorporated into the building.
21. The building would be mainly covered with a vertical steel cladding, with translucent polycarbonate panels with a matt finish to cover the boiler hall and the base of the building. A curved aluminium roof would vary from 16 m to 28 m high. The tipping hall on the north facade would have a curved green roof, of sedum or meadow grass. A decorative curved green mesh screen some 21 m high would face towards the link road. On-site landscaping would include a belt of woodland planting along the northern edge of the appeal site. Off-site planting suggested by the appellant includes a planting scheme along parts of the link road.
22. Incinerator bottom ash (IBA) would amount to approximately 22,500 tpa after ferrous metal was magnetically recovered, and where practical would be taken to another location for processing into secondary aggregate. Flue gas treatment residues of approximately 3,600 tpa would be transferred to sealed tankers and transported off site for treatment prior to disposal.
23. The scheme also includes an administration block and offices, weighbridges, modifications to the existing internal road system and parking, fuelling area and vehicle washing facilities, landscaping and lighting. The proposed extension to the HRC would increase its capacity by providing additional container bays in an open area to the east of the existing bays, along with improved access and parking arrangements.
24. At the Inquiry VESS proposed that a Pre-Sorted Residual Waste Acceptance Scheme should apply to the EWF, and that this could be the subject of an appropriate planning condition. The Scheme would require segregation of C&I waste into recyclable and residual streams, but residual municipal waste is deemed in the Scheme, where kerbside recycling collections are undertaken, to be pre-sorted. The suggested condition would provide for future review of the

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<sup>18</sup> Unless otherwise stated the description of the proposal is from the SoCG1 and plans.

<sup>19</sup> A suggested condition would impose a maximum tonnage of waste processed by the EWF in any calendar year not exceeding 95,000 tonnes. The EP permits a maximum quantity of 102,000 tonnes of waste per annum.

<sup>20</sup> ID 71.

<sup>21</sup> The EP refers to 7 MWe.

<sup>22</sup> CD 2 paragraph 5.1.

Scheme. I have included the October 2011 version of the Scheme submitted by VESS as Schedule Two to this decision.

### **Planning history**<sup>23</sup>

25. Planning permission for the HRC and WTS was granted in November 2003. These were developed by Shropshire County Council in 2004 and were opened for use in 2005. The development was described as Phase 1 of a master plan for a wider area, which is now broadly co-incident with the appeal site. The master plan for this development described three further phases, involving an extension to the then proposed Materials Recovery Facility (MRF), a composting facility and the development of a waste treatment facility. Planning permission was granted in 2004 for the storage of soils on the appeal site generated by the construction of the HRC and WTS. These soils remained on site at the time of my site inspection.
26. Outline planning permission was granted in 2003 for the use of land to the immediate north and west of the appeal site for organic and non-organic food related B1, B2 and B8 uses, for the Shropshire Food Enterprise Centre.<sup>24</sup> Condition 21 of this permission stated that no building shall exceed 12 m in height to eaves. The evidence before the Inquiry is that no reserved matter applications were submitted under the 2003 outline permission in the required period, and the incubator building has a full planning permission granted in 2006. The Council accepts that there is likely to be some future development of this part of the industrial park between the appeal site and the link road, with additional landscape planting. However, no details are currently available about what form this might take. This is the land that contains the existing cul-de-sac off Vanguard Way. A Development Guide required by a condition of the 2003 outline permission referred to a 10 m wide landscape buffer along the boundary with the link road. It also included in notes for guidance that buildings should not exceed 12 m high to eaves. However, the Guide cannot now be given much weight because it applies to an outline permission for which no reserved matter applications were submitted in the required period. Planning permission was granted in 2008 for part of the area that was subject to the outline permission (Plot 2 at the corner of the link road and Battlefield Way) to be developed for alternative uses (B1, B2 and B8), but this has not been built.<sup>25</sup>

### **Planning Agreement**

27. The Planning Agreement purports to be a deed pursuant to section 106 of the 1990 Act and section 111 of the Local Government Act 1972, and provides for certain covenants on commencement of the development that is the subject of this appeal.<sup>26</sup> In summary, these concern:
1. Financial contributions towards the implementation of a Conservation Management Plan (CMP); comprising a conservation management measures contribution of £30,000 and an annual management contribution of at least £3,000, both subject to indexation, along with establishment of a Conservation Management Steering Group to review the Plan, comprising an equal number of representatives from each of the developer, the Council and EH.

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<sup>23</sup> SoCG1.

<sup>24</sup> CD 92.

<sup>25</sup> CD 103.

<sup>26</sup> ID 70.

2. An education facility with a capacity of at least 40 people within the appeal site for educational purposes in respect of waste/recycling and other processes and an understanding and interpretation of the historic importance of the registered battlefield.
3. Public art up to a maximum liability of £20,000.
4. Off-site planting, including a linear woodland belt along parts of the A5124, along with provision for its long term maintenance.
5. A district heating road map concerning the investigation and implementation of a district heating system.
6. All reasonable endeavours to transport IBA to a reprocessing/recycling facility within 60 miles of the appeal site and reporting on IBA transported to a secondary aggregate facility.
7. An approved route for accessing and leaving the appeal site with on-site and off-site signage, along with notices and requests that drivers use the route.
8. A link on the developer's website to emissions data on a monthly basis of average daily emissions as a percentage of the Waste Incineration Directive (WID)/EP limits for dust particles, total organic carbon, hydrogen chloride, carbon monoxide, sulphur dioxide and oxides of nitrogen, along with the Annual Monitoring Report submitted to the EA in accordance with the WID.
9. All reasonable endeavours to establish a liaison group comprising representatives from local neighbours identified by the Council.

The appellant considers, with the exception of the contribution to public art and provision for publicising emissions monitoring, that the obligations would comply with the Community Infrastructure Levy (CIL) Regulations. I consider how the obligations square with the regulations below. The Council submitted a Memorandum of Understanding (MoU) concerning the responsibilities of its various departments in executing the Planning Agreement.<sup>27</sup> BF1403 submits that the Planning Agreement is not an obligation pursuant to section 106 of the 1990 Act, because the Council owns the freehold interest in the appeal site and off-site planting land.<sup>28</sup> I deal with this and other matters concerning the Planning Agreement in more detail below.

### **Planning policy**

28. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The development plan for the area includes the following:
- (1) West Midlands Regional Spatial Strategy 2004 incorporating Phase One Revision January 2008 (RSS).
  - (2) Shropshire Core Strategy DPD 2011 (CS). Policies in the CS are cited in this decision as policy CS1 etc.
  - (3) Saved policies of the Shropshire and Telford & Wrekin Joint Structure Plan 2002 (SP).
  - (4) Saved policies of the Shropshire Waste Local Plan 2004 (WLP).
  - (5) Saved policies of the Shrewsbury and Atcham Borough Local Plan 2001 (LP).

The Phase Two Revision of the West Midlands Regional Spatial Strategy 2007 has been abandoned, but its information base informed the preparation of the CS.

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<sup>27</sup> ID 76.

<sup>28</sup> The appellant has a long leasehold interest in the appeal site.



29. I refer below to relevant guidance in various national Planning Policy Statements and Guidance (PPS and PPG) and to National Policy Statements (NPS) EN-1 *Overarching Energy* (EN-1) and EN-3 *Renewable Energy Infrastructure* (EN-3). There are no particular local circumstances here which would suggest that the NPS is not a material consideration in this case. Furthermore, there was no convincing evidence before the Inquiry that the thrust of relevant NPS should not apply to the appeal scheme in the interests of consistency, notwithstanding that the proposal falls well below the 50 MW threshold for determination by the Infrastructure Planning Commission (IPC).<sup>29</sup>
30. The Draft National Planning Policy Framework (NPPF) has been the subject of consultation. However, the NPPF is in a draft form and subject to change, and so can be accorded little weight at this stage. I have taken into account the Government's proposed abolition of Regional Strategies and the Localism Act. However, revocation is currently the subject of voluntary Strategic Environmental Assessment. The circumstances in this case do not indicate that much weight should be given to this intention. I have, therefore, given the proposal to abolish the Regional Strategy for the West Midlands limited weight in determining this appeal. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. Many policies have been brought to my attention, but I consider that those cited below in my decision are most relevant to the main issues in this appeal.

## Reasons

### Character and appearance

#### Design concept

31. The nature of the waste treatment process has dictated the scale of the building, the form of the building, the relationship of different parts of the building to each other, along with the interaction with people and the means of access. The earlier iterations of the building design adopted a rectangular profile. Later versions rounded some of the angles by removing unused space in corners, to help reduce the mass of the building and to give it a smoother appearance. The design concept has a different emphasis for the southern and northern facades. From the south a 'shop window' effect is sought. The administration building, including the control room and viewing gallery would appear as a rectangular light box raised on pillars. It would be permeable and wrapped with a glazed curtain walling on the two levels, with clear and opaque panels controlling the amount of light entering and emitted. The northern facade, with its sloping green roof is intended to offer visual continuity with the landscape, and to harmonise with the roof treatment of the HRC/WTS.<sup>30</sup>
32. The architect did not give evidence to the Inquiry, and the appellant interpreted the design approach as one in which the building would be seen as a focus, without trying to be apologetic by disguising its form and mass. On the southern elevation the design attempts to express the nature of the process that would operate within the building, and to relate this to the existing activities on the site, whilst including some detailing within the administration block and walkways of a human scale. The northern elevation is intended to conceal human scale by dividing the massing between the curves of the main

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<sup>29</sup> In doing so I have had regard to the advice to Chief Planning Officers set out at CD 119.

<sup>30</sup> CD 4.

plant building, the green roof and the screening of the condensers.<sup>31</sup> It was indicated at an early stage in the design that landscaping would be done by a landscape architect once the design for the building had been finalised. This appears to be an acknowledgment that such a large structure could not be fully screened, and that the design relied upon the incorporation of features, within the functional constraints imposed by the operation, to make what was seen of more interest. However, I do not consider this to be an inapposite design philosophy for this type of development in this location, especially given that EN-1 acknowledges that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.<sup>32</sup>

#### Assessment considerations

33. BF1403 submits that landscape and heritage issues that arise in this case are inextricably intertwined. It argues that the battle was fought here because of the landscape, and it was because of the battle that people value the landscape. BF1403 stresses how it is important to recognise the impact each has directly on the assessment of the other. However, EH guidance provides that the extent and importance of the setting of heritage assets is often expressed by reference to visual considerations, including views, but that the context, purpose and outcome of landscape and visual impact assessment (LVIA) is quite distinct from that for assessments of setting. Nonetheless, it advises that the general approaches and methodology of LVIA provide a useful tool in analysing setting.<sup>33</sup> It is appropriate to consider landscape and cultural heritage as separate issues in this decision, but I recognise and highlight those areas where they are interrelated.
34. The details about how photomontages of the proposed development in its local context were compiled, and their accuracy, were debated at length. I have had regard to all the photomontages submitted, but errors in some of the appellant's photomontages were highlighted during the course of the Inquiry. I also found it difficult at my site visit to line up by eye features in the landscape at the prescribed viewing distance for some of the appellant's photomontages. I found the photomontages submitted by BF1403 to be more useful, because they were prepared at a viewing distance of 500 mm. Whilst photomontages and photographs are of some assistance, they are no substitute for assessing the proposal, on the basis of the application drawings, in the field. I walked extensively in the locality as part of my accompanied and unaccompanied site visits and was able to judge the likely effects of the proposed development from many routes and vantage points. My conclusions on the landscape and visual impact of the proposal draw heavily on both what I saw, and could envisage from the application drawings, during these site visits.
35. BF1403 is concerned about lighting from elevated parts of the proposed development affecting the area at night and on dark evenings. These concerns relate primarily to the office accommodation on the eastern side of the building and emissions from translucent panels over a significant area of the main hall. The appellant's assessment of lighting was criticised on the grounds that there was no baseline data, no lighting scheme and no clarity about the degree of opaqueness of the translucent panels. However, it was evident from my site visit that external lighting from other buildings on the estate, roof lights and

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<sup>31</sup> Document VESS/4.2.

<sup>32</sup> CD 55 paragraph 4.5.1.

<sup>33</sup> CD 65.2 section 4.3.

street lighting make for a stark transition between the urban edge and the rural surrounds after dark. External lighting of the existing HRC is a dominant feature in the night landscape from many parts of the battlefield and from Battlefield Farm. I do not consider that some additional lighting from the proposed EWF, even if it appeared above landscaping, would unduly affect the character and appearance of the area at night. I find the appellant's assessment of this issue to be reasonable and proportionate given the circumstances that apply here.

36. I am satisfied that there would be a realistic prospect of designing internal and external lighting for the proposed building, including the opacity of panelling, that would result in a development in keeping with its surroundings after dark.<sup>34</sup> Subject to a condition requiring approval of lighting details, I do not agree with BF1403 that light emissions from the EWF would appear as an incongruous and alien feature within the setting of the battlefield. There is no evidence of a requirement for air safety lighting on the proposed stack.<sup>35</sup> However, even if such red warning lights were to be installed, I do not consider that they would significantly affect the character of the night sky, given that there are already red air safety lights on the telecom tower to the north of the battlefield.<sup>36</sup> Furthermore, the details of any such lighting could be controlled by the imposition of a condition.
37. The existence of a plume at times from the proposed stack might attract attention to the proposed EWF. However, there are plumes from other industrial buildings in the wider area, including from ABP, albeit not emitted from a stack at a height of 65 m above ground level. Nevertheless, I do not consider that a plume from the proposed stack would appear out of place in such a large industrial area, and as an intermittent feature it would not add significantly to any adverse visual impact of the appeal scheme.
38. The scheme includes both on-site and off-site landscaping. Different predictions about likely tree growth were submitted to the Inquiry. I prefer the less optimistic growth rates relied upon by the Council and BF1403 because many variables can influence tree growth, and a cautious approach is justified here, particularly where the evidence is that soils in the vicinity of the link road might not be ideal for trees. The extent of landscaping along the brook might also be constrained by maintenance requirements and wildlife considerations, such as the need to site a pond for newts in this area, and to safeguard a badger set.<sup>37</sup> Furthermore, deciduous trees would offer limited screening during winter. Nevertheless, planting on site and along the link road would make for some softening of the visual impact of the appeal scheme. Taking into account all the evidence before the Inquiry about landscaping, I consider that trees would be likely to provide some screening of the lower parts of the proposed building and associated activities at ground level. This would be beneficial and would justify the imposition of conditions requiring landscaping both on-site and off-site. However, neither the growth of existing trees, nor new tree planting, would ever be likely to make much impact on the higher parts of the proposed building. Furthermore, it would not be reasonable to rely on the likely size and height of any future development of the land between the appeal site and the link road, or any landscaping that might be required for such development, to screen the proposed EWF.

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<sup>34</sup> ID 30.

<sup>35</sup> CD 13.k.

<sup>36</sup> ID 62.

<sup>37</sup> ID 12 and ID 30.

39. The Inquiry heard expert evidence about landscape matters from the appellant, the Council and BF1403, along with many submissions and representations from others about what the proposed development would look like in its local context. The expert evidence is based upon the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment (GLVIA)*, but the assessments of significance arrived at reflect the different approaches to weighting and the professional judgements of the respective experts.<sup>38</sup> There is agreement that the level of landscape and visual effect is determined through consideration of the sensitivity of the landscape, or visual receptor, and the magnitude of change posed by the proposed development. However, due to the variations in the methodologies adopted by the three experts there is no agreement on the threshold for significant effects, other than that major/moderate effects and above would be significant, and that the cumulative effect of a number of moderate effects may also be significant.<sup>39</sup> In assessing possible adverse landscape and visual impacts a degree of subjectivity is inevitable. In coming to my own judgements on these matters, I have considered whether sensitivity and impact magnitude would be either very low, low, medium, high or very high; and so have assessed whether the proposal would have a negligible, minor, moderate, substantial or major effect.

#### Landscape character

40. The locality lies within National Character Area 61 Shropshire, Cheshire and Staffordshire Plain, which is characterised by an extensive gently rolling plain with a unified rural landscape. The 2006 *Shropshire Landscape Typology* includes the appeal site in the urban area.<sup>40</sup> The appeal site already contains a large industrial type building, and there are other large buildings and tall structures on the estate. I deal with the scale and design of the proposed EWF in its local context in the section below about visual effects, but in terms of its character, it would not be out of keeping with this part of the urban area.
41. The area to the north of the appeal site and immediately beyond the link road is part of the Principal Settled Farmlands in the *Shropshire Landscape Typology*. This is characterised as a settled lowland landscape of small villages, hamlets and scattered farms involved in mixed farming. The part of the Principal Settled Farmlands that abuts the northern parts of Shrewsbury contains the southern half of the registered battlefield. Within the Principal Settled Farmlands tree cover includes scattered hedgerow and field trees, with amenity planting around settlements. These features combine with small sub-regular fields to create a medium scale landscape with predominantly filtered views. The land further to the north and west, including the higher part of the registered battlefield, is designated as part of the Estate Farmlands landscape type. This is described as gently rolling lowland and valley floor landscapes, with framed views within medium to large scale landscapes, which occur across large areas of Shropshire.<sup>41</sup>
42. The Principal Settled Farmlands area adjoining the appeal site includes the link road with associated roundabouts, a car park and large electricity pylons, and is bounded on its eastern side by a railway embankment. These combine to give it a landscape character of low quality. The Estate Farmlands unit further to the north is a typical rural landscape of moderate quality. In terms of relative value or importance neither of the landscape types offer much by way of scenic

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<sup>38</sup> CD 60.

<sup>39</sup> SoCG2 at CD 122.

<sup>40</sup> CD 63.

<sup>41</sup> CD 3.d Appendix F.

beauty, particularly as the area to the north of the appeal site is urban fringe. It does, however, derive some landscape value by reason of cultural association, due to the registered battlefield and other heritage assets.

43. The *Shrewsbury and Atcham Landscape Sensitivity and Capacity Study* accorded Assessment site 15, which lies between the appeal site and the link road, low landscape sensitivity and high/medium capacity for employment use.<sup>42</sup> However, this was on the basis of commercial premises of similar grain and character to that already in this locality. I do not consider that this finding is of much assistance in assessing the sensitivity of the area to the change that would be likely to result from the proposed EWF.
44. I have taken into account the distribution of visual receptors and the sensitivity for those who use the local footpaths, visit the battlefield, its viewing mound, and visitor centre. However, this is an urban fringe location and the proposed EWF would not remove any of the key elements or characteristics of these landscapes. As a rural area, which is also valued for its heritage assets, I consider that the landscapes to the north of the appeal site have high landscape sensitivity to the change that would result from the construction of the proposed EWF in the adjoining urban area.
45. The magnitude of landscape effects concerns the degree of change to the landscape resource and the nature of the effect. The proposed EWF would be a permanent change, which could not be fully mitigated. It would add a prominent feature to the urban area to the south of the Principal Settled Farmlands landscape. This effect would diminish with distance and the Estate Farmlands landscape would be less affected. Nevertheless, such a significant alteration to the transition zone between the urban and rural areas would detract from the landscape resource to the north of the appeal site to some extent. However, not in my view so much as to warrant BF1403's assessment of a very high magnitude of landscape change. Having had the opportunity to judge this on my site visits, I consider that an impact magnitude of medium for the Principal Settled Farmlands landscape, and low for the Estate Farmlands landscape, would be appropriate here.
46. The proposed EWF would not undermine the landscape fabric of the areas to the north of the appeal site, nor would it obliterate any of their key characteristics. Nonetheless, it would to a degree impair the character, quality and value of the Principal Settled Farmlands landscape, and to a lesser extent because of the greater separation distance, the Estate Farmlands landscape. I find that the overall significance of the impact of the proposed development on the landscape resource would be moderate and adverse.

#### Visual effects

47. The three experts submitted a lot of evidence to the Inquiry about visual effects. This includes assessments from the appellant's 17 viewpoints (VP1-VP17), the Council's 13 viewpoints (SWA-SWM) and BF1403's 11 receptor locations (Ref1-Ref11). Some of these coincide or are in a similar location. I have synthesised what I consider to be the most relevant considerations in assessing the visual effects of the proposed EWF on the following 6 areas:
1. Battlefield Enterprise Park and the northern parts of Shrewsbury.
  2. The registered battlefield, including the Church of St Mary Magdalene and the SAM, the battlefield viewing mound, and its network of PRoW and permissive paths.

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<sup>42</sup> CD 64.

3. Battlefield Farm and visitor centre.
  4. Albright Hussey and Albrighton Church.
  5. Major roads in the vicinity.
  6. Haughmond Abbey and rising land to the east of Shrewsbury.
48. I deal with the effects on the urban area first.<sup>43</sup> Within the industrial estate the proposed EWF would appear as a large building, but it would be seen in the context of other buildings, some with larger footprints on extensive plots, although none as high as the appeal scheme. I acknowledge that many of the existing large buildings have a horizontal emphasis. I have also had regard to EH/CABE's guidance on tall buildings.<sup>44</sup> Nevertheless, the scale of the estate and its buildings make this is a part of the urban area that is capable of accommodating large buildings and tall structures. Subject to what I say later about views from the adjoining rural area and battlefield, I do not consider that the proposal would be out of scale with its urban context.
49. The sensitivity of residential receptors in the urban area is high, but low sensitivity applies to receptors within the industrial estate and on the local roads. The estate includes buildings with a variety of roof forms and shapes. The proposed curved roof would not appear out of place. The thin stack would not be visually intrusive given the other tall structures on the estate, which include a telecommunications mast. From many parts of the urban area buildings or vegetation in the foreground would limit views of the proposed EWF, although the stack might be visible. However, from more distant vantage points the stack would be seen to be no higher than lampposts set closer to the observer. The stack would not add much to what is already a cluttered urban streetscape within the industrial estate. Nonetheless, I find that the proposed EWF because of its size and design would be readily noticeable in the urban area, and so would have a medium magnitude of visual effect. Given my findings about sensitivity, the EWF would be of minor visual impact significance within the industrial estate. For residential receptors in this part of Shrewsbury, with high sensitivity, I consider that the proposed EWF would have a moderate visual impact significance.
50. The battlefield church and the approach to it along Church Lane, the SAM and nearby footpaths are about 780 m from the appeal site.<sup>45</sup> The parking spaces near the church are used by people walking the local footpaths. The church is an important focal point for the battlefield. The churchyard itself is visually isolated from the wider landscape of the battlefield by trees. The context also includes the residential curtilage of the dwelling to the east of the church. Interest here is more likely to be focused on the church rather than the wider landscape. I saw at my site visit the expansive views afforded from the church tower, although access up to the tower roof is limited by the narrow spiral steps. Wider views over the battlefield towards the appeal site open up from the footpaths leading away from the church and the SAM. I find that receptors here, including the occupiers of the nearby residential dwellings, have high sensitivity. The proposed EWF would be a significant change to the urban fringe, but at this distance and in this wide landscape, it would not be a dominating feature that would have a commanding or controlling influence on views from the church and its environs. I consider that a high magnitude of visual effects would apply. I find that the overall significance of the impact of

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<sup>43</sup> VP4, VP5, VP6, VP7, VP10, VP12, VP16 and SWK.

<sup>44</sup> CD 67.

<sup>45</sup> VP8, SWA, Ref2, Ref 10 and Ref11.

the proposed EWF on visual effects from the battlefield church area would be substantial and adverse.

51. The purpose-built battlefield viewing mound is about 380 m to the north-west of the appeal site.<sup>46</sup> I do not agree with BF1403 that the sensitivity of visual receptors here is very high. From my site visits, it was apparent that a lot of people visiting this area were either dog walkers or others whose appreciation of the rural landscape was probably incidental to their activity. I accept that others will concentrate on the topography to aid their understanding of the battle. But visitors would be unlikely to be focusing on the scenic quality of the area, which includes a busy roundabout and a utilitarian car park. I think high sensitivity is appropriate here. The appellant accords medium, but very low magnitude with maturing landscaping, to the likely change in view from VP1. In this made-ground I am not convinced that tree growth would effectively screen the proposed EWF. However, the scale of the visual effects should take into account the angle of view in relation to the main activity of the receptor. The proposed EWF would be seen by visitors on their way back to the car park. It would appear as part of an industrial estate, and would not be prominent in views towards either the battlefield or the countryside. A medium magnitude of effect should apply. I find that the overall significance of impact of the proposed development on visual effects from the viewing mound would be moderate and adverse.
52. I turn next to the footpath network across the eastern, central and western parts of the battlefield. I consider that these paths all have high sensitivity because they are well used recreational facilities, but for many users their attention or interest might not be particularly focused on the landscape. The eastern paths extend from Church Lane and battlefield church to the link road.<sup>47</sup> The outlook from these paths is affected by the railway embankment, and the southern parts are dominated by the pylons and overhead wires. The proposed EWF would appear as a prominent structure across the open fields, as is apparent in Photomontage C. However, other large structures such as the HRC and the telecom mast, whilst considerably lower than the proposed EWF and its stack, already affect the skyline in views towards the urban area. The proposal would, in my view, result in a medium/high magnitude of visual effects from these routes.
53. Similar considerations apply to the more central footpaths.<sup>48</sup> Photomontage B indicates how the proposed EWF would appear abutting the HRC. The EWF would be a larger structure, but would continue an existing industrial appearance to this urban edge. It would occupy only a small proportion of the wide landscape views possible from these routes, and from some parts of these footpaths the EWF would not be in the direct alignment of the path. I find again that a medium/high magnitude of visual effects would be appropriate from these central routes. The footpaths to the west are further from the appeal site, and views towards the proposed EWF would be set at a greater angle.<sup>49</sup> The footpath to the west of the viewing mound is in a shallow depression and the existing vegetation would considerably soften any views of the proposed EWF. The footpaths up towards the ridge and towards Albright Hussey offer views towards the industrial estate, but the proposed EWF would be seen at some distance and at an angle, which would give it a medium magnitude of visual

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<sup>46</sup> VP1 and Ref3.

<sup>47</sup> Ref6 and Photomontage C.

<sup>48</sup> SWI, Ref7, Ref8 and Photomontage B.

<sup>49</sup> SWG, Ref9 and Ref5.

effects in my judgement. Overall, I consider that for the footpaths in the locality, the proposed EWF would have medium/high magnitude of visual effects. This would, with high sensitivity, result in an overall moderate/substantial degree of visual impact significance.

54. The visitor centre and farm shop/café at Battlefield Farm is a popular venue with 135,000 visitors a year.<sup>50</sup> There are views towards the appeal site over the battlefield from windows in the shop and café, from the car park and from footpaths leading from the farm. The expectations of many visitors would most likely include an appreciation of the rural landscape and the view over the battlefield. This is an important vantage point, which is widely advertised and promoted. I consider the sensitivity of visual receptors, including residential occupiers, here to be very high. The visitor centre is about 1 km from the appeal site, and is on rising land some 15 m higher than the Above Ordnance Datum (AOD) height of the appeal site. In terms of the scale of visual change, the EWF would occupy only a small proportion of the urban edge apparent from this vantage point. Photomontage A indicates that the proposed EWF would be a readily noticeable feature on the urban edge. However, it would be seen in the context of the large roofs of other buildings on the estate. The slightly elevated vantage point at the visitor centre/café would mean that the roof of the EWF would appear well below the height of the distant hills in the background, and would have as its background other parts of the urban area. The stack would breach the skyline and a plume might, at times, attract attention. However, the stack would appear at a comparable height to that of the nearest pylon in this view. Furthermore, the EWF would not compete with the battlefield church for prominence. The 23 m high tower of the church projects into the sky above the distant hills and would remain as the dominant feature in views from this vantage point. Given these considerations, along with the distance from the appeal site, I consider that a medium magnitude of visual effects would apply. With very high sensitivity, this would result in a substantial degree of visual impact significance from the Battlefield Farm complex.
55. The hotel/restaurant at Albright Hussey is about 1.3 km from the appeal site.<sup>51</sup> The garden with a gazebo is used for weddings and so the sensitivity of receptors here is high. Photo SWC indicates that the proposed EWF would be visible from this garden. However, it would be seen as an addition to the furthest visible part of the industrial estate, at the end of a long line of shed type roofs. It would occupy only a small part of the view, away from the focus of attention, which would be the listed hotel building and its attractive garden features. It is these that would be most likely to be used as the backdrop for wedding photographs. The scale of change in the views from the car park and approach road to the hotel would be low. I find a low to medium magnitude of visual change from this area, resulting in a moderate degree of visual impact significance from Albright Hussey. Albrighton Church is sited on higher land further away to the north-west.<sup>52</sup> The local topography and existing trees, even in winter, would minimise the scale of change in the landscape that would result from the proposed EWF. At just over a distance of 2 km, the proposed EWF would have a low magnitude of visual effect. The sensitivity of receptors here would be medium because visits would be primarily associated with activities at the church, and so I find a minor significance of visual impact from Albrighton Church.

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<sup>50</sup> VP17, SWH, Ref1 and Photomontage A.

<sup>51</sup> VP3, SWB, SWC, SWD, SWE and Ref4.

<sup>52</sup> VP2 and SWF.



56. The major roads in the area, including parts of the A49, the A53 and the link road, are fast corridors with roundabouts, where drivers would be concentrating on the traffic.<sup>53</sup> Even passengers would have little time to take in the wider surroundings. As a result, the sensitivity of visual receptors is low. Similarly, those visiting the cattle market or using the service area off Battlefield Roundabout would be focusing on other activities. The sensitivity of receptors in these areas would be low. The proposed EWF would appear, when apparent from these routes, as a large building, but it would do so in the wider context of other industrial development in this northern part of Shrewsbury. A low magnitude of visual effects from these roads should apply. I find a negligible/minor degree of visual impact significance from the major roads in the vicinity of the appeal site. The situation would be similar for views from Upper Battlefield, although the sensitivity of residential receptors would be higher.<sup>54</sup> The EWF would be apparent from the raised railway embankment in the vicinity of the registered battlefield, but rail travellers would see it at close range only fleetingly and then in the context of the other industrial development located on both sides of the railway line in this part of the urban area.
57. Haughmond Abbey is an important heritage asset, set towards the toe of Haughmond Hill, some 3.3 km from the appeal site.<sup>55</sup> There is a small car park with public footpaths leading to the Abbey and woodland walks. The sensitivity of visual receptors here would be high. However, at this distance and relatively low elevation, the proposed EWF would be seen to merge into the urban edge. I find a very low magnitude of visual effect, and a minor or negligible degree of visual impact significance. Similar reasoning applies to views from Ebury Hill/Shropshire Way.<sup>56</sup> Haughmond Hill has many recreational walks and a large car park.<sup>57</sup> Some of these walks lead to Queen Eleanor's Bower and the edge of the hill, which faces towards the northern part of Shrewsbury, but mostly these are woodland walks. I consider the sensitivity of visual receptors here to be medium/high, as the area is likely to attract visitors for a number of reasons, not all related to landscape appreciation. Views towards Shrewsbury are more panoramic from this high vantage point, which is about 3.6 km from the appeal site. However, looking down on the proposed EWF building would tend to reduce the impact of its height. At this distance the proposed EWF would add to the shapes and patterns of roofs of the large buildings that comprise the sprawling commercial and industrial area. I find that the magnitude of visual impact would be very low, resulting in a minor degree of visual impact significance.
58. BF1403 is concerned about the cumulative impact of the proposed EWF, in an area where it acknowledges that there are already a number of discordant features, which detract from the character of the local landscape and the experience and enjoyment of the battlefield. These features include the pylons, the new livestock market, the Two Henrys pub and Travelodge, along with Battlefield Enterprise Park. These are now part of the local context and I do not consider that any significant cumulative effects would arise concerning landscape character. In terms of visual effects, this is not a case where the combined effect of the proposed EWF and the existing discordant features, taken together, would give rise to a greater impact than the sum of the

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<sup>53</sup> VP9 and SWJ.

<sup>54</sup> VP15.

<sup>55</sup> VP11 and SWL.

<sup>56</sup> VP14.

<sup>57</sup> VP13 and SWM.

individual effects. Cumulative impacts add no premium to the harm I have identified.

59. Taking into account all the information available from the submitted documents, evidence at the Inquiry, and my site visits, concerning the likely effects of the proposed EWF on the six areas outlined above, I find that the proposal would have an adverse visual impact of moderate/substantial significance. In my judgement, the Council's assessment, which concluded that the proposal would have a major effect on visual amenity, and BF1403's assessment, which found a major adverse impact, both overstate the likely harm. Furthermore, I disagree with BF1403 that the proposal would have an imposing and overbearing effect on the land that is registered as the battlefield.

#### Policies

60. The harm to the landscape I have identified would bring the proposal into some conflict with the aims of RSS Policies QE3 and QE6 concerning the creation of a high quality built environment paying particular attention to, amongst other things, urban design and landscape design that respects local character and history, and the distinctiveness of landscape character. RSS Policy QE4 applies to urban greenspace and is of limited relevance in the circumstances here, where the battlefield country park lies outside the urban area.
61. The strategic approach to growth set out in Policies CS1 and CS2 requires the promotion, conservation and enhancement of the town's natural and historic features, with heritage assets and the registered battlefield to be taken into account. Encouragement is given to economic development in Policy CS13, which also recognises the benefits of Shropshire's environment. The appeal site is not within the countryside and so Policy CS5 does not apply. Policy CS6 aims to create sustainable places, with development designed to a high quality and which respects and enhances local distinctiveness and mitigates and adapts to climate change. It also ensures that all development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale and design taking into account the local context. Policy CS17 requires development to protect and enhance the diversity, high quality and local character of the natural, built and historic environment, and which would not adversely affect the visual, ecological, heritage or recreational values and functions of these assets and their immediate surroundings. The appeal scheme's adverse effects on the landscape would be at odds with the strategic approach in the CS.
62. The WLP acknowledges that modern energy recovery facilities are industrial in nature and that this must be reflected in the selection of appropriate locations, having regard to increased vehicular movements and increased potential for noise and dust impacts, which I come to later. It adds that the scale and design of buildings should reflect their location and setting, and be of a high standard of design. The appeal site is in an industrial area, but the landscape impact of the proposed EWF is a relevant consideration in assessing compliance with the WLP.

#### Conclusions on character and appearance

63. On the first main issue, I find that the proposal would have significant adverse landscape and visual effects. The EWF would, to some extent, harm the character and appearance of the local area, but in my view it would not result in the major adverse impact predicted in the assessments by the Council and

BF1403. Nonetheless, the harm I have identified is a weighty consideration against allowing the appeal.

Shrewsbury Battlefield and other heritage assets

Registered Battlefield

64. The ferocious battle that took place here in 1403 was a pivotal historic event, both politically and militarily. The battle was fought here to prevent the rebel army of Henry Hotspur joining forces with Owain Glyndwr's Welsh forces. Henry IV's victory, in which the Prince of Wales, the future Henry V, played an important part and was seriously wounded, confirmed the House of Lancaster on the throne. It also ended hopes of Welsh independence. This was the first battle on English soil to pit two armies against each other, whose main weapon was the long bow, which was used with devastating effect. This experience later influenced the tactics used by Henry V at the battle of Agincourt. The loss of life was so great that a College was erected on land acquired only 3 years after the battle to provide intercession for the souls of those who had died. The battle features in Shakespeare's plays, its 500<sup>th</sup> and 600<sup>th</sup> anniversaries were celebrated in the local press, it has been the subject of television programmes, and appears on tourism websites. It continues to maintain a high degree of interest. I have no reason to doubt The Battlefields Trust's submission that the long term protection of the registered battlefield is very important to both an understanding of British constitutional history nationally, and to the local tourism economy. It is one of only 43 English registered battlefields, of which only 3 have heritage centres.
65. However, no part of the appeal scheme would impact directly on the registered battlefield. What is at issue here is the likely effects on the setting of the heritage asset. Setting is important because of what it contributes to the significance of the heritage asset. EH guidance states that historic battles often leave no visible traces, but that their sites still have a location and a setting, which may include important strategic views, routes by which the opposing forces approached each other, and a topography that played a part in the outcome.<sup>58</sup> PPS5PG states that the extent and importance of setting is often expressed by reference to visual considerations, but the way an asset is experienced in its setting is also influenced by spatial associations and historic relationships between places. Setting is likely to include a variety of views of, across, or including that asset, and views of the surroundings from or through the asset.
66. Strategic views and the routes by which the armies approached the battlefield are interrelated considerations here. The Royal army of Henry IV is thought to have approached from Haughmond Abbey. There are views from many parts of the battlefield towards the Abbey, especially from the ridge. However, the proposed EWF would not impinge directly on any of these. Even from vantage points within the southern and western parts of the registered battlefield, for example VP1, the proposed EWF would not obstruct this line of sight. It would be seen from some of these areas as a large industrial building within the urban area that bounds the registered battlefield, but this by itself would not detract much from its setting in terms of heritage significance.
67. The Prince's army is thought to have approached the battlefield from Shrewsbury. Visual references from parts of the battlefield to what is now central Shrewsbury are therefore of significance to the setting of the asset. However, as EH notes, the modern world has imposed itself to some degree

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<sup>58</sup> CD 65.2 section 2.4.

through the presence of the railway and the gradual northwards spread of Shrewsbury.<sup>59</sup> Considerable imagination is now required on the part of the observer to picture how the battlefield related to Shrewsbury as it was in 1403. The three and a quarter miles of urban expansion to the north of town since 1851 make this a difficult task.<sup>60</sup> The proposed EWF would, to some extent, make it even harder. It is possible to identify the centre of the town by the larger buildings and church spires, even though these were not present at the time of the battle. As observers move within that part of the battlefield roughly north-north-east of the appeal site, including parts of the eastern footpaths, Church Lane and the approach road to Battlefield Farm, the EWF would obscure the spires of the central churches and make the link with Shrewsbury, as it was at the time of the battle, less obvious. This would, to some extent, adversely affect the setting of the registered battlefield, and result in minor harm to the asset.

68. The other factor EH identifies is topography. This was a key feature in why the battle took place here. The main rebel force took up this position north of Shrewsbury, as the town was denied to it by the Prince of Wales, on a ridge which afforded views towards both Shrewsbury and Haughmond Abbey. The shape of the land between the registered battlefield and Shrewsbury as it was in 1403 is no longer readable because of the urban development. Even the shallow valley some 800 m to the south of the battlefield church, thought to be a likely route for the outflanking movement led by the Prince of Wales that penetrated the rebel line, has been modified by construction of the link road. Other than Haughmond Hill, the topography of the wider setting of the battlefield adds little to its significance. What is more important is the topography of the registered battlefield itself, and its likely role in the battle. The proposed development would not affect the setting of the registered battlefield by means of any change to the topography of the surrounding area, or directly impact upon an appreciation of the local topography's significance in interpreting the battle.
69. The Council claims that the EWF would result in substantial harm to the heritage asset by adverse impact on its setting. BF1403 considers that the significance of the impact should be assessed as major adverse. The Battlefield Trust considers that the proposal would have a major deleterious impact on the landscape and the interpretation of the battle and the battlefield.<sup>61</sup> I do not consider that this is borne out by the evidence. The EWF would be a large modern structure close to the boundary of the registered battlefield, and I have assessed its landscape and visual impact above. However, in terms of its impact on heritage, the size/proximity of the structure would have only a limited effect on attributes that are important because of what they contribute to the significance of the heritage asset. The main consideration in this regard is the limited harm to visual references between central Shrewsbury and some parts of the battlefield and its environs. The proposed EWF would not dominate the outlook from the registered battlefield, impact to any great extent on the skyline, or result in unacceptable light spill, in a way that would distract the viewer from appreciating the battlefield itself and its related heritage assets. The minor harm to the setting of the battlefield I have identified would generate an additional cumulative impact to that which already results from detracting urban fringe features. However, this cumulative impact would not have a substantial effect on those attributes of the battlefield's setting that are

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<sup>59</sup> CD 69.

<sup>60</sup> *Ibid.*

<sup>61</sup> CD 14.q.

important because of what they contribute to the significance of the heritage asset. In terms of impact on the setting of heritage assets, the proposed EWF would not breach any cumulative tipping point.

70. EH originally objected to the proposed development on the grounds that it would be detrimental to the enjoyment of the battlefield and collegiate church, because of its dominant visual presence, including smoke from the chimney, the effects on views over the battlefield from the north, and on the skyline of Shrewsbury (including historic churches).<sup>62</sup> However, EH later withdrew this objection, citing a more thorough understanding of the design, and stating that the benefits of the draft CMP, alongside the broader public benefit of achieving sustainable waste management, combined so that on-balance EH no longer objected to the application.<sup>63</sup> In doing so EH took into account the guidance in *Conservation Principles* and PPS5, particularly Policy HE10.<sup>64</sup> The Council and BF1403 consider that it would be wrong to give significant weight to the views of EH, because the information on which it was based included, amongst other things; errors in the photomontages and the assessment of possible alternative sites, information about the likely costs to the Council of landfilling that is no longer correct, and a draft CMP that had not been the subject of consultation with Mrs Jagger, who was a key stakeholder.
71. With respect to the use of the photomontages then available, I note that EH officers visited the site twice. They would have had in mind EH guidance that visual representations showing the proposed development in the existing view are no substitute for visiting the site and considering the impact of a proposal with the naked eye.<sup>65</sup> EH's advice to the Council is a relevant consideration and I have given it some weight, but in doing so I have had regard to the differences in the information that was before EH, and that which is now available. EH's involvement in the processing of the application was rehearsed in detail at the Inquiry. However, I have come to my own view about the likely impact of the proposed development on heritage assets, with the benefit of all the evidence adduced at the Inquiry, along with what was evident at my site visits.

#### Setting of other heritage assets

72. The Grade II\* listed Church of St Mary Magdalene is a central focus of the battlefield. It is thought to mark a hotly contested part of the battle, as is evidenced by the presence of a large common grave within its foundations.<sup>66</sup> The setting of the church is a crucial element to understanding the listed building's historic significance. However, I consider that the setting of the battlefield church is the battlefield itself. Visual links between church spires in the centre of Shrewsbury, which did not exist at the time of the battle, and battlefield church and its tower, do not make a meaningful contribution to the significance of the asset. The harm I have found to the setting of the battlefield from the proposed EWF would have little impact upon the setting of the church. I am satisfied that the proposed development would preserve the setting of the listed church.

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<sup>62</sup> CD 13.f.

<sup>63</sup> CD 13.g.

<sup>64</sup> CD 66 paragraphs 149-156 concern integrating conservation with other public interests; including the balance that lies between retaining heritage significance and the benefits of development, where the latter includes strategies to mitigate climate change.

<sup>65</sup> CD 70.a.

<sup>66</sup> CD 69.

73. The Grade II\* listed house at Albright Hussey, with its Grade II listed garden wall, is a fine building, which is seen in an isolated rural location. The open countryside setting makes an important contribution to the appreciation of this former manor house. However, its setting does not extend beyond the link road and into the urban area. I do not consider that the proposed EWF would be sited within the setting of the listed buildings at Albright Hussey.
74. The SAM comprises earthworks that were part of the collegiate site. They have a limited setting that extends to the confines of the former college and its immediate surroundings. The proposed development would not adversely affect the setting of the SAM. The field which contains the ridge and furrow earthworks to the north of the link road was in place in the thirteenth century, but no date has been assigned to the remnants of the field system that is currently visible. Nonetheless, it is likely to be representative of the type of agriculture practised at the time of the battle. A contemporary chronicler refers to the King's army having to "advance across a broad field thickly sown with pease".<sup>67</sup> I consider that the undesignated ridge and furrow has a limited setting that is confined to the field system in which it lies. Nothing beyond the link road contributes to the significance of the ridge and furrow as a heritage asset. The earthwork enclosure located between battlefield church and Battlefield Farm is associated with a medieval fair. Its setting would extend to both these buildings, but would be unaffected by the proposed EWF.
75. The heritage assets in the vicinity of the appeal site do have some collective or group value, because of their various associations and links with that momentous event in July 1403. Clearly the strongest of these is the link between the registered battlefield and battlefield church. However, I do not believe that any collective heritage value over and above that of the individual assets would be sufficient to elevate the harm I have identified to cultural heritage above minor significance. Intervening buildings would limit the effects of the proposal on Chatwood (Harlescott) Village Conservation Area. I do not consider that either the proposed EWF or its stack would adversely affect views in to, or out of, the conservation area.

#### On-site archaeology

76. The township map of 1849 shows that the appeal site once formed part of a field named Brickkiln Leasow, although there is no other specific evidence before the Inquiry to suggest that a brick kiln ever operated on this site. Trial pits as part of a geotechnical investigation did find some brick fragments, although no further details are recorded about these finds.<sup>68</sup> There are also features which appear on aerial photographs which remain unexplained. It is not clear that this evidence informed the archaeological watching brief that accompanied construction of the existing development on the appeal site, for which no method statement was required.<sup>69</sup> I give little weight to the findings of the watching brief for the construction of the link road because it is some distance from the appeal site.<sup>70</sup> The aerial extent of the battle, routes to it, and the positions of baggage trains are not known. The battle may have become combat between groups, with fighting and casualties spread over an area of up

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<sup>67</sup> *Annales Henrici Quarti* cited in CD 69.

<sup>68</sup> CD 6.b.

<sup>69</sup> ID 13 and ID 31.

<sup>70</sup> ID 33.

to 3 miles.<sup>71</sup> There is a reference in the literature to those fleeing from the battle routing through the royalist baggage train.<sup>72</sup>

77. Given that part of the appeal site contains alluvium, the site might conceivably contain objects lost in, or on the way to or from, the battle, which have not come to light in work done to date. The evidence about the possibility of a brick kiln in the area, along with some evidence of bricks of unknown age and origin, is also of some interest. The appellant considers that on-site archaeological interests could be protected by imposing a watching brief condition, albeit one which included a method statement and incorporated a metal detector survey prior to the removal of topsoil. However, I am satisfied, having regard to PPS5 Policy H6 concerning the need for proper investigation, that there is sufficient evidence about possible archaeological interest in the appeal site to warrant the imposition of a condition requiring the implementation of an approved programme of archaeological work in accordance with a written scheme of investigation prior to the commencement of development. However, I do not consider that this is a case where planning permission could not be properly granted without being informed by an on-site archaeological investigation. I note references to the possibility of other mass graves somewhere in the battlefield area.<sup>73</sup> However, there are other statutory provisions which would apply were construction work to reveal human remains. There is also provision in the Contract for such eventualities. Subject to the imposition of an appropriate planning condition, there is no reason to find against the proposal because of its likely impact on on-site archaeology.

#### Policies

78. The minor harm to the setting of the registered battlefield would bring the proposal into conflict with RSS Policies QE1 and QE5, which aim to protect historic landscape features and built heritage. RSS Policy QE5 concerns development plans and strategies, but its aims; to protect, conserve and enhance the historic environment, could also apply to projects. The supporting text notes that this should include protecting the resource from insensitive change.
79. PPS5 Policy HE10.1 advises that any harm, arising from proposals that would not preserve those elements of the setting of a heritage asset that make a positive contribution to or better reveal the significance of the asset, should be weighed against the wider benefits of the proposal. The minor harm to the setting of the registered battlefield is, accordingly, a factor to be weighed in the overall balance. PPS5 Policy HE9.1 states that significance can be harmed through, amongst other things, development within its setting. The policy is not only concerned with physical intervention affecting the asset itself. However, the starting point for this policy is the presumption in favour of the conservation of designated heritage assets, and that this presumption is greater for more significant assets. In this case, I have found that the harm to the registered battlefield would be minor, not substantial, and so PPS5 Policy HE9.4 would require a balancing exercise not dissimilar to that required by Policy HE10.1. I deal with this in the planning balance below.

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<sup>71</sup> CD 69.

<sup>72</sup> ID 14.

<sup>73</sup> CD 8.a CMP paragraph 2.3.5.

## Mitigation

80. The Planning Agreement includes a financial contribution of £30,000 to be used for conservation management measures set out in the CMP, the priorities of which are:

- Year 1 Enhancements to the existing car park, signage and information boards, the provision of an integrated education resource at the EWF, and better access to information resources such as leaflets and webpage improvements.
- Year 2 Improvements to footpaths, hedging and fencing, enhancements to the viewing mound including improvements to paths, landscaping and provision of a picnic area, publication of an updated and revised publicity leaflet, and the link between Battlefield Farm and the church.

The £3,000 per annum payment for the duration of the Contract would be used for the management of the registered site in accordance with the above priorities.<sup>74</sup>

81. BF1403 does not consider that the CMP has been prepared in accordance with relevant guidance, because Mrs Jagger, as landowner, was not consulted at any stage. The CMP therefore includes some provisions that it states should be considered in consultation with appropriate stakeholders and implemented if possible, such as improvements to the existing link between Battlefield Farm's visitor centre and the battlefield church. Furthermore, BF1403 argues that the CMP does not address all the heritage assets within the battlefield, such as the church, the SAM and the ridge and furrow. The Inquiry also heard that the Council has a separate legal requirement to maintain some of these footpaths. These considerations detract from the weight that should be given to the CMP.

82. It was evident on my site visits that additional tree planting on the registered battlefield itself to soften the impact of the proposed EWF would not assist in interpreting the topography and its role in the battle. PPS5PG notes, with respect to restoration, that the significance of battlefields usually results from evidential and associative value that depends on the ability to appreciate the location, topography and setting of the site.<sup>75</sup> Adding hedgerow trees to the more recent enclosed landscape would render it less like the landscape that existed at the time of the battle. Any such planting would require very careful consideration and siting, and so would be likely to have a limited effect on the overall appearance of the proposed EWF in its wider context.

83. None of the measures in the Planning Agreement would, in my view, ameliorate or mitigate the minor harm to the setting of the heritage asset that I have found would result from the proposed EWF. For those receptors likely to be affected by the harm to the setting of the registered battlefield, I do not consider that the measures in the CMP would offer very much by way of compensation. I say more about what weight should be given to the Planning Agreement later.

## Conclusions on cultural heritage

84. On the second main issue, I disagree with the Council's conclusion that the proposed development would cause substantial harm to the setting of high value heritage assets, and I consider that BF1403 has overstated the likely impact of the appeal scheme on the setting of the registered battlefield and other heritage assets. I find that the proposal would result in minor harm to the registered battlefield. It would have a neutral effect, and so would

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<sup>74</sup> ID 70 Schedule 1.

<sup>75</sup> CD 24.



preserve the setting of listed buildings in the locality, and would not have a significant adverse effect on other heritage assets in the locality. Nonetheless, the minor harm to the registered battlefield I have identified would bring the proposal into some conflict with RSS Policies QE1 and QE5. The harm to cultural heritage is a matter to be weighed in the planning balance in accordance with PPS5 Policies HE9.4 and HE10.1.

Actual or perceived effects on health, agriculture, food production and food processing

Air pollution

85. SP Policy P16 requires development proposals to take into account their effect on air quality. The meteorological data used in the dispersion modelling was questioned on the basis that it did not fully take into account possible mountain waves formed by the prevailing wind, or temperature inversions. However, if mountain waves or inversions do at times affect the area, then it is likely that their effects would have been manifested in the five years of data used in the model. This was obtained from the observation station at RAF Shawbury, which is located about 6 km north-east of the appeal site. I am satisfied that the modelling is reasonably based on conservative assessments, which assumed operation of the plant at continuous short term and long term WID emission limit values, and so represents a worst-case scenario.
86. The question of radiation from the incineration of smoke detectors was considered by the EA in determining the application for an EP. The EA found that the likely radiation dose from Americium-241 to a member of the public resulting from the incineration of smoke detectors was very low.<sup>76</sup> I have given this finding considerable weight, and I am not convinced that any of the evidence adduced at the Inquiry justifies a different conclusion. Many representations raised concerns about persistent organic pollutants (POPs), such as dioxins. I do not consider that the exceedance of the dioxin limit during one quarter at the Wolverhampton incinerator is indicative of any intrinsic or underlying problem of dioxin emissions from waste incineration.<sup>77</sup> The incineration process would destroy POPs, but some would reform. Controlling POPs is therefore dependent on the management of the combustion process and effective regulation. I am satisfied that in a well-run and well-regulated facility the net effect would be that the total emission of dioxin-like chemicals would be likely to be stable or to decrease. There are strict emission limits for dioxins, and the EP contains provisions to limit the release of pollutants in abnormal conditions such as might occur during start up/shut down or failure of abatement equipment. Given the operational controls on the combustion process that would apply, along with regulation by the EA, I find that there would be a low risk from the emission of POPs. The evidence also demonstrates that the likely emission of heavy metals would not pose a significant pollution risk.
87. Mr Ryan is particularly concerned about the health effects of fine particulate matter emissions from the stack, such as PM<sub>2.5</sub>, and he questioned the efficiency of filtrations systems. Reference was made to an email from the EA in 2010 concerning the size of particles expected to be captured at an incinerator at Newhaven.<sup>78</sup> This advised that the expected efficiency of filters was 95%-98%

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<sup>76</sup> CD 40.

<sup>77</sup> CD 108.c.

<sup>78</sup> ID 24.

of PM<sub>10</sub>; 65%-70% of PM<sub>2.5</sub> and below this 5%-30%.<sup>79</sup> The appellant relies on more recent research which measured particle number distribution and concentration before and after a fabric filter in a semi-dry FGT.<sup>80</sup> This showed an efficiency of 99.995% in terms of total particle number concentration. I share the appellant's view that it would be unlikely that the condition in the EP could be met if the filtration system only achieved the efficiency levels cited above for the Newhaven plant. I have given considerable weight to the fact that the EA was satisfied that the design and operation of the proposed EWF would be Best Available Technique (BAT) for the abatement of particulate emissions.<sup>81</sup> There is no doubt that fine particles can have an adverse health impact, but with the proposed filtration system and regulatory controls, I do not believe that particulate emissions from the proposed EWF would pose a significant risk.

#### Human health

88. Many representations were submitted at both the application and appeal stages concerning air quality and health impacts. PPS10 states that modern, appropriately located, well-run and well-regulated, waste management facilities operating in line with current pollution control techniques and standards should pose little risk to human health. It adds that detailed considerations of waste management process and any implications for human health are matters for the pollution control regime. This is consistent with the advice in Waste Strategy for England 2007 (WSE 2007). However, PPS10 also provides that planning operates in the public interest to ensure that the location of development is acceptable and that health can be material to such decisions. The Inquiry heard concerns about both actual harm to human health, and a perceived risk or fear of possible adverse health effects. The latter forms part of the Council's fourth reason for refusal, which it linked with associated effects on local agriculture and food production. Other submissions to the Inquiry from Shrewsbury Town Council, NOBIS Task Force and Mr Hall support this view.<sup>82</sup> In the Council's submission, the benefits of the proposal would not be sufficient to outweigh the potential for negative public perception.

89. The Health Protection Agency (HPA), in commenting on the application, found that providing the proposed EWF was well regulated it would not be a significant risk to health, given what is considered to be an acceptable level of lifetime risk in the UK.<sup>83</sup> It was satisfied that the assessment demonstrated that the maximally exposed individual would not be subject to a significant carcinogenic risk or non-carcinogenic hazard, arising from exposures via both inhalation and the ingestion of foods. Mr Ryan submitted a number of maps documenting mortality rates upwind and downwind of incinerators, and health statistics for localities near incinerators and power stations.<sup>84</sup> However, no reliable inference can be drawn from this data. A whole host of possible confounding factors exist. These are other causes of the adverse health effect of interest, and they preclude any reasonable conclusions about likely cause and effect in the evidence adduced by Mr Ryan. Chief amongst these is socioeconomic status, for which there is much evidence as to its importance as a predictor of state of

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<sup>79</sup> These figures also appear "as claimed by operators" in a 1999 source, cited in the Statement of Evidence on Particle Emissions and Health, Proposed Ringaskiddy Waste to Energy Facility by Prof Howard, June 2009.

<sup>80</sup> Buonanno G et al 'Ultrafine Particle Apportionment and Exposure Assessment in Respect of Linear and Point Sources', *Atmospheric Pollution Research* 1 (2010) 36-43.

<sup>81</sup> CD 40.

<sup>82</sup> NOBIS is an acronym for No Burners in Shropshire.

<sup>83</sup> CD 13.e.

<sup>84</sup> ID 23, ID 23.2, ID 23.4.2, ID 23.5, ID 23.6, ID 42.2, ID 43 and ID 64.

health. This is a very complex area which would require detailed epidemiological studies to provide any meaningful analysis of the Office of National Statistics data and other statistics submitted by Mr Ryan.

90. The evidence about other incinerators, for example in Iceland, Japan and Mexico must also be treated with some caution.<sup>85</sup> There is nothing to indicate that these incinerators were operating under the conditions which would apply to the proposed EWF. On the contrary, there is evidence that in some cases different conditions did apply. I do not consider that there is anything in the evidence before the Inquiry, or any particular local considerations which apply here, that would justify taking a different view from national policy about the likely health effects of incineration.

#### Perceived risks

91. There is considerable local concern, expressed at the Inquiry and in written submissions, about the perceived risk of adverse health effects resulting from the proposed EWF. These fears are not irrational, or without foundation. EN-1 states that energy production has the potential to impact on the health and well-being of the population. It adds that access to energy is clearly beneficial to society and to our health as a whole, but notes that the production, distribution and use of energy may have negative impacts on some people's health.<sup>86</sup> Plant failures receive widespread publicity, and information, both sound and unreliable, is circulated rapidly and in volume on the internet.
92. The fallibility of scientists and mistrust of regulatory authorities was cited in some of the submissions to the Inquiry. Past experience with smoking related diseases, foot and mouth disease and mad cow disease were raised in this regard. But it is difficult to draw comparisons between the way the scientific community dealt with these diseases and the scientific assessment of risk from a well-run and regulated incinerator. There are no grounds here to apply the precautionary principle by dint of scientific uncertainty about consequences such that the best available scientific advice cannot assess the risk with sufficient confidence to inform decision making. I note also that PPS23 advises that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. I have dealt with the evidence before the Inquiry on the basis that the experts have identified likely risks, along with potential uncertainties, but that the judgement as to whether a particular risk is deemed acceptable falls to be determined as part of the overall balancing exercise required in deciding this appeal.
93. I do not accept that the HPA's decision to discuss with researchers a potential study into birth outcomes around municipal waste incinerators should be interpreted as casting doubt about the adequacy of, or confidence in, its existing evidence base.<sup>87</sup> The HPA continually seeks to review and extend the evidence base for its advice, and doing so does not diminish the weight that should properly be given to the scientific evidence currently available.
94. Fear about the consequences of the proposed development on the health of local residents is a material consideration in this case, and I have given it some weight. However, it seems to me that these fears underestimate the efficacy of pollution controls set out in the EP. This limits the weight that should be given to health fears in determining this appeal.

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<sup>85</sup> ID 48.

<sup>86</sup> CD 55 paragraph 4.13.1.

<sup>87</sup> ID 21.3.

Agriculture, food production and food processing

95. Agriculture, food production and processing are very important to the local economy. SFoE considers that a mass burn incinerator would be incompatible with the Food Enterprise Park and nearby farmland. However, there is no compelling evidence that emissions from the proposed EWF would directly affect local agriculture. SFoE is critical of the modelling concerning the measurements of the extremely low levels of contaminants in the existing farmland, and noted an under-reporting by a factor of 10. However, the corrected figures, which give some context for estimated annual increases of metals and dioxins in local soils, show very low percentage increases, on the basis of pessimistic assumptions.<sup>88</sup>
96. A suggested condition would require approval of an odour and bioaerosol management plan that would include an odour suppression system that incorporated the use of negative air pressure within the tipping hall, to be implemented at all times. The existing HRC/WTS and the meat processing plant at ABP operate without such controls, and their presence within the industrial estate does not appear to have adversely affected investment in new buildings and enterprises. The evidence about food tainting, based on a worst-case scenario, with no negative air pressure in the building, indicates a very low risk to nearby food processing enterprises.<sup>89</sup> This would be likely to be so even if odour suppressing chemicals were used at times.
97. The HRC/WTS has a large door facing the adjoining Food Enterprise Centre, but its proximity does not appear to affect the successful operation of the food related businesses that currently occupy the Centre. I noted the use of air conditioning under positive air pressure in the food processing unit within the Centre that I visited on my site inspection, and the incubator units are also described as insulated units. I do not consider that emissions from the proposed EWF would have any greater impact on the Food Enterprise Centre than the existing waste management facility on the appeal site. The restaurant at Albright Hussey would be unlikely to be affected given the separation distance.
98. I do not consider that reference to the operation of other incinerators, such as those in Portsmouth and Eastcroft, adds much to the appellant's case. Much depends on the particular local circumstances and context in terms of relationship with neighbouring uses, and their particular effects on property prices and investment decisions. So many considerations might influence outcomes that experience in those cases cannot reliably be used to inform a view about how the proposed EWF would be likely to be perceived, or if built, would be likely to be received, within its own local context.
99. Many of the concerns raised about the impact of the proposal on agriculture, food production and food processing seem to me to stem primarily from reservations about image and perception. Again, these are understandable sentiments given the size and type of development proposed. However, the evidence indicates that not much weight should be given to fears about the effects of the proposed EWF on local health, or the local economy, by reason of harm to agricultural production and food processing.

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<sup>88</sup> ID 50.

<sup>89</sup> ID 60.

### Conclusions on health effects

100. On the third main issue, I find that the proposed EWF would have a low risk of harm to human health. It would not significantly affect local agriculture, food production or food processing. Fears about pollution and related health implications are understandable, and perceived risk is a material consideration. Nevertheless, by comparison with the weighty issues of landscape/heritage impact and sustainable waste management, on which the outcome of this appeal also depends, it is not a consideration that I believe should weigh heavily in the overall planning balance. Taking into account all the above considerations, and having regard to the controls likely to be exercised by the pollution control regime, I do not consider that the proposal would conflict with the aims of Policy CS8 with respect to the health and safety of the community.

### Waste management

#### Proposed extension to HRC

101. The part of the appeal scheme that involves an extension to the existing HRC would provide additional bays and parking in an open area adjacent to, and outside, the existing building. It would be a modest extension which would primarily improve vehicle manoeuvring and circulation. The Council does not refer to this part of the proposal in its reasons for refusal. I find that the extension to the HRC would comply with the requirements of WLP Policy 11, which permits household waste recovery and recycling facilities where these would, amongst other things, form part of an integrated network of sites contributing to the waste management strategy for Shropshire. The remainder of this part of my decision deals with the proposed EWF.

#### Waste hierarchy

102. The WLP, CS and PPS10 all refer to the waste hierarchy. The Waste (England and Wales) Regulations 2011 imposes a duty on a waste operator to take all such measures available to it as are reasonable in the circumstances to apply the waste hierarchy as a priority order.<sup>90</sup> In PPS10 the Government aims to break the link between economic growth and the environmental impact of waste by more sustainable waste management; moving the management of waste up the waste hierarchy of prevention, preparing for re-use, recycling, other recovery, and disposing only as a last resort.<sup>91</sup> The Government Review of Waste Policy in England 2011 (GRWP) considers that up to 2020, and beyond to 2030 and 2050 sufficient residual waste feedstock will be available through diversion from landfill to support significant growth in energy from waste, even with the expected improvements in prevention, re-use and recycling, without conflicting with the drive to move waste further up the hierarchy.<sup>92</sup> The period to which this "horizon scanning" applies would extend up to, and possibly beyond, the life time of the proposed EWF.<sup>93</sup> However, this policy applies nationally, and it is necessary to assess the particular circumstances that apply to Shropshire and to this particular proposal.

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<sup>90</sup> CD 58.

<sup>91</sup> The Waste Regulations 2011 transpose the Waste Framework Directive 2008/98/EC and so add that energy recovery is an example of 'other recovery'.

<sup>92</sup> GRWP in England 2011 [CD 35.a] includes landfill and incineration without energy recovery within 'Disposal', and includes within 'Other recovery'; anaerobic digestion, incineration with energy recovery, gasification and pyrolysis which produce energy (fuels, heat and power) and materials from waste, some backfilling operations.

<sup>93</sup> CD 35.a paragraph 214.

103. The Waste Framework Directive 2008/98/EC (hereinafter WFD) defines incineration as a disposal operation.<sup>94</sup> However, for MSW the term 'other recovery' can be applied to an incinerator provided that it would achieve a certain performance indicator for the level of recovery of energy. This is the R1 formula cited in the WFD.<sup>95</sup> An R1 performance indicator of 0.65 or greater would be needed for the appeal scheme to be described as a recovery, rather than as a disposal, facility.<sup>96</sup> R1 is assessed at three stages; plant design, commissioning and during normal operation.
104. Design data for the first stage assessment indicates that the proposed EWF with a semi-dry FGT is predicted to achieve R1 status under expected operating conditions, with an R1 of 0.66, but at lower performance or reduced heat load it would have an R1 of 0.64.<sup>97</sup> With a dry FGT an R1 of 0.69 is predicted; and with lower performance or reduced heat load the design data indicates that the plant with dry FGT would still achieve an R1 of 0.67. A predicted R1 of 0.69 has been independently verified.<sup>98</sup> I have taken into account SFoE's submissions about energy efficiency and comparisons between the R1 performance indicator and traditional efficiency calculations.<sup>99</sup> However, the EA is satisfied that on the data provided it appears that the design of the EWF would enable an R1 energy efficiency factor of greater than 0.65 to be achieved.<sup>100</sup> The EA has issued a revised EP on this basis. I give more weight to the EA's finding in this matter. It is evident that the use of a dry FGT would significantly increase the likelihood that the proposed EWF would operate as a recovery facility, and so I consider that it would be necessary and reasonable for the dry FGT, which was assessed in the SES, to be required by a planning condition.<sup>101</sup>
105. SFoE challenges details of the energy calculations on the basis of inconsistencies in the use of data about soot blowers, and disputes that steam used for de-aeration of water could be counted towards energy production without introducing an element of double counting. Furthermore, it believes that the recovery status of the proposed EWF might be jeopardised by a drop in energy efficiency if the plant were to operate on less than 12 tonnes per hour of feedstock, but maintained buoyancy of the plume. On the detailed technical matters concerning energy calculations, I give more weight to EA's confidence that R1 status could be achieved. It seems to me that with appropriate management of the feedstock, including the use of suitable C&I waste if necessary, which I come to later, maintaining energy efficiency would be unlikely to pose an insurmountable problem that would justify downgrading the proposed EWF to a disposal facility. Whether use of some C&I waste would invalidate the use of the R1 formula was raised at the Inquiry. The footnote to WFD Annex II refers to incineration facilities dedicated to the processing of municipal solid waste. However, WFD Article 16 refers to an integrated network of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, for recovery in one of the nearest appropriate installations. Furthermore, the EA considers plants processing a mixture of MSW and other

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<sup>94</sup> CD 48 Annex I.

<sup>95</sup> CD 48 WFD footnote to Annex II for recovery operations where the use is principally as a fuel or other means to generate electricity.

<sup>96</sup> Guidelines for the application of the R1 formula are at CD 93.

<sup>97</sup> The sensitivity analysis considered 97% of normal performance and reduced heat load of 80% of waste inputs at normal performance. Table 1 VESS/2.2.

<sup>98</sup> ID 18.

<sup>99</sup> ID 16.

<sup>100</sup> ID 26.

<sup>101</sup> Suggested condition 3(vii).

wastes are within the scope of the formula provided that the plant is principally designed to process MSW.<sup>102</sup> Subject to the imposition of an appropriate condition concerning the installation of a dry FGT system, I am satisfied that the evidence indicates a high likelihood that the proposed EWF would be a recovery facility for the purposes of applying the waste hierarchy. WFD Article 16 would also apply to IBA and FGT residues. VESS refers to the possibility of recycling IBA at its facility at Castle Bromwich, and to disposal of FGT residues at its facility at Walsall. I am satisfied that there is a reasonable prospect that IBA and FGT residues could be dealt with in accordance with the guidance in PPS10 and PPS23.

106. I consider that the scheme gains substantial support from PPS10 because it would move the treatment of waste up the waste hierarchy. Such a finding would be consistent with the guidance in EN-3 that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs.

#### Re-use, recycling and composting in the waste hierarchy

107. There is no onus on the appellant to demonstrate that the facility would not undermine the waste planning strategy through prejudicing movement up the waste hierarchy pursuant to paragraph 25 of PPS10, because that paragraph applies only to waste disposal facilities. However, WLP Policy 17 permits energy recovery facilities only where the proposal would not undermine the provision of facilities further up the hierarchy. There is substance in the submissions that consideration should properly be given to the overall implications of the appeal scheme for the waste hierarchy. The Council acknowledges that, insofar as the proposed EWF would lead to a reduction in the amount of waste generated in Shropshire being disposed of at landfill, the EWF would not prejudice the proper movement of waste up the hierarchy. However, it argues that the real issue here is whether waste which should be reused, recycled or composted would be likely to be incinerated at the proposed EWF lower down the hierarchy. SFoE argues that with emphasis on more recycling an alternative smaller and more flexible residual treatment plant would enable waste management to be moved even further up the waste hierarchy. The issue as SFoE sees it, is not incineration versus landfill, but incineration versus better waste reduction, more re-use and improved recycling, with landfill continuing, but in gradually decreasing amounts.

108. Transition Town Shrewsbury stresses that the likely effects of the costs of raw materials and energy will result in waste reduction in future, and that there is no demonstrable need for this EWF.<sup>103</sup> GRWP acknowledges that through effective prevention, re-use and recycling, residual waste will eventually become a finite and diminishing resource, but one that needs to be dealt with effectively for the foreseeable future. The Government sees the recovery of energy from certain wastes as having a role to play in moving towards a zero-waste economy, and that this phrase does not mean that there will be absolutely no waste.<sup>104</sup> There is evidence from European countries that high levels of recycling and composting can coexist with high levels of incineration.<sup>105</sup> WSE 2007 states that this demonstrates that a vigorous energy from waste policy is

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<sup>102</sup> CD 116.

<sup>103</sup> ID 15.

<sup>104</sup> House of Commons Hansard Debates for 16 February 2011 Column 1101.

<sup>105</sup> EA Position Statement on Energy from Waste.

compatible with high recycling rates, and that the Government's objective is that both are achieved.<sup>106</sup>

109. EN-1 provides that only waste that cannot be re-used or recycled with less environmental impact, and would otherwise go to landfill, should be used for energy recovery. Similarly, GRWP states that energy recovery is an excellent use of many wastes that cannot be recycled and could otherwise go to landfill. There was a measure of agreement at the Inquiry that what cannot be recycled means waste that cannot feasibly, viably, sensibly or reasonably be recycled. The Council is satisfied that the proposed Pre-Sorted Residual Waste Acceptance Scheme would ensure that only C&I waste that cannot be feasibly or viably recycled would be subject to energy recovery. This is a matter that could be addressed by the imposition of a planning condition.<sup>107</sup> However, there is concern about the extent to which the Contract would do the same for MSW. With the introduction of measures like the pre-sorting of kerbside waste by householders and recycling collections Shropshire already recycles about 51% of its MSW. The Contract is for a minimum of 52.5% by 2019/20, which would then be broadly maintained until 2034. Nonetheless, the appellant considers that a 60% rate could, at the upper end of the range of what was realistically cost efficient, be achieved by 2020.<sup>108</sup> The Council is concerned that the Contract is not flexible enough to provide for the raising of the recycling target. However, setting a minimum below which penalties would apply is not the only means available to the Council to achieve higher recycling rates.
110. The Contract includes financial incentives which would encourage recycling, but the details are commercially confidential. Given that the likely effectiveness of these was not a matter that could be properly tested at the Inquiry, any such incentives cannot be given much weight in determining this appeal. For the same reason, it is not possible on the other hand to assess the likelihood of such incentives being foregone to achieve other commercial objectives. These might relate to the need to maintain the calorific value of the feedstock for either operational efficiency reasons or to secure R1 status, or as a saving on the cost of technical upgrades. Objectors to the scheme raised concerns about the Contract not requiring other measures with potential to increase recycling opportunities, such as the extension of the kerbside recycling of food waste across Shropshire, increasing the proportion of waste recycled by households, extending the type of plastic collected beyond just bottles, and encouraging 'recycling on the go' in the street and in public places. However, I am not convinced that the proposed EWF would diminish the likelihood of these initiatives coming forward. Their promotion would be a matter for the Council, having regard to prevailing policy, practice and resources.
111. The Council considers that the incorporation of a front-end 'dirty' MRF would assist in driving waste up the hierarchy, and notes that it is viable for Veolia to do so in Leeds.<sup>109</sup> I acknowledge that a kerbside sort might leave some waste that theoretically could be recycled, but whether it would be practical to do so would depend upon many factors. The viability of such a facility in Leeds might be because other means of recycling in such a large urban area are likely to be less effective than might be so in Shropshire.<sup>110</sup> I accept that waste pre-sorted

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<sup>106</sup> CD 35 paragraph 23.

<sup>107</sup> Similarly worded conditions have been imposed by the Secretary of State [CD 80.d Condition 8] and the IPC [CD 80.f Requirement 41].

<sup>108</sup> CD 8 includes an aspirational target of 60% by 2020 and 65% by 2031. It adds that there are no barriers within the Contract that would prevent aspirational targets being met.

<sup>109</sup> ID 27.

<sup>110</sup> GRWP states that there are real challenges ahead in increasing recycling rates, particularly in urban areas.



by householders does not have the high levels of contamination associated with mixed waste collections. I also acknowledge that the latter can require significant resource input to ensure high quality recycle. The fact that the appeal scheme does not incorporate a front-end MRF is not a consideration which weighs against the proposal.

112. Some concern was expressed at the Inquiry that householders would not continue to separate waste for recycling if they were aware that the residual was intended to be incinerated. However, it seems to me that this might have the opposite effect and encourage more recycling. The Council argues that what is viable to recycle would be determined by reference to what was viable under the Contract. I do not agree that the Contract would be the determining factor. What can sensibly be recycled will change over time depending on many practical and commercial considerations. What constitutes residual waste will change over the lifetime of the proposed EWF, in accordance with a wide range of determining factors, including the Council's response to relevant policies, practices and the circumstances that then prevail. This appeal should be determined on the basis that regulatory provisions for the collection and treatment of MSW will be properly applied and enforced. I find, therefore, that there would not be much risk of the proposed EWF incinerating waste that could viably be reused, recycled or composted. This finding would accord with the IPC's view in the Rookery South Resource Recovery Facility Order that the regulatory system governing MSW would result in a low risk of local authorities delivering waste that could practically be recycled.<sup>111</sup>

113. Taking all these considerations into account, I find that it is unlikely that significant volumes of waste, which could otherwise be sensibly reused, recycled or composted, would be incinerated in the proposed EWF lower down the waste hierarchy than might otherwise be possible. I find no compelling evidence that the proposed EWF would prejudice the achievement of higher rates of re-use, recycling and composting in Shropshire.

#### Waste projections and size of the proposed EWF

114. RSS Policy WD1 sets out regional targets, including a requirement that development plans include provision to recover value from at least 67% of municipal waste by 2015. RSS Policy WD2 concerns the need for waste management facilities by sub-region, but annual throughput capacity required by 2020/21 is set out on a sub-regional basis in which Shropshire is included within the Shropshire/Telford and Wrekin sub region. The CS states that existing landfill capacity is expected to last until at least 2019, and that the CS would not identify sites for landfill, but foster development of a low carbon economy by identifying sites for recycling and recovery activities. Policy CS19 seeks to deliver additional waste transfer, recycling and recovery facilities to address a capacity gap of 150,000 tpa. This figure derives from the now abandoned Phase Two Revision of the West Midlands Regional Spatial Strategy 2007. In this a gap analysis for Shropshire compared the projected treatment capacity required for 2025/26 (0.61 million tonnes) with the existing throughput plus quantifiable expansion plans (0.45 million tonnes) to give a treatment gap of 0.15 million tonnes.<sup>112</sup> The Council's Annual Monitoring Report for 2009-2010 records 161,788 tonnes of MSW in 2009/10, of which 49% was landfilled. This had reduced from a total of 177,853 tonnes in 2005/06, of which 66% was

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<sup>111</sup> CD 80.f paragraphs 5.24 and 5.25.

<sup>112</sup> CD 57 Table 7.

landfilled.<sup>113</sup> The proposed EWF would make a substantial contribution to addressing the capacity gap cited in Policy CS19, and gains policy support on this basis.

115. The availability of sufficient feedstock for an EWF of the size proposed here was debated in depth at the Inquiry. VESS, the Council and SFoE modelled various scenarios using the same model, based on an agreed figure of 160,404 tonnes of MSW arisings in Shropshire in 2010/2011. I have had regard to all the projections before the Inquiry, including those by Cllr Williams.<sup>114</sup> The differences in the approaches tested by VESS, the Council and SFoE can be highlighted by comparison of the following examples;<sup>115</sup>

VESS; annual growth rate in MSW of 1.06% and recycling increasing to 53% by 2011/12 and thereafter.

Council I; annual growth in MSW of 0.78% and recycling rate increasing to 70% by 2025 and thereafter.

Council II; flat rate of growth in MSW and recycling increasing to 60% by 2025 and thereafter.

SFoE; annual growth rate in MSW of minus 2% and recycling rate to increase to 70% by 2025 and thereafter.

Residual MSW (tonnes)

	2015/16	2025/26	2034/35
VESS	79,471	88,308	97,099
Council I	70,582	54,069	57,986
Council II	73,239	64,162	64,162
SFoE	61,369	35,541	29,632

VESS added scenario 4 at the Inquiry, with annual growth in MSW of plus 1.06% and recycling rate increasing to 53% by 2012 and to 60% in 2017/18 and thereafter.<sup>116</sup> The residual municipal waste arising under this scenario would be 75,156 tonnes for 2025/26 and 82,638 tonnes in 2034/35. The maximum spare capacity for a 90,000 tpa capacity EWF, or 'headroom' as it was termed at the Inquiry, under this scenario would be 20,924 tonnes in 2017/18.

116. The parameters in the model for each scenario give rise to widely varying projections of residual MSW over the years. I share some of the appellant's concerns about the recycling rates suggested by the Council and SFoE. GRWP refers to the real challenges ahead in increasing recycling rates within a tight funding settlement for local authorities. Some local authorities are already achieving recycling rates of 70%, and it is likely that more will need to do so if the national target of 50% by 2020 is to be achieved.<sup>117</sup> However, I am not convinced on the evidence before the Inquiry that it would be reasonable to rely on very high rates in planning future infrastructure provision in Shropshire. Further incremental gains in the recycling rate will be more difficult to achieve. The difference between a 70% and 60% recycling rate would amount in 2025/26 to an increase in residual MSW from 54,069 tonnes to 72,092 tonnes under the Council's scenario I above. Such a difference would be significant in terms of planning future infrastructure. SFoE are right to campaign for higher

<sup>113</sup> CD 54 Figure 16 shows an increase in recycling of 17% to 23%, and in composting of 17% to 28%, from 2005/06 to 2009/2010.

<sup>114</sup> ID 25 and ID 44 with projected landfill requirements varying between 12,991 tonnes and 46,224 tonnes in 2019/20.

<sup>115</sup> CD 115.

<sup>116</sup> ID 19.

<sup>117</sup> CD 35.a paragraph 151.

recycling rates where all targets are expressed as a minimum, but I consider that a more cautious approach should apply here to what future recycling rates should realistically be modelled. I do not consider that it would be unreasonable to use the recycling rates in the appellant's scenario 4, but think it likely that these might result in an overestimate of residual waste towards the later years of the life time of the proposed plant, when new technology and resource constraints might have a considerable impact on recycling.

117. PPS10 seeks to break the link between economic growth and the environmental impact of waste. Defra found that since 2003 the trend indicates some decoupling of waste arisings from economic growth.<sup>118</sup> This would affect the relationship between household growth and waste predictions. The Phase Two RSS projections assumed MSW would increase at a household growth rate of 1.06% in 2004, plus 1% because MSW was then growing faster than households. A total growth rate of 2.06%. Predicted household growth rate was revised to 0.78% in 2008.<sup>119</sup> SFoE disputes the appellant's predictions for waste growth, citing MSW decline over the last decade at national, regional and local level. Data by Defra is cited by SFoE indicating that household waste per head in England reached a peak in 2002/03 of 520 kg, and had fallen to 447 kg in 2010. The Council also considers that declining waste levels since 2004/5 indicate a trend which is not fully explained by the slow down in the economy. Defra found that recession effects began to appear in the national data for household waste in 2008/09.<sup>120</sup> The Council argues that attitudes to waste generation and recycling have changed, and that factors like high energy prices and regulation of packaging will continue this trend, even if economic growth revived. The Council's waste reduction plan includes measures to reduce waste by an additional 5% over 5 years, and so continue the trend over the last decade in which waste growth due to more housing has been more than offset by a reduction in waste per household.<sup>121</sup> SFoE believes that Defra's four scenarios in *Economics of Waste* indicate that the era of big waste growth is over.<sup>122</sup> I have also taking into account SFoE's concerns about an estimated 4,000 tpa of MSW not being combustible at the proposed EWF because it would arise during periods of plant maintenance and shutdown, and the likely effects were the proposed IVC facility to be constructed.

118. If the aims of PPS10 are to be realised it is evident that it will no longer be appropriate to simply equate future MSW growth with household growth. The situation is far more complex, with many factors likely to affect future MSW arisings. How these will play out in future is very difficult to predict. I note that a model, which Defra considers to be more credible because it reflects recession effects and decoupling that could not be explained by economic growth/expenditure alone, predicts a growth rate of about 1% per annum from 2013/14 to 2019/20.<sup>123</sup> I have also taken into account that the CS provides that the number of households in Shropshire is projected to increase from 122,800 in 2006 to 152,300 by 2026 (an increase of 29,500 or 24%).<sup>124</sup> However, the start of this period has been affected by recession. In the longer term, it seems to me unlikely that a 1.06% growth rate in MSW would be maintained over the lifetime of the proposed EWF, especially as waste prevention measures become more stringent over time.

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<sup>118</sup> CD 114.

<sup>119</sup> ID 17.

<sup>120</sup> CD 114.

<sup>121</sup> CD 120.

<sup>122</sup> CD 114 page 38.

<sup>123</sup> CD 114 Figure A3.

<sup>124</sup> CD 17 page 12. Policy CS1 refers to delivering 27,500 new homes.

119. For the reasons set out above, I consider it likely that the appellant's projections would, to some extent, overestimate the growth in MSW. However, on the other hand, there is no compelling evidence to support substantial reductions, at least in the short to medium term, in the generation of household waste from the agreed 2010/2011 base. The uncertainties make it impossible to come to a clear view about the likely availability of MSW over the lifetime of the proposed EWF. However, the need for precision in projecting residual MSW would be obviated if available and suitable C&I waste would be likely to make good any shortfall in MSW that resulted in 'headroom' for the proposed EWF. I turn to this next.

120. There is considerable policy support for the better integration of MSW and C&I waste treatment, where they are of similar waste types, so as to increase diversion from landfill.<sup>125</sup> There is an indication, albeit in the abandoned Phase Two of the RSS, of potentially large volumes of C&I waste projected for Shropshire.<sup>126</sup> However, there is limited reliable evidence before the Inquiry about exactly how much C&I waste is currently generated in Shropshire. Furthermore, it is difficult to determine how much of the C&I waste would be suitable for energy recovery, and would comply with the Pre-sorted Residual Waste Acceptance Scheme suggested by VESS. A Defra study found that for C&I waste arisings nationally there was considerable overlap between that which was potentially recyclable and that which was potentially recoverable.<sup>127</sup> The appellant currently manages 50,000 tpa of C&I waste in Shropshire and estimates that with 50% recycling some 25,000 tpa would be available for use in the proposed EWF, if necessary. There are also other companies managing C&I waste in Shropshire. It is difficult to verify, having regard to the Standard Industrial Classification (SIC) waste codes in the EP and return forms for landfill sites, what proportion of this would be suitable for recovery. Nonetheless, the likely amount of C&I waste generated in Shropshire would exceed by a significant margin that likely to be required to utilise spare capacity in the proposed EWF. It also seems to me that the substantial difference between the tonnage of potential C&I waste, and likely maximum 'headroom' of the proposed EWF, would leave plenty of scope to find a sufficient quantity of C&I waste that satisfied the Pre-sorted Residual Waste Acceptance Scheme.

121. SFoE queries whether Shropshire's C&I waste might be needed to top up other incinerators in the region, such as the Four Ashes twin line 300,000 tpa plant under construction, because it considers that the region has a projected MSW incineration overcapacity. It warns that there might not be enough waste to both increase recycling to 50% and feed the incineration capacity. However, there is evidence from MES Environmental that all three of its plants in the West Midlands are running at full capacity under three separate waste disposal contracts.<sup>128</sup> Furthermore, the absence of reliable data about C&I waste for the region makes it very difficult to substantiate a case that the appeal scheme should not proceed on the grounds of an overall overcapacity for incineration within the region.

122. SFoE is concerned that the proposed EWF would require 12 tonnes per hour of combustible material of a consistently high calorific value, and would not be a flexible technology capable of dealing with shortages of feedstock or variations in waste composition. Evidence about load reduction from the single-line

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<sup>125</sup> CD 35 and CD 35.a.

<sup>126</sup> Phase Two of the RSS expected 370,000 tonnes of C&I waste in 2010/11, and forecast 428,000 tonnes in 2015/16 and 547,000 tonnes by 2025/26. CD 57 Table 6.

<sup>127</sup> CD 85. The percentages were respectively 7.8% for re-use, 73.3% for recycling and 62.6% for recovery.

<sup>128</sup> ID 29.

incinerator at Sheffield is cited in this regard. However, I am satisfied that with use of C&I waste, if necessary, the proposed plant could be managed to maintain both the quantity and calorific value of feedstock so as to ensure efficient operation in accordance with the requirements of the EP.

123. I find that the appellant's projections are likely to overestimate residual MSW, but I am not convinced about the levels of reductions thought likely by SFoE and the Council, if and when the economy recovers. This is an area of uncertainty, but it is not of critical importance here because of the ability of the proposed EWF to use C&I waste as feedstock. Taking all the above into account, I do not believe that the proposed EWF, with a capacity of 90,000 tpa, would result in an overcapacity that would jeopardise the achievement of sustainable waste management objectives, either in the locality, or within the region.
124. The supporting text to Policy CS19 states that facilities of regional or sub-regional significance should be located within or in close proximity to Shrewsbury. Given my findings above about waste arisings, I am not convinced that the proposed EWF would function as either a regional or sub-regional facility, because a facility with the capacity of the appeal scheme would be likely to be required to meet Shropshire's needs. However, the CS text does not preclude consideration of a facility of less than regional or sub-regional significance in Shrewsbury, if it was nonetheless consistent with the aims of Policy CS19.

#### Renewable energy

125. Energy from mass incineration of domestic waste is not renewable energy (RE) for the purposes of PPS22. However, more recent guidance in PPS1Supp states that renewable and/or low-carbon energy supplies include those from energy-from-waste. This policy absolves such schemes from a requirement to demonstrate an overall need for RE and the energy justification for why a proposal must be sited in a particular location. The Department of Trade and Industry's preliminary consultation on Renewables Obligation in 2000 included energy recovery from MSW as RE, although stated that as this was commercially viable it should be excluded from the Obligation.<sup>129</sup> The Energy White Paper states that the biodegradable fraction of waste is a renewable resource.<sup>130</sup> EN-3 includes energy from waste as RE infrastructure.<sup>131</sup> Furthermore, the Council accepted at the Inquiry that the biomass fraction of the waste throughput of the proposed EWF would generate RE.<sup>132</sup> I note also that RSS Policy EN1 encourages proposals for the use of renewable energy resources, including energy from waste combustion, subject to certain criteria.
126. What proportion of the energy recovered by the proposed EWF would be RE is difficult to predict. There is evidence from research in Wales, undertaken in 2009, that 60-64% of waste by weight is biodegradable.<sup>133</sup> However, as SFoE points out, some of this would be water. A DECC report in 2011 states that it conservatively assumed that waste contains 50% biogenic carbon.<sup>134</sup> The size of the biogenic fraction for MSW in Shropshire would be affected by how successfully kerbside sorting was undertaken, and whether the planned IVC

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<sup>129</sup> *New & Renewable Energy Prospects for the 21<sup>st</sup> Century*, Department of Trade and Industry, 2000.

<sup>130</sup> CD 82 paragraph 5.3.44.

<sup>131</sup> CD 56 paragraph 1.8.1.

<sup>132</sup> ID 11.

<sup>133</sup> *The composition of municipal solid waste in Wales*, WRAP, May 2010.

<sup>134</sup> *Review of the generation costs and deployment potential of renewable electricity technologies in the UK* Study Report, DECC, June 2011.

facility for food waste was introduced to serve all the administrative area. There is no reliable evidence before the Inquiry about what proportion of the electricity generated could be classified as RE. Nonetheless, it is likely that the amount of RE generated by the biogenic fraction of the MSW feedstock incinerated in the proposed EWF would be more than *de minimus*. The RE generated would not make the appeal scheme an RE project for the purposes of applying PPS22. If it did, PPS22 would accord significant weight to its environmental and economic benefits irrespective of its scale. However, EN-3 states that where the waste burned is deemed renewable, this can also contribute to meeting the UK's RE targets.<sup>135</sup> The proposed EWF would be likely to make a small, but nonetheless significant, contribution to the Government's target of producing 30% of the country's electricity from renewable sources by 2020, and this is an element of the scheme that should accordingly be given some weight.

### Financial issues

127. SFoE criticises the proposal on the grounds that the appellant has adduced no evidence about the relative costs of the proposed EWF compared to a do-minimum option of landfill with RE generation from landfill gas, or to the cost of increased recycling, and objects to the proposal on financial grounds. The financial case against the proposal centres on concerns that financial modelling should be based on the tonnage of genuine residual waste and not a notional 90,000 tpa, that the Council would be cross-subsidising C&I waste incineration, that the true costs of incineration have been underestimated, and that alternative treatments would be less expensive. SFoE submits that the 2007 Contract, before it was amended to reflect Shropshire's unitary authority status, would have resulted in the cost of incinerating 90,000 tonnes in 2014/15 (£10.8m or £120 per tonne) exceeding the cost of land filling 90,000 tonnes of non-inert waste (£9m). It is argued that no evidence exists to indicate that the change to a unitary authority would alter the likely cost of the incinerator, and that costs may be higher if the operator passed on future costs incurred in order to comply with updated regulations over the life of the proposed EWF. SFoE maintains that the effective cost per tonne would increase as less MSW was incinerated, and that the proposed EWF would be horrendously expensive, possibly the most expensive per tonne on mainland Britain.
128. Those parts of the amended Contract open to public scrutiny throw little light on the financial issues involved. However, VESS contends that SFoE's estimated treatment cost of £120 per tonne does not consider six factors, which if taken into account, would bring the cost to Shropshire Council of treatment significantly below £100 per tonne, and cheaper than depositing residual waste in landfill. These factors are:
- (1) The £40.8m of PFI credits granted by Defra to support the capital cost of the Contract (but SFoE argues that this could be used to fund an alternative scheme were the appeal to be dismissed).
  - (2) That the EWF is guaranteed for an additional 5 years beyond the end of the Contract after payment to VESS would have ceased (but SFoE considers that the EWF would be a liability given a likely future need for carbon capture and pre-treatment to remove recyclable waste from feedstock).

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<sup>135</sup> EN-1 states that energy produced from the biomass fraction of waste is renewable and is in some circumstances eligible for Renewable Obligation Certificates (ROCs), although the arrangements vary from plant to plant. EN-3 also provides that a proportion of the biodegradable waste may be classed as "renewable" for the purposes of ROCs eligibility.

- (3) Updated Contract Rates and Performance Metrics which are commercially sensitive.
  - (4) Sharing of excess income from electricity production.
  - (5) Revenue share from treating any third party non-contracted waste (but SFoE believes that this would fail to cover the cost the Council would pay for the overcapacity).
  - (6) Royalty payments for third party non-contracted waste handled at the IWMFs.
129. The likely costs of incineration proved to be something of an unfathomable issue for the Inquiry, other than to point to the above six factors. However, I do not believe that financial considerations, were they to be fully grasped, would be determinative in assessing the implications of the proposed EWF on the use and development of land for the purposes of a decision under the planning system.
130. Landfill tax savings were claimed as a benefit of the appeal scheme in the appellant's presentation to EH. In financial analysis terms such tax payments would be a cost. However, in an economic analysis it seems to me that it would be more of a transfer payment, and so not a cost to society as a whole. Landfill tax is a device to divert waste away from landfill with consequential climate change benefits. To factor in an additional benefit of landfill tax savings would, to my mind, introduce an element of double counting.
131. I have also considered the likely costs were the appeal to be dismissed. The Contract provides for some alternative to be made, but this would take time and resources. Such costs are a relevant consideration, but other consequences such as not diverting waste away from landfill and not managing waste in a more sustainable manner are, in my view, far weightier considerations in the planning balance to be applied in this case.
132. Criticism of the PFI process is not a consideration which should be influential in determining the planning merits of the appeal scheme. However, I note that the criteria for an award of PFI credits for a project includes consultation with relevant authorities, the public and interested parties, along with a broad consensus supporting a recognised long term waste management strategy which is reflected in the proposed solution.<sup>136</sup> Furthermore, there is no evidence that using any spare capacity at the proposed EWF for C&I waste would necessarily make the proposal more risky commercially.<sup>137</sup>
133. Mr Ryan opposes the incinerator on financial grounds. He is concerned about huge financial costs of health impacts, and considers that there is a safer and cheaper alternative method of waste disposal in plasma gasification, and refers to a planning permission granted for such a plant in Teeside.<sup>138</sup> However, the evidence about likely health effects does not support Mr Ryan's views about likely health related costs. I deal with alternative technologies below.
134. I have had regard to the various financial arguments raised by the parties. However, it is clear to me that the financial implications of the proposed EWF do not justify dismissing the appeal on its planning merits.

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<sup>136</sup> ID 21.1.

<sup>137</sup> CD 9.

<sup>138</sup> ID 23.

### Climate change and energy security

135. GRWP stresses that waste is a major contributor to methane emissions and, if not managed properly, can harm our environment, and adds that the benefits of recovery include preventing some of the negative greenhouse gases (GHG) impacts of waste in landfill, with considerable climate change benefit.<sup>139</sup> The proposed EWF would, overall, make a significant contribution to reducing carbon emissions. I do not agree with SFoE's submission that the appellant's Waste and Resources Assessment Tool for the Environment (WRATE) modelling is deeply flawed. The model should be used as an aid to analysis and to help inform judgement, and so should not, by itself, be definitive. The assumptions built into the model will not always apply to the particular circumstances of a specific project.<sup>140</sup> Nevertheless, the WRATE assessment, although it might not be perfect, adds confidence to my judgement about the overall carbon savings benefits of the proposed EWF as a sustainable waste management facility. I am not convinced by Cllr William's estimates for carbon emissions from lorry movements, because so much would depend upon how efficiently waste could be transported from its origin. There is no evidence to show that an average import distance of 50 miles would be appropriate.<sup>141</sup>
136. GRWP notes that energy from the non-biodegradable component of waste, if recovered efficiently, has advantages in terms of providing comparative fuel security.<sup>142</sup> The appeal scheme would provide the type of energy infrastructure, producing "dispatchable" power to provide peak load and base load electricity on demand, that EN-1 states the UK needs in order to achieve energy security.<sup>143</sup> In this regard, the 7-8 MWe generated by the proposed facility would make a small, but useful contribution towards meeting energy security objectives.

### Combined Heat and Power

137. Qualification as an energy recovery facility for the purposes of the WFD is not dependent on the provision of combined heat and power (CHP). But CHP would increase the energy efficiency of the proposed development. The Inquiry was not informed about any identified users for heat from the proposed EWF. However, the EP would require the operator to provide and maintain steam and/or hot water pass-outs, such that opportunities for the further use of waste heat might be capitalised upon should they become practicable. The EP also requires a review of the practicality of CHP implementation every two years.<sup>144</sup> The Planning Agreement provides for a potential evaluation of CHP in accordance with a district heating road map. I deal with the validity of the Planning Agreement below, but it states that if potential users were identified a feasibility evaluation would be undertaken. A design phase appraisal would be prepared if the developer considered that a district heating scheme was both feasible and financially viable. If, as a result, contracts were entered into with end users of the district heating system an implementation phase would be carried out.<sup>145</sup>
138. The appeal site is located within a developing industrial and commercial area, where considerable potential exists for the use of waste heat from the

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<sup>139</sup> CD 35.a Ministerial Forward.

<sup>140</sup> ID 51.

<sup>141</sup> ID 44.

<sup>142</sup> CD 35.a paragraph 208.

<sup>143</sup> CD 55 paragraphs 3.1.1 and 3.4.4.

<sup>144</sup> CD 41 Conditions 1.3.2 and 1.3.3.

<sup>145</sup> ID 70 but I deal with the weight to be given to the Planning Agreement later.



proposed EWF. Existing vacant areas within the estate provide some scope to do so without retro-fitting existing buildings. SFoE considers that a single line plant would limit its CHP potential because alternative or backup provision for heat would be necessary during times the EWF was down for maintenance. However, it is likely that businesses would have some backup in any event, and this is not a consideration which would detract from the energy efficiency advantages of using waste heat when it was available. In the absence of planning permission for the EWF, and more details about the likely commercial considerations involved, it is understandable that possible users may not be prepared at this stage to give much time or consideration to the possibility of a district heating scheme. No adverse inference should be drawn from the fact that existing large industrial premises in the locality, such as ABP and Stadco, have not indicated an interest to the Inquiry about possible participation in a district heating scheme. It is well established that planning conditions can ensure that all reasonable steps are pursued to facilitate delivery of CHP.<sup>146</sup> Establishing a framework to facilitate CHP would be necessary and reasonable in this case. I return to this later. I consider that the potential for CHP is a consideration which adds to the sustainability credentials of the appeal scheme.

### Alternatives

139. Many submissions to the Inquiry suggested that alternative technology to that proposed in the appeal scheme should be preferred. The WLP in 2004 stated that in recent years alternative forms of energy recovery have been proposed in the UK based on pyrolysis and gasification processes, but added that whilst not then proven in the UK, such plants had the potential to offer much smaller scale facilities which include opportunities to recover additional materials for recycling. The WLP gives preference to these alternative technologies where proposals can be shown to be the Best Practicable Environmental Option (BPEO).<sup>147</sup> However, the rate at which these technologies have been taken up in the UK indicates to me that the waste management industry, for whatever reasons, lacks confidence in these technologies for the treatment of MSW. The EA accepted in determining the EP application that pyrolysis and gasification technologies had not been established on a commercial basis in the UK at the scale required for this proposal.<sup>148</sup> Mr Ryan advocates the use of plasma gasification as the safest technology, but there is no evidence before the Inquiry to demonstrate that this is a proven method for dealing with MSW.

140. I have taken into account support for anaerobic digestion (AD).<sup>149</sup> The EA considers AD to be most suitable for high moisture content biodegradable wastes such as food and agricultural waste, and that separately collected fractions for such wastes should not be incinerated unless contaminated or otherwise destined for landfill.<sup>150</sup> I have no reason to doubt the EA's assessment that AD is not appropriate for residual mixed municipal waste streams.

141. As part of the tender process for the Contract, VESS submitted in 2005 a proposal in which the treatment process offered for residual waste was Mechanical Biological Treatment (MBT). However, in 2006, in its best and final

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<sup>146</sup> CD 80 Condition 20, CD 80.d Condition 4, CD 74 Condition 5, CD 79 Condition 26.

<sup>147</sup> The WLP glossary states that BPEO is the option that provides the most benefits or least damage to the environment at acceptable cost.

<sup>148</sup> CD 40 page 24.

<sup>149</sup> Including DECC and Defra's strategy and action plan. CD 117.

<sup>150</sup> CD 40 page 94 and 95.

offer, VESS offered an energy from waste incineration plant. Consideration of an earlier option for MBT should not weigh against the appeal scheme. What is appropriate will depend upon many local considerations, and it is reasonable for the proponent to have regard to such matters as the quality of recyclates generated by MBT, and the fact that residual wastes from MBT would still require either disposal to landfill or incineration.

142. There are valid reasons why the appeal scheme proposes the use of tried and proven technology. Given that the WLP acknowledges that a range of technologies could meet the needs of the Plan area, along with its emphasis on flexibility, I do not consider that a preference for incineration over alternative technologies here should weigh against the proposal. Subject to my findings later about WLP Policy 6 and other development plan policies, I find no basis here for rejecting the scheme solely on the grounds of the choice of technology. I turn next to submissions about alternative sites.
143. The ES outlined the main alternatives studied by VESS and the reasons for the choices made.<sup>151</sup> The evaluation criteria required sites to be in Shropshire, to have a minimum net area of 1.2 ha, and to be in a central location within 12 km of Shrewsbury. Of the 13 preferred sites in the WLP, the ES concluded that only the appeal site satisfied the key criteria. Land adjacent to a poultry unit at Ford was found unsuitable, but the assessment recorded the site area as 0.6 ha instead of 6.0 ha. Of the other sites evaluated, Ironbridge Power Station was found to be unsuitable, but the assessment erroneously recorded the site to be located outside Shropshire. WLP Policy 8 applies to sites which are not identified in the plan and sets out criteria for waste management development, including that the site would be more acceptable than those identified. Policy CS19 refers to site allocations in accessible locations close to the main urban areas and defines broad locations for this purpose. VESS argues a need for the facility in a limited geographical area. The EWF would be a large building that I have found would, to some extent, harm the local landscape and a registered heritage asset. In this case a balance must be struck between the benefits and disadvantages of the appeal scheme.
144. PPS1Supp provides that the energy justification for why a proposal for energy development must be sited in a particular location should not be questioned.<sup>152</sup> EN-1 advises that the relevance or otherwise of alternatives is in the first instance a matter of law, and that from a policy perspective there is no general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, I also note that PPS1 advises that in seeking to enhance the environment significant adverse impacts should be avoided and alternative options which might reduce or eliminate those impacts pursued.<sup>153</sup> Taking all the matters in the preceding paragraph of this decision into account, and having regard to the judgement in *Bovale Ltd*, I find that the availability of alternative sites is a relevant consideration to be weighed in the balance in this case.<sup>154</sup> However, the issue before me is not whether an alternative site might be more appropriate than the appeal site. I have looked at whether alternative sites might meet the need in a way which could be less objectionable than the appeal scheme. If so, this would add

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<sup>151</sup> CD 3.c Appendix B.

<sup>152</sup> PPS1Supp paragraph 20 which refers to Meeting the Energy Challenge (2007).

<sup>153</sup> PPS1 paragraph 19.

<sup>154</sup> *R (on the application of Bovale Ltd) v SoS for CLG and another* [2008] EWHC 2538 (Admin) CO/5244/2007 at ID 79.2.

weight to arguments in favour of dismissing the appeal. If not, this would add weight to the case that the appeal should succeed.

145. In considering the merits of both the appeal site and possible alternative sites I have had regard to RSS Policy WD3, which although it applies to plans, sets out criteria for the location of facilities. The schedule to WLP Policy 6 includes 6.0 ha of land adjacent to Poultry Unit, Ford (Site Ref.SA13) with potential uses listed as commercial waste transfer and recycling. The site profile states that it is well located with respect to the strategic highway network, but notes that a bridge which crosses the approach road to the site would limit the scale and intensity of waste management development. Development requirements in the site profile refer to proposals not adversely affecting the setting of Ford Conservation Area, and the need to preserve identified archaeological remains. LP Policy EM1 allocates this site for employment uses.
146. It was apparent from my site inspection of the Ford site that the bridge would be a constraint in terms of its height and width, albeit neither are the subject of formal restrictions. In particular, it would not be possible for two HGVs to pass with safety. However, neither this, nor a possible requirement to improve the junction with the A458, is likely to be sufficient to rule out this site for use as an energy recovery facility. It seems to me that there might reasonably be technical solutions to provide safe access to this site. Neither do I believe that its rural location and proximity to a conservation area would amount to such severe constraints that there would be no reasonable prospect of designing, siting and landscaping an acceptable scheme for a large waste management facility. Similar arguments apply to any likely constraints arising from in-situ preservation of the unscheduled bronze age ring ditch, which is located close to one edge of the 6.0 ha site.<sup>155</sup> I note that this was not considered a bar to development of the site when its allocation was considered as part of the WLP.<sup>156</sup> Other concerns about this site raised by the appellant include an aquifer, a flood zone, and proximity to a brook. However, these seem to me to be matters that might well be addressed by appropriate planning conditions. They would, in any event, be matters that would arise were the site to be developed for its allocated employment use.
147. The site would, however, be located well outside the main urban area in Shropshire and this would give it two important disadvantages. A waste facility on the Ford site would not benefit from the co-locational advantages offered by siting the facility next to the existing HRC/WTS, especially as Policy CS19 supports the co-location of waste facilities. PPS10 advises that in searching for sites and areas suitable for new or enhanced waste management facilities consideration should be given to opportunities to co-locate facilities together with complementary activities. Given the policy support and sustainability advantages of co-location, I consider that the lack of opportunity to achieve this is a significant disadvantage of the Ford site. The other disadvantage concerns the potential to utilise heat from the energy recovery process in a district heating scheme. There would be much more scope for an efficient and effective CHP scheme in a large urban area. The mix of existing industrial and commercial uses in the vicinity of the appeal site would be likely to make viable CHP a more likely prospect here than at Ford. Although the Ford site is 6 ha in area and might provide opportunities for future employment development, it

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<sup>155</sup> ID 52 and ID 54.

<sup>156</sup> CD 90 paragraph 2.117.

would not ever be likely to provide the number or variety of potential users of waste heat that will exist in the northern suburbs of Shrewsbury.

148. One of the other sites evaluated was the Ironbridge power station at Buildwas. However, this is a considerable distance from Shrewsbury. Traffic movement to and from the main urban areas would be an important consideration affecting the sustainability of this location. The supporting text to Policy CS8 states that redevelopment of this site may provide opportunities for RE generation as part of a mixed use scheme. This is not a consideration which would overcome the locational disadvantages of the power station site in terms of providing the type of waste management facility proposed in the appeal scheme. The former sugar beet factory at Allscott is also some distance from the main urban areas in Shropshire.
149. In deciding what weight to give to possible alternatives, I have had regard to the advice in EN-1 that consideration should be given to whether there is a realistic prospect of the alternatives delivering the same infrastructure capacity in the same timescale as the appeal scheme.<sup>157</sup> Taking into account all the submissions to the Inquiry, along with what I saw on my unaccompanied site visits, I do not believe that these alternative sites might meet the need in a less harmful way. This is a consideration that adds weight to the case in favour of allowing the appeal.

#### Policies

150. WLP Policy 6 permits waste management facilities of the type shown in a schedule, provided that the proposal would comply with other relevant policies of the development plan. The schedule lists preferred sites for waste transfer, recycling, recovery and treatment processes. It also lists potential uses for each site. The appeal site is listed in the schedule as Site Ref.SA1. The potential uses states; "Integrated municipal waste management site including household waste recycling centre, in-vessel composting and small scale energy recovery, excluding mass burn incineration". There was much debate at the Inquiry about the meaning to be given here to "small scale energy recovery" and "mass burn incineration", which are not defined in the WLP.
151. The appellant acknowledges that the term mass burn incineration can be, has been, and is, used to describe the technology proposed in the appeal scheme. However, VESS argues that what is important is how it was intended to be used in the WLP, which also refers to the traditional view of energy recovery being based on the use of conventional waste incinerators requiring a consistent, high volume of waste. The report into objections to the WLP refers to the reasons why the then County Council did not include sites suitable in principle for traditional mass burn incineration.<sup>158</sup> These reasons can be summarised as;
- (i) such large scale facilities were not required,
  - (ii) they would undermine the ability to meet targets for recycling and composting,
  - (iii) cost,
  - (iv) public concerns, particularly since questions about environmental and health effects were not wholly resolved, and
  - (v) other potential alternative technologies were becoming available.

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<sup>157</sup> CD 55 paragraph 4.4.3.

<sup>158</sup> CD 90.

In the appellant's submission, what the WLP meant by mass burn incineration was a type of waste management that had those characteristics which were thought to justify its exclusion. The appellant argues that each of those concerns is misplaced in relation to the appeal scheme, and so there is no reason arising solely from the use of the terms in WLP Policy 6 to find the appeal scheme in conflict with the development plan read as a whole.

152. The submissions about whether these are misplaced concerns or not are dealt with elsewhere in this decision, but in terms of how WLP Policy 6 should be read, I am not convinced that there is any valid basis for devising a meaning for the term 'mass burn incineration' that is unique to the WLP. The supporting text in the WLP acknowledges that there are a range of technologies that could meet the needs of the Plan area and that these are constantly evolving, and emphasises that the Plan is "*Site Specific* rather than *Process Specific* in order to provide flexibility for the waste industry to bring forward new facilities...".<sup>159</sup> Given that the plan is not process specific, it seems to me that its express exclusion of a particular technology for only one of the schedule sites is highly significant. I do not consider that the term as it is used in the WLP should be given any other meaning than that which is familiar to and commonly used in the waste management industry. I find, therefore, that the proposed development would conflict with the provisions of WLP Policy 6 insofar as it would not accord with the type of technology identified in the potential uses for Site Ref.SA1.
153. Whether the appeal scheme would be a small scale energy recovery facility for the purposes of applying WLP Policy 6 is difficult to determine without a definition or some reference criteria. BF1403 refers to the photo caption in PPS22CG for the Chineham plant, which is of comparable size to the appeal scheme, and refers to "Large scale direct combustion plant". But a photo-caption cannot be decisive. The appeal scheme is not as large as the scale of plants referred to in some parts of the documentation prepared for the WLP Inquiry, which were in excess of 120,000 and 250,000 tpa. This is not a matter which can be resolved with any certainty, but it seems to me, taking all the documentation about the WLP into account, that "small scale" was intended to be read as a facility of smaller size than the proposed EWF. I find, therefore, that the proposal would also be at odds with this aspect of the site profile for SA1 in the WLP.
154. The proposal gains considerable support from Policy CS19, which states that sustainable waste management facilities and services will help to deliver greater resource efficiency, and provides that this will be achieved by, amongst other things, encouraging additional capacity to divert waste away from landfill in a way consistent with the waste hierarchy, targets and policies, and with the principle of equivalent self sufficiency. It refers to site identification, as part of a DPD yet to be compiled, to deliver additional waste transfer, recycling and recovery facilities to address the capacity gap of 150,000 tpa identified in the RSS, and to the allocation of sites in accessible locations close to main urban areas within identified broad locations.<sup>160</sup> The policy also supports co-location of waste facilities. However, the landscape and cultural heritage harm I have identified would mean that the scheme would not benefit from the positive encouragement of infrastructure advocated by Policy CS8, even though the scheme includes low carbon and some RE generation, because the policy

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<sup>159</sup> The emphasis is as shown in the WLP.

<sup>160</sup> The appeal site lies within the broad area around Shrewsbury shown at Figure 9 of the CS.

requires no significant adverse impact on environmental assets. The proposal would gain some support from the thrust of WLP Policy 17, except for the proviso contained within it. The policy permits proposals to recover energy from waste in appropriate locations where it forms an essential part of a sustainable waste management system for Shropshire, would not undermine the provision of waste management facilities further up the waste hierarchy, and would comply with other relevant policies in the development plan. However, as set out above, the proposed EWF would not satisfy the last of these requirements.

#### Conclusions on waste management

155. The principal benefit of the appeal scheme would be the diversion of some 90,000 tpa of residual waste away from landfill, with substantial GHG and climate change benefits. I have considered whether the longer term opportunities to reduce, re-use and recycle waste might conceivably be compromised by the shorter term opportunity to recover energy. The evidence is that this would be unlikely in this case, but even if this did result in some departure from the hierarchy at times, that need not necessarily take the proposed EWF outside the statutory framework for waste management, which encourages options that deliver the best environmental outcome, a concept which must include climate change considerations.<sup>161</sup>
156. I find that the proposal would make a significant contribution to addressing climate change, which is the Government's principal concern for sustainable development as set out in paragraph 3 of PPS1Supp. Paragraph 3 of PPS10 states that the wider environmental and economic benefits of sustainable waste management are material considerations that should be given significant weight in determining whether proposals should be given planning permission. The proposed development would also contribute to energy security and meeting RE targets. Furthermore, I am not convinced that alternative technology or sites might meet the need in a way which could be less objectionable than the appeal scheme.
157. On the fourth main issue, I consider that the proposed development would be a recovery facility that would move the management of waste up the hierarchy, and so would represent the more sustainable waste management advocated in PPS10. This is a consideration which should be given significant weight.

#### Other issues

##### Highway safety

158. The appeal site has good links to the strategic road network that includes the A49, A53, A5 and M54. I am satisfied that the transport assessment reasonably demonstrates compliance with the requirements of WLP Policy 27. Some measures would be necessary to discourage HGVs from using the minor roads within the industrial estate and its surrounds. The Planning Agreement includes provisions to request drivers visiting the site to do so from the link road.<sup>162</sup> However, even if valid, the Planning Agreement would not control the right of passage over public highways for all vehicles likely to access the

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<sup>161</sup> Waste (England and Wales) Regulations 2011 Part 5 paragraph 12(2) at CD 58 provides for departure from the priority order of the hierarchy so as to achieve the best overall environmental outcome where this is justified by life-cycle thinking on the overall impacts of the generation and management of the waste, having regard to the criteria in paragraph 12(3) which include the overall environmental, human health, economic and social impacts.

<sup>162</sup> ID 70 Clause 10 and details about 'the approved route' and 'local access area' shown on Drawing Ref. SC/MS2009/0125/SY and included as Agreement Plan 3.

proposed development. Nonetheless, routes likely to be used could be influenced by appropriate signage both on and off the appeal site. Given the nature of much of the local road network, I consider that it would be necessary and reasonable to require such signage, and that this is a matter that could be the subject of planning conditions. Subject to the imposition of appropriate conditions, I find no conflict with Policy CS7 concerning safe transport infrastructure.

### Tourism

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

160. I have taken into account all the evidence about likely tourist impact, including references to an incinerator in Maidstone, which is sited in a quarry. The circumstances in that case are not comparable to those which apply in Shrewsbury, and the experience there cannot be used to reliably inform any conclusions about the likely impact on tourism from the appeal scheme. I do not share The Battlefield Trust's view that the proposal would blight the tourist potential of the battlefield and the town. Policy CS16 acknowledges the vital role tourism plays in the local economy, but there is no compelling evidence that the proposed development would significantly affect tourism.

### Ecology

161. The limited wildlife interest on the appeal site derives mostly from the brook and its surrounds. The scheme proposes landscaping and a pond for Great Crested Newt (GCN) in this area. I am satisfied on the evidence submitted about local ecology that nature conservation interests on the site, including protected GCNs, could be adequately safeguarded by the imposition of conditions concerning how and when construction work was undertaken as part of a Construction Management Plan (ConstMP), along with the approval of details for a landscaping scheme.

162. Hencott Pool is a Site of Special Scientific Interest (SSSI) located some 1.7 km to the west of the appeal site. It is one of a number of SSSIs which are components of the Midland Meres and Mosses Phase 1 and 2 Ramsar sites, which support wetland habitats. There is evidence, confirmed by Natural England (NE), that the process contribution from the proposed EWF would not exceed 1% of the critical load for either acid or nitrogen deposition at the Ramsar sites.<sup>163</sup> NE has no objection to the proposal. I find that the proposed development would not be likely to have a significant effect on a European site, either alone or in combination with other plans or projects. A change from a semi-dry to a dry FGT system would not alter this finding. A requirement to undertake an appropriate assessment pursuant to the Conservation of Habitats and Species Regulations 2010 does not arise for the purposes of determining

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<sup>163</sup> ID 35 and ID 59.

this planning appeal.

163. I do not consider that the proposed development, subject to the imposition of appropriate conditions, including a ConstMP, would have an unacceptable adverse effect on wildlife or nature conservation. I find no conflict with Policy CS17 or the guidance in PPS9 in this regard.

#### Other matters

164. Part of the appeal site is subject to flooding and lies within Flood Zone 3, with a greater than 1% annual probability of river flooding.<sup>164</sup> A Flood Risk Assessment (FRA) confirmed that the proposed built development would be within Flood Zone 1, with a low probability of flooding.<sup>165</sup> However, some of the proposed landscaping would be below 67.819 m AOD, which is the recommended 1% plus climate change flood level. The EA was satisfied with the FRA and that flood risk could be addressed by detailed design considerations, including finished ground levels. Subject to the imposition of appropriate planning conditions, to include sustainable drainage systems (SUDS), I find no conflict with Policy CS18 concerning sustainable water management and flood risk, or with the guidance in PPS25.

165. I am satisfied that amenity considerations, with respect to possible dust and noise, could be reasonably safeguarded by the imposition of appropriate planning conditions. I deal with the details about the wording of noise conditions below, but consider that suitable conditions would ensure that the proposal did not conflict with the guidance in PPG24.

166. The appeal site is located within a 700 m buffer zone imposed by the Health and Safety Executive around an establishment which is used for the warehousing and distribution of packaged chemicals.<sup>166</sup> The EA considered this, and as no exclusion zone has been required by the Health and Safety Executive, does not consider the proximity to be an issue.<sup>167</sup> Nothing at the Inquiry indicated otherwise.

167. I have taken into account all the other matters raised in the evidence, including the socio economic benefits of the proposal, such as the estimated 105 construction jobs over 31 months, and 21 permanent jobs, along with wages and spending. However, little weight should be given to these benefits because in the event that the appeal scheme did not proceed it is likely that the appeal site would be used, perhaps with a time delay, for some other waste management facility, or employment use, that would also generate jobs and contribute to the local economy.

#### Planning Agreement

168. I deal first with what weight should be given to the various provisions of the Planning Agreement, and then consider the submissions about whether it is properly an obligation. I concur with the appellant that the contribution to public art, and provision for publicising emissions monitoring, would not be necessary for the purposes of applying the CIL Regulations, and so should not be taken into account. The provisions of the CMP would not mitigate or compensate for the harm to the setting of the registered battlefield. I do not believe that the financial contributions towards the implementation of the CMP, or its other provisions, would be necessary to make the development acceptable

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<sup>164</sup> CD 13.a.

<sup>165</sup> CD 13.b.

<sup>166</sup> SoCG1.

<sup>167</sup> CD 40 Q14 page 95.



in planning terms. A facility within the appeal site for educational purposes in respect of waste/recycling and an understanding and interpretation of the historic importance of the registered battlefield would not be necessary for the scheme to proceed. Furthermore, neither the establishment of a liaison group of local neighbours, nor requiring reasonable endeavours to transport IBA to a reprocessing/recycling facility within 60 miles of the appeal site, would be necessary to overcome planning objections to the proposed development or to make it acceptable in planning terms. These obligations do not meet the tests set out in CIL Regulation 122, and therefore I am unable to take them into account in determining this appeal.

169. The other obligations concerning off-site landscaping, the investigation and implementation of a district heating system, along with a route for accessing and leaving the appeal site with on-site and off-site signage, would, for the reasons set out in more detail in the preceding sections of this decision, be necessary, directly related to the proposed development and fairly and reasonably related to its scale and kind. These are therefore considerations which could be taken into account in determining the appeal, if the Planning Agreement was valid.

170. BF1403 disputes that the Planning Agreement can properly be made pursuant to section 106 of the 1990 Act.<sup>168</sup> It argues that this section cannot be used by the local planning authority to bind its own land because it could not enforce the agreement by taking proceedings against itself, and that without the ability to enforce the Planning Agreement the document cannot be an obligation under section 106. Clause 3.2 of the Planning Agreement states that the Council as owner consents to the deed being entered into and does so with the intention that the obligations in it would be binding on the owner's successors in title. However, there is some force in BF1403's submission that this would rely on the Council deciding at an estate management level whether it could persuade a new owner to accept that it should be bound by the provisions of the Planning Agreement. There might also be scope to question whether Clause 3.2, which relates to the dispositions of the freehold, falls within the ambit of section 106 (1), which sets out the four purposes for which a section 106 obligation may be entered into.<sup>169</sup> These are legal matters which are ultimately a matter for the Court. So too would be whether section 111 of the Local Government Act 1972 might be relied upon in these circumstances to remedy any defect in the Planning Agreement attributable to its reliance upon section 106 of the 1990 Act.

171. However, it seems to me that those provisions of the Planning Agreement eligible to be taken into account in determining this appeal are matters that could properly be addressed by planning conditions. The imposition of such conditions would provide certainty irrespective of the outcome of any challenge to the validity of the Planning Agreement. Given the submissions about the Planning Agreement, I consider that it would be necessary and reasonable to impose such conditions to give effect to those provisions of the Planning Agreement concerning off-site landscaping, the district heating system, and a signed access route. Requiring such provisions by means of planning conditions rather than by an obligation would not be prejudicial to the interests of any party, because doing so would not introduce any new matters that were not

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<sup>168</sup> ID 47.

<sup>169</sup> These are in summary (a) restricting the development or use of land, (b) requiring specific operations or activities for land, (c) requiring land to be used in a specified way, and (d) requiring sums of money to be paid to the authority.

before the Inquiry. Such an approach would be consistent with WLP Policy 26, which advocates use of obligations to achieve sustainable waste management where this cannot be achieved by the imposition of planning conditions. In addition, it would accord with the guidance in Circular 11/95 *The Use of Conditions in Planning Permissions*, which advises that it may be possible to overcome a planning objection to a development proposal equally well by imposing a condition or by entering into an obligation, and that in these circumstances the former is to be preferred. The Circular does add that where conditions are imposed on a planning permission they should not be duplicated by a planning obligation. However, in determining the appeal the obligation already exists, and so this is not a choice that is open to me. Furthermore, if in the future the validity of the Planning Agreement were to be successfully challenged then there would be no duplication.

### Planning balance

172. The Government's objectives for the planning system include the integration of four aims for sustainable development; these concern social progress, environmental protection, use of resources, and economic growth/employment.<sup>170</sup> Applying this guidance to the specific circumstances of the appeal before me involves a balancing exercise between the benefits of the proposed development and its disadvantages. Square brackets [ ] in this section refer to previous paragraphs of this decision.

173. I deal with the harm or disadvantages first. The likely harm to the character and appearance of the area from the proposed EWF would be significant [63]. This is a consideration of some substance in the overall balance. The scheme would also result in minor harm to cultural heritage [84]. PPS5 Policy HE10.1 advises that the greater the negative impact on the significance of the heritage asset, the greater the benefits that would be needed to justify approval. It seems to me that such proportionality should also apply lower down the scale, so that more modest benefits might be sufficient to justify lesser degrees of negative impact on the significance of assets. In the circumstances that apply here, the minor harm I have identified could readily be outweighed by other considerations. Turning to health considerations, I have found no justification, by reason of likely actual harm to human health, agriculture, food production or processing, for this to weigh significantly against the proposal. Some weight should be given to perceived risk, and the fear and anxiety that this has generated [100]. But I consider this to be a minor factor in the overall balance. I have also taken into account and given some weight to the extent of public objection to this proposal, expressed in the written representations, petitions and submissions to the Inquiry, which far exceed representations in support of the scheme [6 and 9].<sup>171</sup> However, I have not given much weight to the financial issues raised against the proposal [134], or to the likely harm to tourism [160]. Neither can much weight be given to any adverse effects on ecology [163], highway safety [158] or other amenity considerations [165].

174. I turn next to the benefits of the proposed development. The scheme would contribute to sustainable waste management by diverting waste from landfill and moving the management of waste up the hierarchy [155-157]. This is a major benefit of the proposed development, to which I give significant weight. The scheme would accord with the Government's objectives concerning carbon

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<sup>170</sup> PPS1 paragraph 4.

<sup>171</sup> CD 14 and CD 14.a-q. Mr Hume spoke in favour of the appeal scheme at the Inquiry ID 57.

emission savings and climate change, which weighs in favour of the proposal [136]. The 7-8 MWe gross that would be generated, including an element of RE [126], and the potential benefits of CHP [138] would make a small, but cumulatively significant contribution to meeting energy targets and towards energy security. These are important considerations which add weight to this side of the balance. My finding that none of the alternatives put forward at the Inquiry might meet the need in a way which could be less objectionable than the appeal scheme adds some weight in favour of allowing the appeal [149]. However, this falls far short of being an influential consideration. I give no weight to the provisions of the CMP [83], and do not consider that local employment and economic considerations would add significantly to the benefits of the scheme [167]. I do not believe that much weight should be given to likely landfill tax savings [130], or to likely costs were the appeal to be dismissed [131].

175. The appellant believes that the dual waste and RE benefits arising from the EWF should be cumulative, and so considers that very great weight ought to be given to these benefits in any planning balance. I note that GRWP provides that the benefits of recovery include preventing some of the negative GHG impacts of waste in landfill and the associated climate change advantages, with the energy generated from the biodegradable fraction also offsetting fossil fuel generation and contributing to RE targets. However, there is nothing in Government policy to justify an aggregation of policy support in the way suggested by the appellant. It seems to me that if the benefits a scheme derive some weight from its contribution to RE generation, and significant weight for its sustainable waste management benefits in accordance with PPS10, then the benefits should, collectively, be given significant weight.

176. In my judgement, the harm to the character and appearance of the area, along with the minor harm to the setting of the registered battlefield, and other adverse effects, would be more than outweighed by the significant weight that should properly be given to the sustainable waste management and climate change benefits of the proposal, along with its RE advantages and contribution to energy targets and security.

#### Development plan

177. Finally, I consider whether the proposal would accord with the development plan as a whole. BF1403 submits that this is not a case of planning policies within the development plan pulling in different directions, because its policies work on criteria based considerations that include landscape and heritage aspects within the consideration. If the development plan were to be approached on the basis that it did pull in such a single and internally consistent direction, it seems to me that this would just shift consideration of any conflicting interests to an intermediate step. It would not avoid dealing with the relative importance of policies to the overall objectives of the development plan and the extent of any breach. These were considered to be matters for the decision maker in the *R v Rochdale Metropolitan Borough Council ex parte Milne* judgement.<sup>172</sup>

178. Harm to the historic landscape would bring the proposal into some conflict with the aims of RSS Policies QE1, QE3, QE5 and QE6. Policy CS2 sets out a development strategy that provides for infrastructure improvements whilst protecting and enhancing Shrewsbury's character and the unique qualities of its

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<sup>172</sup> *R v Rochdale Metropolitan Borough Council ex parte Milne* CO/292/00 at ID 79.2.

historic environment, including the registered battlefield. The supporting text states that this will be a priority issue to be addressed. The limited harm to the setting of the registered battlefield and landscape impact I have identified are sufficient to bring the proposal into some conflict with the aims of Policy CS2. For similar reasons, it would conflict with Policies CS6 and CS17. The scheme would also not fully accord with provisions concerning landscape in the WLP. It would conflict with WLP Policy 6 insofar as it would not accord with the identified potential uses for Site Ref.SA1.

179. Potential support for the proposal from WLP Policy 17 would not be forthcoming because this is conditional upon compliance with other relevant development plan policies. However, the scheme would gain substantial support from compliance with Policy CS19. In particular, it would provide additional capacity to divert waste away from landfill in a way consistent with the waste hierarchy and the principles and targets of national policies, including 'equivalent self sufficiency', and it would support co-location. SP Policy P67 provides that proposals for waste management development would only be permitted where it can be demonstrated that there would be no unacceptable adverse impact on interests such as people and communities, landscape character and the historic environment, and is in the public interest. I have found that the benefits of the proposed development would outweigh the disadvantages, and so the adverse impacts would not be unacceptable.
180. In terms of the relative importance of specific policies to the overall objectives of the development plan there is nothing to indicate that some of the relevant development plan policies here are of greater importance than others. In this case, I do not differentiate between the importance of the various landscape, heritage and waste management policies in achieving the overall aims of the development plan. However, what is significant is the extent to which these policies would be breached, and on the other hand, the calibre of their compliance. The minor harm to the registered battlefield would give rise to a modicum of conflict with development plan policies concerning cultural heritage. The degree of conflict with development plan policies dealing with the character and appearance of the area would not be substantial. I consider the extent of the breach in both cases to be limited. So too is the magnitude of the policy breach arising from the discrepancy with the identified potential uses for Site Ref.SA1 in WLP Policy 6. In terms of development plan policy compliance, the evidence before the Inquiry is that the strength of support the proposal gains from Policy CS19 is substantial. This is sufficient in my view to bring the proposal into general conformity with the overall aims, aspirations and thrust of the development plan. Taking all the above considerations into account, I find that the proposal would accord with the development plan when read as a whole.
181. However, I have also considered the position were the conflict with WLP Policy 6 to be of such significance that it tipped the balance and rendered the proposal contrary to the development plan. It would then be necessary to consider whether any other considerations existed which would indicate an outcome other than in accordance with the development plan. I consider more recent Government policy to be relevant in this regard. The WLP refers to PPG10 as it then applied.<sup>173</sup> The revision to PPS10 in March 2011 gives more up to date guidance on identifying land for waste management facilities. This

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<sup>173</sup> The text in the WLP states that PPG10 recognises that authorities should avoid being too prescriptive in term of type (and as a consequence the scale) of waste management facility that may be developed.

includes the identification of the type or types of facility that would be appropriately located on the allocated site, taking care to avoid stifling innovation in line with the waste hierarchy.<sup>174</sup> Paragraph 23 of PPS10 provides that in the interim period before the development plan is updated to reflect the policies in PPS10, authorities should ensure proposals are consistent with PPS10 and avoid placing requirements on applicants which are inconsistent. Furthermore, the GRWP carries forward from WSE 2007 the Government's 'technology neutral' position with respect to energy recovery. It states that the Government supports energy from waste as a waste recovery method through a range of technologies. It seems to me that the reference to a range of technologies means not only different processes, but also the scale at which these processes are applied. The emphasis on innovation in moving waste management up the hierarchy, along with national policy on appropriate technology to achieve this, are material considerations, which would be sufficient in my view to outweigh the conflict with the technology specific and scale elements of the site profile for SA1 in WLP Policy 6.

### Conditions

182. The parties helpfully set out their views in writing on possible conditions if the appeal were to be allowed.<sup>175</sup> I have also taken into account the discussion at the without-prejudice session on conditions at the Inquiry. Where there is a measure of agreement, I deal briefly with the reasons for the condition, and concentrate below on those suggested conditions which gave rise to some dispute. I have considered the need for the suggested conditions and their wording in the light of the advice contained in Circular 11/95, and where necessary have made minor changes in the interests of precision. I have retained the numbering for the suggested conditions as set out in ID 71, and for ease of reference list these below in square brackets [ ], but I have omitted the suggested subdivision of conditions into a. b. c. etc. I have added three conditions at the end of the numbered conditions to cover some of the matters set out in the Planning Agreement. The timing of some of the suggested conditions is related to the defined 'Commencement Date' of development or the 'Commissioning Date', the latter defined as the date of commencement of first importation of waste to the EWF. I consider that for the submission of some details for approval it would be acceptable to require these not more than 12 months after the Commencement Date, so as to enable progress where possible on extensive ground works and other preparatory work on site, whilst other detailed matters were being approved. However, some other approvals would, for the reasons set out below, or as agreed by the parties, need to be obtained prior to the Commencement Date.

183. Conditions concerning the commencement of development would be necessary to facilitate proper monitoring of operations [1]. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning [2 and 3]. For the reasons set out above it would be necessary to include a requirement for the incorporation of a dry FGT system (as in suggested Condition 3.vii). Conditions concerning site access, on-site signage, vehicular parking and manoeuvring and a travel plan would be necessary in the interests of highway safety and reducing the need to

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<sup>174</sup> PPS10CG states that local development documents should normally avoid any detailed prescription of waste management technique or technology.

<sup>175</sup> ID 38, ID 55, ID 71 and ID 75.

travel [4, 5, 6, 7 and 32]. The control of windblown litter would need to be controlled in the interests of the appearance of the area [8]. The use of the site, type of waste and tonnages, along with the sale of materials, and a site waste management plan, would need to be the subject of conditions to ensure that the use remained within the scope and capacity of the scheme that was assessed in the ES [9, 10, 11 and 12]. However, reference to "principal" sources might permit other sources of waste not canvassed as part of the Environmental Information, and so I have omitted the qualification. External storage and waste processing would need to be the subject of conditions in the interests of the amenity of the area [13 and 14].

184. I am satisfied on the basis of the submitted noise assessment that it would be necessary to impose noise conditions in the interests of the amenity of the area [15, 16 and 17]. However, there was some disagreement at the Inquiry about the wording of an appropriate condition to safeguard the area from noise. The appellant argues that a condition specifying a 53 dB  $L_{Aeq,t}$  limit, with a 1 hour assessment period during the day and a 5 minute period at night, as measured on a defined noise compliance boundary, would be sufficient to protect the daytime and night-time amenity of nearby residents.<sup>176</sup> The Council acknowledges, applying BS4142 with a 5 dB tonality penalty, that the daytime limit would be appropriate, but disputes the provision for noise at night-time, i.e. from 2300 to 0700 hours.<sup>177</sup> Given the possibility of irregular, impulsive or intermittent noise from the boiler, I share these concerns. My night-time visits to the battlefield suggested to me that background levels can at times be very low. I consider that it would be necessary and reasonable to impose the revised night-time noise conditions suggested by the Council, which would require background levels to be assessed, and controls and limits to be devised and implemented, having regard to BS4142 and the WHO night noise guidelines.

185. Conditions would be necessary to safeguard air quality and amenity [18, 19, 20 and 21]. The control of pests and vermin would also be necessary for similar reasons [22]. A ConstMP and Environmental Management System (EMS) would also be required in the interests of the amenity of the area [23 and 24]. The hours of operation would need to be controlled for similar reasons [25]. I am satisfied that the suggested hours would be appropriate, and would be consistent with the permitted hours of operation for the existing HRC/WTS. Details about buildings, structures and plant would need to be approved in the interests of the appearance of the area [26 and 27]. However, I agree with BF1403 that the type and colour of materials would be particularly important to the appearance of the area, and that details would need to be approved prior to commencement, not during construction. For similar reasons, the species mix for the green roof would need to be approved. A timetable would need to be approved for implementation of those matters approved prior to the Commissioning Date. The condition requiring a BRE Environmental Assessment Method (BREEAM) score of 'good' would be necessary for energy efficiency reasons. However, the suggested conditions would need to be reworded to ensure compliance [28]. A detailed scheme for signage would be required in the interests of the appearance of the area [29].

186. I agree with BF1403 that details about lighting would need to be approved prior to commencement because this would need to be an integral part of the detailed design [30]. The lighting scheme to be approved should also include

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<sup>176</sup> ID 67.

<sup>177</sup> ID 74. BS4142 is 1997 *Method for rating industrial noise affecting mixed residential and industrial areas*.

details about the transparency of materials, and a baseline night-time assessment, so as to inform the detailed design of lighting provision for the plant and the site in its local context.

187. A restriction on permitted development rights would exceptionally be necessary to ensure that the development remained within the site capacity and in the interests of flood risk [31]. Similarly, ground levels, drainage and flood mitigation would need to be controlled in the interests of pollution and flooding [33, 34, 35 and 36]. Ecological management and habitat management schemes would be necessary in the interests of nature conservation [37 and 38]. In the interests of the appearance of the area on-site landscaping and aftercare would be necessary [39]. Inclusion of the specific details suggested by BF1403 would not, however, be reasonable. The suggested reference to a 'robust vegetation screen' lacks precision, and so should not be used in an enforceable condition.
188. With respect to on-site archaeology, I have set out above my reasons for deciding that it would be necessary here to secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation prior to the commencement of development [40]. I have had regard to the suggested wording by BF1403 for a condition, but consider that it would not be reasonable to set out in detail the matters that would be properly considered in devising an appropriate programme of archaeological work for the particular circumstances which apply here.<sup>178</sup>
189. Provision for an annual review of site operations, along with the retention of approved documents on site, would be necessary to ensure compliance with these conditions in the interests of the amenity of the area [41 and 43]. However, the scheme for the review of site operations would need to be approved prior to the Commissioning Date. Details of a scheme for the decommissioning of the plant would be necessary in the interests of the appearance of the area [42]. It would be necessary to give notice of construction of such a tall structure to the Defence Geographic Centre for air safety reasons [44].
190. The scheme is promoted as a recovery of energy, rather than a disposal, facility, and the Council considers that a condition would be necessary to ensure that this was so [45]. I have had regard to the suggested wording for such a condition.<sup>179</sup> The R1 formula is only relevant to municipal waste incinerators wishing to qualify as a recovery operation, and there is no requirement for plants to have their performance assessed against the R1 formula in the EP Regulations.<sup>180</sup> The Inquiry was not advised of any specific sanctions that would result were a plant to have its R1 status withdrawn. However, the EP includes a condition that the operator shall take appropriate measures to ensure that energy is used efficiently, and provides for reporting and periodic review of energy efficiency.<sup>181</sup> The EA's decision document refers to these reporting provisions, and states that these will enable the Agency to monitor energy efficiency at the installation and take action if the energy efficiency is not considered acceptable.<sup>182</sup> Regulation by means of the EP includes review provisions that might not pass the six tests set out in Circular 11/95 for valid planning conditions. The Council considers that if towards the end of the life of

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<sup>178</sup> ID 55 and ID 73.

<sup>179</sup> ID 72 and ID 75.

<sup>180</sup> CD 116.

<sup>181</sup> CD 41. Condition 1.3.

<sup>182</sup> CD 40. Section B3.4. This document notes that efficient recovery and use of energy is an issue which impacts not only on the determination of the EP, but also on the then planning application.

the plant it became unreasonable to continue to require it to hold an R1 certificate, then the operator could apply to discharge the condition.<sup>183</sup> It seems to me that this would indicate that it was not a reasonable condition to impose in the first place. Given that the EP addresses those matters that would determine the R1 calculation, I do not consider that it would be necessary or reasonable to impose a planning condition concerning R1 status.

191. The suggested Pre-sorted Residual Waste Acceptance Scheme would be necessary and reasonable in the interests of sustainable waste management [46]. However, I have deleted the reference in Clause 10 of the October 2011 Scheme to the EA's approach to pre-treatment, which is superfluous. A condition concerning a grid connection [47] would be necessary to comply with WLP Policy 17, which presumes against the heat treatment of waste without energy recovery. For the reasons set out above (paragraph 170 of this decision), I consider that it would be necessary and reasonable to impose three additional conditions. Provision for off-site landscaping would be required to soften the appearance of the proposed development [48]. A condition to facilitate future CHP provision would be necessary and reasonable for energy efficiency and climate change reasons [49]. Off-site signage would be required in the interests of highway safety [50].

### **Conclusions**

192. I have found that the planning balance in this case weighs in favour of allowing the appeal. I consider that the proposal would accord with the development plan when read as a whole. But if I am wrong about that, I believe that relevant national policy considerations would be sufficient to justify an outcome other than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*John Woolcock*

Inspector

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<sup>183</sup> ID 81.



## SCHEDULE ONE – CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. Not less than fourteen days prior notice in writing shall be given to the local planning authority of the intended date for the commencement of any development under the terms of this permission, including site preparation and construction works for the development of the Energy from Waste Facility (hereinafter EWF). Within seven days of the commencement of the development the developer shall notify the local planning authority in writing of the date of the commencement which shall be referred to hereinafter as the Commencement Date. Not less than seven days prior notice shall be given by the operator to the local planning authority in writing of the intended date for the commencement of first importation of waste to the EWF, which shall be referred to hereinafter as the Commissioning Date. The period of operation of the EWF for the purposes of these conditions shall be the period from the Commissioning Date until the decommissioning of the EWF in accordance with the provisions of Condition 42.
- 2) This planning permission shall only relate to the area edged red on the 1:1,250 scale drawing accompanying the supporting statement and the Environmental Statement (hereinafter ES) entitled Figure 3.3 (existing site with application boundary), hereinafter referred to as the Site and incorporating the buildings as shown on Drawing 101-0 (Site Plan) accompanying the ES.
- 3) Except as otherwise provided in the conditions attached to this permission the development hereby permitted shall be carried out in accordance with the approved scheme comprising:
  - i. The permitted scheme as contained within the application form dated 20 January 2009 and the supporting and other documents comprising ii to vii below.
  - ii. The Supporting Statement dated January 2009 and the accompanying appendices comprising:
    - Appendix A - Policy Analysis
    - Appendix B - Consultation Statement
    - Appendix C - BREEAM Assessment
    - Appendix D - Site Waste Management Plan
    - Appendix E - Heat User Study
  - iii. The ES dated January 2009 comprising the Non Technical Summary and Volumes 1, 2, 3 and 4 incorporating the following appendices:
    - Appendix A - Construction (ES Volume 2)
    - Appendix B - Alternatives (ES Volume 2)
    - Appendix C - Traffic and Transportation (ES Volume 2)
    - Appendix D - Noise & Vibration (ES Volume 2)
    - Appendix E - Air Quality (ES Volume 2)
    - Appendix F - Landscape and Visual Impacts (ES Volume 3)
    - Appendix G - Natural Heritage (ES Volume 3)
    - Appendix H - Archaeology and Cultural Heritage (ES Volume 4)
    - Appendix I - Hydrology and Drainage (ES Volume 4)
    - Appendix J - Community and Social (ES Volume 4)
  - iv. The permitted drawings included in the ES accompanying the planning application. For the avoidance of doubt these include:
    - Figure 3.1 - Site Location

- Figure 3.2 - Site Context
  - Figure 3.3 - Existing Site
  - Figure 3.4 - Aerial View of Existing Site
  - Figure 3.5 - Aerial View of Developed Site and Surroundings
  - Figure 4.1 - Indicative Landscape Masterplan
  - Figure 4.2 - Cross Sections
  - Figure 4.3 - Computer Generated 3-D Images of Development
  - Figure 4.4 - Input-Output Flow Diagram
  - Figure 4.5 - EWF Process Flow Schematic
  - Figure 4.6 - Construction Layout (Indicative)
  - Figure 14.1 - Land-use
  - Drawing 101-0 - Site Plan
  - Drawing 102-0 - Existing Site & HRC/WTS Facility
  - Drawing 110-0 - Proposed Layout
  - Drawing 112-0 - Circulation Plan
  - Drawing 113-0 - General Internal Arrangement
  - Drawing 114-0 - HRC Extension
  - Drawing 115-0 - Office-Welfare Arrangement
  - Drawing 120-0 - South Elevation & Section AA
  - Drawing 121-0 - North Elevation & Section BB
  - Drawing 122-0 - West Elevation & Section CC
  - Drawing 123-0 - East Elevation & Section DD
  - Drawing 130-0 - Gatehouse
  - v. The further information submitted by Veolia Environmental Services Shropshire Limited (VESS) to Shropshire Council dated 6 November 2009 (comprising a response under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 incorporating:
    - Annex A - Vehicle Movements and Waste
    - Annex B - Incinerator Bottom Ash - VES experience
    - Annex C - Best Available Techniques
    - Annex D - District Heating Road Map
    - Annex E - Carbon
    - Annex F - Example Traffic Plan
    - Annex G - Wind Assessment
    - Annex H - GCN Mitigation Statement
    - Annex I - Precautionary Method in Respect of Breeding Reptiles
    - Annex J - Flood Risk Assessment
    - Annex K1 - Geotechnics Report 2003
    - Annex K2 - Factual Report on Ground Investigation 2007
    - Appendix L - Regulation 19 Letter
  - vi. The letter from VESS to Shropshire Council dated 26 February 2010 providing further clarification on issues covered by the Regulation 19 response.
  - vii. The Supplementary Environmental Statement (SES) dated 22 July 2011 providing details of the change from semi-dry flue gas treatment to dry flue gas treatment including the update to those parts of Section 4.8 of the ES sub-headed Flue Gas Treatment and Flue Gas Treatment (FGT) Residue.
- 4) Prior to the Commissioning Date the access scheme shown on the approved circulation plan (Drawing 112-0) shall have been implemented in full. Thereafter, except in case of emergencies, no access to or egress from the Site shall take place other than by means of the approved access arrangements as shown on Drawing 112-0. Records of such

emergencies shall be made available to the local planning authority upon prior request. The gates to the staff / emergency access shall be maintained in a closed and locked position, except in case of emergencies, records of which shall be made available to the local planning authority upon prior request.

- 5) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a scheme of signage shall have been submitted to and approved in writing by the local planning authority. The submitted scheme shall include a specification for a road sign to be located at an approved point at the Site access. The sign shall instruct drivers of HGVs visiting the EWF of routing arrangements to and from the Site. The approved scheme shall be implemented prior to the Commissioning Date and the signage shall thereafter be retained throughout the period of the operation of the EWF.
- 6) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date full engineering details including road specification, drainage and street lighting of the new access road serving the site from Vanguard Way roundabout shall have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be first brought into use until the highway works have been constructed in accordance with the approved details. The highway works shall thereafter be retained throughout the period of operation of the EWF. Prior to the Commissioning Date all parking / turning / servicing areas shall be surfaced and marked in accordance with the approved circulation plan (Drawing 112-0) and thereafter retained throughout the period of operation of the EWF.
- 7) Notwithstanding the details shown in the documents and drawings cited in Condition 3, within 6 months of the Commissioning Date a detailed Travel Plan shall have been submitted to the local planning authority for approval in writing. The Travel Plan shall use as its base a survey of staff and other personnel to ascertain the patterns of travel to and from the development and attitudes and views about the use of different forms of transport. The Travel Plan shall include as a minimum the following initiatives and commitments in relation to travel to and from the development:
  - i. To promote and enable increased use of walking, cycling and public transport as alternatives to the car.
  - ii. To increase awareness of and improved road safety and personal security.
  - iii. To carry out dialogue and consultation with adjacent/neighbouring tenants / businesses.
  - iv. To identify targets focused on reductions in the level of car use.
  - v. To identify a monitoring framework, based on an annual survey, to enable the Travel Plan to be reviewed and updated as appropriate.
  - vi. To identify a nominated member of staff or post to act as Travel Plan Coordinator.

The operator shall implement the commitments set out in the approved Travel Plan in accordance with the approved details throughout the period of operation of the EWF.

- 8) Notwithstanding the details shown in the documents and drawings cited in Condition 3, no waste shall be delivered to the EWF and the extension to the Household Recycling Centre (HRC) until a management scheme for the control of windblown litter within an area to be defined within the

submitted scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall in particular provide for removal of litter from the margins of the Site, the stream corridor to the immediate north of the Site, and from the highway frontage at Vanguard Way. The scheme shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 9) The uses of the Site shall be restricted to:
- i. The receipt, handling, temporary storage, and incineration of municipal, commercial and industrial wastes.
  - ii. The receipt, handling, temporary storage, bulking up, and transfer of recyclable materials, green waste and co-mingled compostable garden waste, food waste and cardboard derived from the recycling of municipal, commercial and industrial waste.
  - iii. Ancillary operations associated with the above activities such as the temporary bulking up and transfer of municipal, commercial and industrial wastes if required during periods of maintenance for the EWF.
  - iv. Operation of a HRC to receive wastes delivered by members of the general public.

Only the following types of waste can be accepted and handled as necessary within the specified areas of the facility:

- i. Energy from Waste Facility: The waste materials to be delivered to the EWF shall be restricted to non-hazardous wastes derived from the following sources:
  - (a) Municipal waste, collected by, or on behalf of, the Waste Collection Authority.
  - (b) Non-hazardous commercial and industrial waste delivered by others.
  - (c) Non-inert street sweepings and litter arising from the statutory duties of the local councils.

The EWF shall not accept wastes delivered directly by householders or businesses in private vehicles.

- ii. Waste Transfer Station/Materials Recycling Facility (WTS): The wastes to be delivered to the WTS shall be restricted to:
  - (a) Municipal waste collected by or on behalf of the Waste Collection Authority.
  - (b) Materials delivered to the HRC, and other HRCs, by members of the public pending removal elsewhere.
  - (c) Parks and gardens waste generated by local councils.
  - (d) Non-hazardous commercial and industrial waste and other wastes comparable to municipal waste delivered by others.
  - (e) Street sweepings and litter arising from the statutory duties of local councils.

- iii. Household Recycling Centre: The HRC shall receive wastes delivered by members of the general public in private vehicles only, for onward movement to the WTS or EWF as appropriate.

- 10) There shall be no direct sale of materials from the Site to the general public.
- 11) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a detailed Site Waste Management Plan shall have been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during

construction and subsequent operation of the Site and set out measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery, including:

- i. Any additional information on waste generated prior to the construction phase including detailed site investigation activities and contract documentation.
- ii. The intended arrangements for managing construction waste (including the re-use of bulk earthworks on site).
- iii. The proposed measures for waste minimisation during the construction phase and during subsequent site operation.

The Plan shall thereafter be implemented in accordance with the approved details throughout the construction period and throughout the period of operation of the EWF.

- 12) The maximum total tonnage of waste imported on to the Site in any calendar year including the EWF and the existing waste management facility with the extension hereby permitted shall not exceed 140,000 tonnes. For the avoidance of doubt a calendar year shall comprise the period between 1 January and 31 December. Notwithstanding this, the maximum tonnage of waste processed by the EWF in any calendar year shall not exceed 95,000 tonnes. The Site operator shall maintain a record of the tonnage of waste delivered to the Site per day, the numbers of HGVs delivering waste and the number of HGVs exporting residues and their destinations. The record shall be made available to the local planning authority upon prior written request. A report of the total tonnage of waste imported to the Site in each successive calendar year shall also be provided to the local planning authority in writing within one month of the year end.
- 13) Storage of all general household/municipal and commercial wastes, fridges/white goods and other electrical items, abandoned vehicles and scrap, clinical waste and asbestos cement products shall take place either under cover or within secure containers awaiting transport from the Site or delivery to the EWF as appropriate.
- 14) The only waste processing operation to be undertaken within the EWF prior to incineration shall be pre-shredding of combustible and bulky waste. No pre-shredding shall take place unless a scheme detailing the proposed pre-shredding operations has been submitted to and approved in writing by the local planning authority. Following its approval, any pre-shredding operations shall be carried out in accordance with the approved details.
- 15) Noise levels generated by normal operations of the development hereby permitted during the hours of 0700 to 2300 shall not exceed 53 dB  $L_{Aeq,1 \text{ hour}}$  (free field) when measured at any point on the yellow line 'Noise Compliance Boundary' shown in the Figures in Annex D4 of Appendix D of the ES. For the avoidance of doubt, normal operations shall be taken as meaning the operation and maintenance of the EWF. Prior to the Commencement Date a scheme for the measurement of night-time background noise from 2300 to 0700 hours at nearby potentially noise-sensitive receptors shall have been submitted to and approved in writing by the local planning authority. Prior to the Commissioning Date a night-time Noise Management Plan shall have been submitted to and approved in writing by the local planning authority. This Plan shall identify the background noise values measured at the nearby potentially noise-sensitive receptors as required above, and shall also identify noise controls and limits to protect night-time noise

amenity based upon an impact assessment which takes into account BS4142 and the WHO *Night Noise Guidelines for Europe*. The Plan shall be implemented as approved throughout the period of operation of the EWF.

- 16) Prior to the Commencement Date an On-Site Construction and Operation Noise Minimisation Scheme shall have been submitted to and approved in writing by the local planning authority. The Scheme shall include details of the noise attenuation measures to be applied during the construction phase, and during subsequent operation of the Site, including:
- i. Details of how all vehicles and mechanical plant employed at the Site shall be fitted with exhaust silencers which shall be maintained in accordance with the manufacturer's specification.
  - ii. Details of inherently quiet plant and machinery which shall be used, including selection of sound reduced compressors fitted with acoustic enclosures, and fitting of mufflers or silencers in accordance with manufacturer's recommendations to all ancillary pneumatic percussive tools employed at the Site.
  - iii. A requirement that machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use.
  - iv. Details demonstrating how all ancillary plant such as generators, compressors and pumps shall be positioned so as to take into account noise sensitive receptors.

The Scheme shall be implemented in accordance with the approved details throughout the construction period and throughout the period of operation of the EWF. All vehicles and plant based at and operating within the Site which require reversing alarms shall be fitted with attenuated reversing alarms. Details of the types of reversing alarm proposed to be fitted to vehicles and plant under the terms of this condition shall have been submitted and approved in writing by the local planning authority prior to the Commissioning Date. The approved alarms shall be fitted to all relevant plant and vehicles and shall thereafter be retained in accordance with the submitted scheme throughout the period of operation of the EWF.

- 17) Prior to the Commissioning Date a scheme providing for the monitoring of noise levels attributable to the EWF shall have been submitted to and approved in writing by the local planning authority. The scheme required by this condition shall make provision for the following:
- i. An initial period of noise monitoring for an approved period following the Commissioning Date.
  - ii. Provision for the operator to undertake subsequent noise monitoring at an approved location or locations in the event that a complaint attributable to noise emission from the Site has been received by the local planning authority and subsequently notified to the operator following evaluation by the local planning authority.

The scheme shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 18) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commissioning Date a dust monitoring and management scheme for the operation of the EWF shall have been submitted to and approved in writing by the local planning authority. The scheme shall include provision for:
- i. An initial survey at approved receptor locations surrounding the Site for an approved period following the Commissioning Date.

- ii. Provision for subsequent monitoring at an approved location or locations in the event that a complaint which has been evaluated and notified to the operator by the local planning authority attributable to dust emission from the Site.
- iii. Identification of dust generating activities.
- iv. Submission of measures and identification of thresholds to minimise emissions into the atmosphere from dust generating activities.
- v. Measures to ensure that all site personnel recognise the importance of dust minimisation and that relevant personnel are aware of how to control dust emissions.

The scheme shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 19) With the exception of the EWF process hereby permitted, no waste shall be burned at the Site under the terms of this permission.
- 20) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commissioning Date an odour and bioaerosol management plan shall have been submitted to and approved in writing of the local planning authority. The plan shall incorporate the following measures:
- i. An odour suppression system incorporating the use of negative air pressure within the Tipping Hall, to be implemented at all times.
  - ii. Ensuring that roller shutter doors within the EWF buildings are kept in a closed position except when opened for the ingress or egress of vehicles.
  - iii. Details for pre-monitoring of odour and bio-particulates to establish existing background levels in the vicinity of the Site.
  - iv. Details for initial post-monitoring of odour and bio-particulates to establish levels of odour and bio-particulates in the period following the Commissioning Date.
  - v. Details for monitoring of odour and review of odour control measures.

The plan shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 21) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a scheme setting out procedures for dealing with complaints in relation to noise, dust, litter, odour and other amenity related matters shall have been submitted to and approved in writing by the local planning authority. The scheme shall set out a system of response to complaints notified to the operator by the local planning authority. This shall include:
- i. Investigation of the complaint.
  - ii. Reporting the results of the investigation to the local planning authority.
  - iii. Implementation of any remedial actions approved by the local planning authority within an approved timescale.

The scheme shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 22) Notwithstanding the details shown in documents and drawings cited in Condition 3, prior to the Commissioning Date a detailed scheme for the control of pests and vermin shall have been submitted to and approved in writing by the local planning authority. The scheme shall as a minimum provide for:

- i. Regular inspection of the Site by a qualified pest control expert, with records to be made available to the local planning authority upon prior request.
- ii. Measures to reduce the attractiveness of the Site to pests and vermin, including retention of a secure household waste and skip storage area and minimising the timescale for retention of waste at the Site.
- iii. A timetable for the prompt implementation of control measures in the event that a pest control problem becomes apparent, with details to be provided to the local planning authority upon implementation of the measures.

The scheme shall be implemented and measures retained in accordance with the approved details throughout the period of operation of the EWF.

- 23) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a Construction Management Plan (ConstMP) providing details about environmental control procedures during the construction phase shall have been submitted to and approved in writing by the local planning authority. The scheme shall incorporate the following details:

- i. Identification of construction noise limits.
- ii. Proposed dust management measures.
- iii. Proposals for hours of working, which limit the carrying out of construction works to between 0730 and 1930 hours on Mondays to Saturdays and between 0800 and 1600 hours on Sundays and Bank Holidays, with the exception of minor construction / maintenance activities.
- iv. Details of the construction workers' compound including car-parking.
- v. Proposed wheel cleaning measures.
- vi. Proposed measures for protecting water resources.
- vii. Proposed measures for handling wastes during construction.
- viii. Proposed measures for routing of construction traffic and deliveries.
- ix. Proposed measures for the management and maintenance of Battlefield Brook within the northern boundary of the Site.
- x. Details of the phasing of the construction works.
- xi. Details of the Environmental Management System (EMS) to be employed by the contractor during the construction phase.

The ConstMP shall be implemented fully in accordance with the approved details for the duration of the construction works being carried out on the Site.

- 24) From the Commissioning Date the operator shall implement an auditable EMS to achieve ISO 14001 accreditation.

- 25) The EWF shall be entitled to operate for 24 hours a day and 7 days a week including during bank and public holidays under the terms of this permission. This shall include receipt of waste from the Tipping Hall / Waste Bunker. Other operations shall not be undertaken at the Site, except during the following hours:

Delivery of waste to the Tipping Hall and transfer of waste within the Site

- i. Subject to ii. below waste delivered to the EWF or transferred within the Site for the purpose of incineration shall not be received other than at the Tipping Hall. The hours for the delivery of waste to the Tipping Hall and transfer of waste within the Site under the



terms of this permission shall be: Mondays to Saturdays 0730 to 2000 hours, Sundays and Bank Holidays 0830 to 1830 hours.

- ii. Not more than 8 loads per day shall be delivered to the Tipping Hall outside of the period specified in i. above.

Household Waste Recycling Centre

- iii. Mondays to Saturdays 0800 to 2000 hours, Sundays and Bank Holidays (excluding Christmas Day, Boxing Day and New Year's Day) 0900 to 1800.

Waste Transfer Station

- iv. No wastes or recycled materials shall be received at or shall leave the WTS except during the following hours: Mondays to Fridays 0730 to 1830 hours, Saturdays 0730 to 1230 hours, Saturdays before or after Bank Holidays 0730 to 1730 hours, Sundays and Bank Holidays opening only with prior approval in writing by the local planning authority.

Transfer of Waste / Material between HRC and WTS

- v. Notwithstanding iii. above, the internal Site transfer of material between the HRC and the WTS may also take place: Mondays to Saturdays 0730 to 2000 hours, Sundays and Bank Holidays (excluding Christmas Day, Boxing Day and New Year's Day) 0830 to 1830 hours. In relation to the transfer of material between the HRC and the WTS the last 30 minutes of the working day at the WTS shall only be used for the loading / unloading of containers on the Site and general housekeeping measures at the end of the working day to ensure that the Site is in a clean and tidy condition prior to closure.

Notwithstanding the above, any exceptional arrangements to accommodate the delivery of household and commercial waste to the Site prior to or following a Bank or Public Holiday shall only be carried out in accordance with details previously approved in writing by the local planning authority.

- 26) The buildings, structures and plant hereby permitted shall be constructed in accordance with the details shown in the documents and drawings cited in Condition 3, unless required by the following provisions to comply with the details approved pursuant to i to vi below:
  - i. Prior to the Commencement Date the details of all surface treatment works for the proposed buildings and structures including brickwork, cladding and colours (BS reference) shall have been submitted to and approved in writing by the local planning authority.
  - ii. Where existing fencing or gating is proposed to be replaced or new fencing or gating provided as part of the development hereby permitted, exact details of the types of fence or gate to be erected and a timetable for its implementation shall have been submitted to and approved in writing by the local planning authority prior to the Commissioning Date and shall be implemented in accordance with the approved details and thereafter retained.
  - iii. Details of the specifications and location for the wind screen to be installed on the south side of the HRC extension hereby permitted shall have been submitted to and approved in writing by the local planning authority prior to the Commencement Date.
  - iv. Details of paving / external flooring specifications for the pedestrian area below the proposed site office and a timetable for its implementation shall have been submitted to and approved in

writing by the local planning authority prior to the Commencement Date.

- v. Details of the green roof design, including species mix and management shall have been submitted to and approved in writing by the local planning authority prior to the Commencement Date.
- vi. The specifications and colour of the roller shutter doors fitted to the EWF shall have been submitted to and approved in writing by the local planning authority prior to the Commencement Date. Such doors shall be electrically operated and capable of opening and closing rapidly.

The specifications required by i, iii, iv, v and vi above shall be implemented in accordance with the approved details prior to the Commissioning Date and shall thereafter be retained throughout the period of operation of the EWF.

- 27) All buildings, hard surfaces and fencing within and on the boundaries of the Site shall be maintained and be fit for purpose for the lifetime of the development hereby permitted, including provision of even, pothole-free running surfaces in circulation areas for vehicles and plant.
- 28) The development hereby permitted shall be designed and constructed so as to achieve a BRE Environmental Assessment Method (BREEAM) score of 'Good'. Prior to the Commencement Date a full BREEAM assessment or equivalent assessment to demonstrate that the proposed building design would achieve a BREEAM score of 'Good', shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved assessment and measures installed to achieve a BREEAM score of 'Good' shall thereafter be retained. No later than three months after the Commissioning Date, a post construction review, carried out by a licensed assessor, shall be undertaken to confirm compliance with this condition. The review shall be submitted to the local planning authority for approval in writing no later than six months after the Commissioning Date.
- 29) No sign or notice board shall be erected at the Site, either free standing or attached to a building or other structure, other than in accordance with details of the size and appearance, including colour and illumination, which have been previously approved in writing by the local planning authority.
- 30) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a lighting scheme shall have been submitted to and approved in writing by the local planning authority. The submitted scheme shall include the following details:
  - i. Hours of use of external lighting and internal lighting that would be visible externally.
  - ii. The exact location and specification of any external lighting.
  - iii. The specification including height for any fixed or mobile structures.
  - iv. The intensity of the lights.
  - v. The identification of areas to be illuminated and any measures to prevent light spilling on to areas outside the Site.
  - vi. Measures such as shrouding to minimise disturbance through glare.
  - vii. Measures to minimise disturbance to bats from lighting.

- viii. Details about any translucent parts of the building's external fabric or cladding, including the degree of transparency of materials, and any measures to minimise light spillage.
  - ix. A baseline night-time assessment for the vicinity of the Site. No aviation warning or safety light shall be fitted to the chimney stack unless details of the proposed lighting have first been submitted to and approved in writing by the local planning authority. The lighting scheme, along with any aviation warning or safety lights, shall be implemented in accordance with the approved details and thereafter retained throughout the period of operation of the EWF.
- 31) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no buildings, portacabins, fixed plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those shown on the approved plans listed in condition 3 above, shall be erected at the Site unless approval in writing for their details and specification has first been obtained from the local planning authority. The only exceptions to this shall be temporary compounds and stockpiles associated with the construction of the development hereby permitted, provided that these shall not be constructed below the 67.819 metre AOD contour level.
- 32) HGVs and mobile plant shall not be parked in the parts of the Site which are accessible to the general public other than within the designated areas identified in Drawing 110-0 (Proposed Layout). Within the areas of the Site which are not accessible to the general public, the operator shall manage traffic and parking activities to ensure that free and unhindered access is maintained within all vehicular and plant circulation areas. Vehicles employed or parked at the Site shall be limited to Refuse Collection Vehicles (RCV's), Waste Transfer Vehicles, Site plant and employee/visitors' cars. There shall be no servicing/maintenance of vehicles at the Site other than those RCV's, Waste Transfer Vehicles and Site plant associated with the operation of the Site.
- 33) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a detailed plan showing the existing and proposed contours within the Site shall have been submitted to and approved in writing by the local planning authority. No works to construct any building at the Site shall commence unless details of floor levels within the building have first been approved in writing by the local planning authority. Following approval of the above details by the local planning authority the development shall be implemented so as to ensure that ground levels within the Site comply with the approved details. There shall be no changes to the constructed ground levels within the Site unless such details have first been submitted to and approved in writing by the local planning authority.
- 34) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a scheme for the provision of foul and surface water drainage works during both construction and operation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation and provide for the following with respect to the operation of the EWF:
- i. Measures to control surface water run-off incorporating sustainable drainage systems (SUDS), including attenuation of excess roof water not used in the vehicle washing area prior to

discharge and incorporation of an oil interceptor for drainage of operational and parking areas.

- ii. Location of all areas to be used for handling of waste or where other potentially polluting activities would take place on suitable impermeable surfaces with sealed drainage.
- iii. No discharge of foul or contaminated drainage into groundwater or any surface waters.
- iv. The method for foul drainage.
- v. Separating foul drainage from uncontaminated roof and surface water.
- vi. The interception and storage of contaminated water used in fire fighting.
- vii. Proposals for maintenance and appropriate ongoing assessment of the integrity of the waste bunker.

The drainage works shall be completed in accordance with the details and timetable of the approved scheme and thereafter retained throughout the period of operation of the EWF.

- 35) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.
- 36) The 67.819 m AOD contour shall be physically marked on the Site prior to the Commencement Date and the markers shall be maintained in position unless their removal is first approved in writing by the local planning authority. Land at 67.819 m AOD or lower shall not be developed and no permanent increases in ground levels shall take place below this level at the Site. No temporary storage of materials within that part of the Site below 67.819 m AOD shall take place during the construction phase unless details of such storage have first been submitted to and approved in writing by the local planning authority.
- 37) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date an ecological management scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
  - i. Details of the detention balancing basin and the Great Crested Newt (GCN) mitigation pond, including cross-sections and design features to ensure that the potential ecological value of these areas is realised and sustained, along with the water quality and water quantity requirements.
  - ii. Provision to relocate the GCN mitigation pond so that it is located above the flood plain level of 67.819 m AOD unless it is otherwise approved in writing by the local planning authority that such a relocation is not required.

- iii. Details of a further survey to determine the presence of badgers within and on the margins of the Site in order to update the findings of the Ecological Reports accompanying the ES.
- iv. A statement detailing protected species mitigation provisions in accordance with information submitted in support of the application and iii. above, including:
  - (a) Relative timings for implementation of individual mitigation measures prior to and during construction, as part of an integrated mitigation process.
  - (b) The identification of exclusion areas / buffer zones for safeguarding protected species and their habitats, including the restrictions to apply in these zones.
  - (c) Details of all new habitat areas to be created, including as part of the on-site landscaping and off-site planting arising from Condition 48, and provision for a badger crossing if necessary in any identified risk area.

The scheme shall be implemented in accordance with the approved details throughout the period of operation of the EWF.

- 38) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commissioning Date a habitat management scheme shall have been submitted to and approved in writing by the local planning authority. The plan shall provide clarification of the habitat management measures which it is proposed to implement following construction in order to supplement the information provided in support of the planning application. The scheme shall include details of proposed measures for management of:
- i. Proposed tree / woodland areas.
  - ii. Grassland.
  - iii. The stream corridor, including measures to control bramble spread.
  - iv. The GCN pond.
  - v. The badger habitat.
  - vi. Management and maintenance of Battlefield Brook within the northern boundary of the Site in order to protect and enhance biodiversity and management of vegetation, including maintenance of a 10 m buffer zone from the top of the bank of the watercourse.

Operations shall take place in accordance with the approved scheme and management of the watercourse shall be carried out in accordance with the approved details throughout the period of operation of the EWF.

- 39) Notwithstanding the details shown in the documents and drawings cited in Condition 3, prior to the Commencement Date a scheme for the permanent landscaping / screening and supplementary planting of the Site shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i. A detailed plan of all established trees and shrubs and existing planting within the Site which are to be retained and measures for their protection during construction.
  - ii. A detailed plan of the location of the proposed planting areas to supplement the Indicative Landscape Masterplan (Figure 4.1) accompanying the ES.
  - iii. Details and specification of planting including the species, specification, origin, method and density of planting, protection, addition of soil ameliorants, with emphasis on improved

containment of the Site and the creation of diverse habitats as shown on the Indicative Landscape Master Plan (Figure 4.1) adjacent to Battlefield Brook.

- iv. Detailed landscaping proposals within the corridor of Battlefield Brook, including a 10 m buffer strip adjacent to the watercourse.
- v. A timetable for implementation.

All existing hedgerows, shrubs and trees on the margins of the Site which are shown to be retained in accordance with the scheme and all new planting at the Site shall be retained and protected from damage throughout the period of operation of the EWF in accordance with the approved scheme. In particular, no use or operation hereby permitted or required shall be carried out in such a manner as to cause damage to or removal of such vegetation. The scheme shall also include proposals for management of vegetation within the Site, including the watercourse corridor and associated 10 m buffer zone. The submitted scheme shall be designed to include, amongst other things, the establishment and retention of a vegetation screen throughout the period of operation of the EWF. The approved Scheme shall be implemented in the first planting season following the commencement of development or in accordance with the approved timetable.

- 40) No development shall take place within the Site until the developer, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 41) Prior to the Commissioning Date, a scheme outlining arrangements for the review of Site operations shall have been submitted to and approved in writing by the local planning authority. The scheme shall make provision for the frequency of meetings to review site operations and associated environmental and ecological mitigation procedures, involving the operator, the local planning authority and appropriate statutory authorities, along with a procedure incorporating the documentation of any complaints received in connection with Site operations, investigation of the cause of the complaint and provision for taking appropriate remedial action. The scheme shall be carried out in accordance with the approved details throughout the period of operation of the EWF.
- 42) Not less than 6 months prior to any planned date for the permanent decommissioning of the development hereby permitted the operator shall submit in writing to the local planning authority a scheme for the proposed decommissioning of any elements of the development which are not required in connection with the subsequent afteruse of the Site and a timetable for these works. Such plans shall make provision for leaving the Site in a condition suitable for future development. No works of decommissioning shall take place until the scheme has been approved in writing by the local planning authority. The decommissioning shall be carried out in accordance with the approved scheme.
- 43) A copy of this planning permission and any schemes permitted under its terms and conditions shall be retained at the Site and be available for inspection by staff at the Site and officers of the local planning authority.
- 44) Prior to the Commencement Date the developer shall notify the Defence Geographic Centre of:
  - i. The precise location of the development.
  - ii. The proposed date for the commencement of construction.
  - iii. The expected date for the completion of construction.

- iv. The height above ground level of the tallest structure.
  - v. The maximum extension height of any construction equipment.
  - vi. Details of whether the structure will be lit with air navigation warning beacons.
- 45) [not used]
- 46) The importation of waste to the EWF shall take place at the Site only in accordance with the Pre-Sorted Residual Waste Acceptance Scheme. For the purposes of this condition, that scheme is the most recent of either the version dated October 2011 (which is included at Schedule Two of this decision), or a revision to that version produced in accordance with the procedure under Clauses 11, 12 and 13 of the October 2011 Pre Sorted Residual Waste Acceptance Scheme.
- 47) No incineration of waste shall take place at the EWF apart from during commissioning until a grid connection to the Harlescott substation has been installed and is capable of transmitting electricity generated by the EWF. No waste may then be incinerated at the EWF unless electricity is also being generated by the EWF and is being transmitted to the national grid, except during periods of maintenance, inspection or repair, or at the direction of the holder of a licence under section 6(1)(b) or (c) of the Electricity Act 1989, who is entitled to give such direction in relation to transmission of electricity from the EWF to the national grid.
- 48) No development hereby permitted shall take place until a scheme for off-site landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include as a minimum a woodland belt along part or parts of the A5124 link road. The scheme shall also include a timetable for its implementation, along with measures for the subsequent management of off-site landscaping. The scheme shall be carried out as approved.
- 49) No development hereby permitted shall take place until a scheme for the review and implementation of combined heat and power (CHP) has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the potential evaluation, feasibility evaluation, design phase appraisal and implementation phase of CHP provision, having regard to the guidelines set out in the District Heating Road Map, dated September 2009. The approved scheme shall be carried out throughout the period of operation of the EWF.
- 50) No development hereby permitted shall take place until a scheme for the provision of off-site signage for access to/from the Site has been submitted to and approved in writing by the local planning authority. The scheme shall have regard to the details about 'the approved route' and 'local access area' shown on Drawing Ref. SC/MS2009/0125/SY, and shall include provisions for the revision of signage if the road network alters. The scheme shall also include a timetable for its implementation. The approved scheme shall be carried out throughout the period of operation of the EWF.
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SCHEDULE TWO - PRE-SORTED RESIDUAL WASTE ACCEPTANCE SCHEME  
October 2011 version

1. All contracts with customers for the Energy from Waste Facility (EWF) will require segregation of commercial and industrial waste prior to collection; the contracts will provide for appropriate practices to be set up to encourage segregation including:

1.1 Sufficient bins will be provided to customers in order to facilitate the segregation of commercial and industrial waste into recyclable and residual streams;

1.2 Customers will be charged according to the weight or volume (waste loads are often charged by volume) collected, but at different rates for the recyclables and the residual waste. The rate for the recyclables will reflect the true economics of recycling, but will be less than for the disposal of residual waste, thereby incentivising the recycling of as much waste as possible i.e. the more that is recycled and the lower the weight or volume of the residual waste bin, the lower the fee charged to the customer;

1.3 Customers will be educated on how to segregate waste and how it will be beneficial to them through the provisions of a waste audit.

2. In supplying a waste collection service to its customers, the EWF Operator will require its customers to sign a commitment to put their recyclable materials only into recycling containers and residual materials only into residual containers so that residual waste does not contaminate recyclables, or recyclable waste is placed in the residual waste container. Feedback will be provided to the customer if the EWF Operator finds that a Customer is not appropriately segregating their recyclable materials.

3. Recyclable materials collected by the EWF operator will be pre-sorted by the customer. Pre-sorted recyclable streams offered shall include glass containers, metals, wood, cardboard, plastics and paper. Non-recyclable residual materials collected from the customer will be sent to the EWF.

4. Save for that waste collected by the EWF Operator from customers, other waste will be transported to the EWF site via waste transfer stations, where it will have been pre-sorted and materials which are reasonably and economically recyclable will have been removed, e.g. clean wood, cardboard, metal.

5. The EWF facility will not accept waste from individuals arriving at the site. Such persons will be redirected to a MRF or waste transfer station where the waste will be sorted before onward transportation to the EWF.

6. The EWF Operator will undertake regular audits of residual waste to check the waste is pre-sorted, residual waste.

7. Any waste delivered to the EWF which (prior to tipping into the waste bunker) is suspected of having high recyclables content will be redirected to a MRF or waste transfer station for pre-treatment to remove the recyclables. In the event that any particular source of waste is identified to be suspected of not being pre-sorted, that material shall be delivered to a transfer station or pre-treatment site to allow recovery of any readily and reasonably recyclable material prior to delivery to the EWF.

7.1 The source of the suspect waste will receive a waste audit if they are a customer. If they are a third party delivering materials to the EWF that third party will be reminded of their obligations to only deliver pre-sorted residual



waste, and if they are incapable of complying will be offered either a MRF or a transfer station as a delivery point so that any reasonably and readily recyclable materials may be removed prior to onward transfer to the EWF of the remaining residual waste.

8. To demonstrate compliance, the EWF Operator will produce on demand by the local planning authority documentary evidence to show the pre-EWF recycling and residual tonnages of commercial and industrial waste and thereafter will provide to the local planning authority annually the recycled and residual waste tonnages of commercial and industrial waste. This will be provided on the basis that the local planning authority treat such information received as commercially confidential information.

9. If monitoring officers from the local planning authority identify regular deliveries of waste from a particular source, that have not been pre-sorted, then that authority may direct the EWF Operator to ensure that waste from the identified source is not delivered directly to the EWF until such time as either pre-sorting can be demonstrated, or the waste stream is delivered to a pre-treatment facility, transfer station or MRF, to ensure that any practicably and readily recyclable materials are removed prior to delivery to the EWF.

10. Residual municipal waste is deemed to be pre-sorted where kerbside recycling collections are also undertaken.

11. The above procedures shall be reviewed by the EWF Operator on an annual basis on 31st January in order to allow flexibility over time to address changing waste management requirements and improvements over time to source segregation and reasonable, practicable recycling. The review shall be submitted to the local planning authority for approval.

12. Following the review, if either the EWF Operator or the local planning authority require revisions to the scheme which are not agreed by the other, the matter of whether any revisions are to be included in the scheme shall be referred to an arbitrator (appointed in default of agreement by the parties by an officer of the Chartered Institute of Waste Management). The arbitrator shall have sufficient experience and knowledge of the waste industry to arbitrate between the parties and make recommendations on the reasonable and practicable measures to ensure that only pre-sorted residual wastes are delivered to the EWF.

13. Upon conclusion of arbitration, any revisions to the scheme that are recommended by the arbitrator shall be the findings of the review and shall be implemented by the EWF Operator.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY - SHROPSHIRE COUNCIL (SC):

Hugh Richards of Counsel He called	Instructed by Shropshire Council.
Simon White DipLA DipUD (Dist) MA CMLI Cllr Tudor Bebb	Director of White Consultants. Shropshire Council.
Mark Walton BSc(Hons) DipTP MRTPI	Associate Director of Alliance Planning.

### FOR THE APPELLANT - VEOLIA ES SHROPSHIRE LIMITED (VESS):

Rhodri Price Lewis QC and Stephen Morgan of Counsel They called	Both of Landmark Chambers and instructed by Bond Pearce LLP.
Donald Macphail BSc(Hons) Richard Kirkman BEng MSc MBA Simon Aumônier BSc MSc David Lightbody BSc DipArch RIBA Nigel Weir BA(Hons) MA(Hons) Andrew Harris BA(Hons) MPhil AIFA Andrew Hunt BSc MEE FRSA Roger Barrowcliffe BSc(Hons) CMet Dr Ivan Vince BSc MSc PhD Professor James Bridges BSc PhD DSc Linda Swankie BSc(Hons) MSc John Hollister BA(Dual Hons) MA MRTPI MCIWM CEnv	Veolia ES Shropshire Limited. Veolia Environmental Services UK. Partner ERM. URS Scott Wilson. URS Scott Wilson. URS Scott Wilson. Director of Quod Planning Service Limited. RWDI. CWA International. University of Surrey. URS Scott Wilson. URS Scott Wilson.

### FOR MRS JOYCE JAGGER [RULE 6(6) PARTY] – BATTLEFIELD 1403:

Niall Blackie He called	Solicitor, FBC Manby Bowdler LLP.
Allan Moss BA(Hons) BPI MRTPI Dip LA CMLI Stephen Timms BA(Hons)	Director of Allan Moss Associates Ltd. Principal Director of Mike Griffiths and Associates Ltd.
David Haston Dip Est Man MRICS	Director of Haston Reynolds Ltd.

### FOR SHREWSBURY FRIENDS OF THE EARTH [RULE 6(6) PARTY] (SFoE):

Tim Hill BSc CEng MIMechE Dave Green BA DipArch Keith Kondakor BEng(Hons)	Chartered Engineer. Energy Assessor, Advisor and Trainer. Waste consultant.
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FOR MICHAEL RYAN [RULE 6(6) PARTY]:

Michael Ryan BSc CEng MICE	Local resident.
Dr Dick van Steenis MBBS	Retired GP.

INTERESTED PERSONS:

Helen Ball	Town Clerk, Shrewsbury Town Council.
Steve Boulding	Transition Town Shrewsbury.
Barry Haynes BSc(Hons) Fellow CIWEM Fellow IOB MIEM Associate Member IOSH	Chairman, NOBIS Task Force.
Nick Hall	Local resident and retired pilot.
Jim Ellerby	Local resident.
Cllr Mansel Williams	Shropshire Council.
Peter Hume	Local resident and retired from recycling business.

Proofs of evidence and appendices are documented as VESS/1.1-12.4 for the appellant; SFoE/1.1-3.12 for Shrewsbury Friends of the Earth; and BF/L BF/H and BF/P series for Battlefield 1403.

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID 1	Opening Statement on behalf of the Appellant.
ID 2	Opening Submissions on behalf of Shropshire Council.
ID 3	Opening Submission for Battlefield 1403.
ID 4	Opening Statement for Shrewsbury Friends of the Earth.
4.1	Petition with 1,872 signatures supporting the Council's refusal of the application. [SFoE]
ID 5	Landscape Institute Advice Note 01/09, <i>Use of photography and photomontage in landscape and visual assessment</i> . [SC]
ID 6	Notification letter about the Inquiry and list of addresses.
ID 7	Emails dated July 2009 concerning tree growth rates. [VESS]
ID 8	<i>The Living Landscape Method</i> , November 2007. [SC]
ID 9	Surrebuttal Proof of Evidence by Allan Moss. [BF/L05]
ID 10	Extract from MailOnline webpage re Veolia processing dust from street cleaning. [SFoE]
ID 11	Tracked changes to Mark Walton's Proof of Evidence. [SC]
ID 12	Drawing No. AMA EMZ, Ecological Mitigation Zones. [BF1403]
ID 13	Email dated 13 September 2011 from Shropshire Council re archaeological condition for Waste Transfer Station, and photographs of soil stripping. [VESS]
ID 14	Extract from <i>Campaign Chronicles, War for the Throne, The Battle of Shrewsbury 1403</i> , by John Barratt. [BF1403]
ID 15	Statement by Steve Boulding on behalf of Transition Town Shrewsbury.
15.1	Presentation to Strategic Planning Committee.
15.2	Newspaper extracts re Ray Anderson, appeal Inquiry, and air pollution in the County.
ID 16	R1 and traditional efficiency data, Tim Hill, dated 3 October 2011. [SFoE]

- ID 17 Clarification Note on Waste Growth Projections, Shropshire Council, 5 October 2011. [SC - requested by Inspector]
- ID 18 Certificate for R1 Efficiency Factors, Dr -Ing Dieter O Reimann, dated 30 September 2011. [VESS]
- ID 19 Table 5: New Scenario 4, with Recycling Rate of 60% in 2017 and thereafter re document VESS 12.3 App 13A. [VESS]
- ID 20 Barry Haynes, NOBIS - additional information re qualifications and experience.
- ID 21 Mr A N Hall experience and qualifications.
  - 21.1 Extract from Hansard May 2008.
  - 21.2 Letter from Defra dated 28 March 2011.
  - 21.3 Letter from Health Protection Agency dated 5 June 2011.
- ID 22 Dry FGT version heat balance diagram.  
[requested by SFoE and submitted by VESS]
- ID 23 Statement by Michael Ryan.
  - 23.1 Extracts from newspapers.
  - 23.2 Birth and mortality 2003 by ward, Telford & Wrekin, ONS.
  - 23.3.1 The impact on health of emissions to air from mineral waste incinerators, HPA, September 2009.
  - 23.3.2 Letter from HPA dated 21 August 2008.
  - 23.4.1 Letter from Kirklees Council dated 2 June 2009.
  - 23.4.2 Maps infant mortality by wards, Kirklees.
  - 23.5 Maps infant mortality. 1.Wolverhampton & South Staffs, 2.Enfield, Haringey & Waltham Forest, 3.Coventry, 4.Sheffield & Rotherham, 5.Birmingham & Solihull.
  - 23.6 Report of an investigation into claims of ill-health in Telford & Wrekin related to a power station in Ironbridge Gorge, December 2008, PCT.
- ID 24 Email from EA dated 25 May 2010 re incinerator filters.  
[Mr Ryan]
- ID 25 Email dated 11 October 2011 and presentation from Cllr Mansel Williams.
- ID 26 Letter from EA dated 11 October 2011 re R1 energy efficiency. [VESS]
- ID 27 Web extract 11 October 2011 re Leeds waste PFI. [SFoE]
- ID 28 Email from Michael Ryan dated 12 October 2011 re Dr van Steenis' references.
- ID 29 Letter from MES Environmental dated 10 October 2011 re spare capacity of energy from waste facilities in West Midlands. [VESS]
- ID 30 Response to queries raised by Allan Moss, including Appendix 1 an email from EA dated 3 October 2011. [VESS]
- ID 31 Record of telephone conversation Andrew Harris to Andrew Wigley, 5 October 2011, and related emails. [VESS]
- ID 32 Extract from Policy Statement Zero Waste Regulations, Natural Scotland, The Scottish Government 2011. [SFoE]
- ID 33 Email from Shropshire Council to Stephen Timms, dated 5 October 2011, re stripping of topsoil for Link Road. [BF 1403]
- ID 34 Email from Nigel Weir to Simon White, dated 19 July 2011 concerning external panel surface. [BF 1403]
- ID 35 Correspondence from NE and EA August 2011. [SC]
- ID 36 Reporting of waste disposal and recovery for the year 2007, Kent Enviropower. [SFoE]

- ID 37 Clarification note on waste growth projections, in response to ID 17. [VESS]
- ID 38 List of suggested conditions, with tracked changes and revisions, including Pre-Sorted Residual Waste Acceptance Scheme October 2011.
- ID 39 Note re building heights, including grant of reserved matters Application No.11/01789/REM and drawings. [BF 1403]
- ID 40 Addendum to SoCG1 of 6 May 2011 concerning policies of Development Plan (SoCG3).
- ID 41 Extract from *The Lancet*, Vol 345, April 8 1995, letter from Dr van Steenis. [VESS]
- ID 42.1 Email dated 18 October 2011 from Defra re air pollution emission statistics. [Michael Ryan]
- 42.2 Email dated 18 October 2011 from Michael Ryan re cadmium exposure. [Michael Ryan]
- ID 43 Annotated map of land between Shrewsbury and Telford. [Michael Ryan]
- ID 44 Revised presentation by Cllr Mansel Williams.
- ID 45 Email from Environment Agency, dated 14 October 2011, with draft Notice of variation with introductory note. Variation application number EPR/XP3239GF/V002. [VESS]
- ID 46 DCLG Circular 01/2007 *Revisions to Principles of Selection for Listing Buildings*. [BF 1403]
- ID 47 Submissions by Battlefield 1403 concerning planning obligation. [BF/Leg/2]
- ID 48 Note from Professor Jim Bridges re Iceland incinerators. [VESS]
- ID 49 Notice of variation with introductory note, Permit Number EPR/XP3239GF, dated 24 October 2011, Environment Agency. [VESS]
- ID 50 Amended table to show estimated annual increases of metals and dioxins in local soils. [VESS/8.5]
- ID 51 Clarification note from Simon Aumônier about energy/waste policy and WRATE modelling. [VESS/3.6]
- ID 52 An Archaeological Evaluation at Ford, Shropshire, by HR Hannaford. [BF 1403]
- ID 53 Clarification note from David Haston re distance from appeal site to boundary of Registered Battlefield. [BF 1403]
- ID 54 Clarification note from David Haston re ring ditch at allocated Ford poultry unit site. [BF 1403]
- ID 55 Note as to conditions by Battlefield 1403. [BF/Leg/3]
- ID 56 Note on Wrexham food tainting, including letter dated 21 February 2005 and objection from Kelloggs. [SFoE]
- ID 57 Statement by Peter Hume.
- ID 58 Submission by Steve Boulding in response to evidence given by Peter Hume.
- ID 59 Note in response to Inspector's questions about Habitat Regulations by Linda Swankie. [VESS]
- ID 60 Food tainting, supplementary proof of evidence of Dr Ivan Vince. [VESS]
- ID 61 Note on Landscape Statement of Common Ground by Nigel Weir concerning registered battlefield as landscape designation. [VESS]
- ID 62 Photograph of Albrighton BT tower. [VESS]

- ID 63 Proportion of 'headroom' available; comparison of Reg 19 submission and ID 19 by John Hollister. [VESS – requested by Inspector]
- ID 64 Email from Michael Ryan dated 25 October 2011 which incorporates email from Dr van Steenis dated 24 October 2011 concerning ID 41.
- ID 65 Note by Allan Moss in response to ID 61. [BF 1403]
- ID 66 Note by Allan Moss re photomontage VP 17. [BF 1403]
- ID 67 Memo dated 3 November 2011 from Scott Wilson concerning noise conditions. [VESS]
- ID 68 Statement of Common Ground on distances of Registered Battlefield from the appeal site by Veolia and Battlefield 1403 (SoCG4).
- ID 69 Note on VP17 photomontages by Nigel Weir. [VESS]
- ID 70 Planning agreement, dated 3 November 2011.
- ID 71 Final version of List of Conditions.
- ID 72 Comments on suggestions for R1 condition. [VESS]
- ID 73 Note as to conditions by Battlefield 1403, as annotated by VESS.
- ID 74 Shropshire Council email dated 1 November 2011 concerning noise conditions.
- ID 75 Comments by Shropshire Council on R1 energy condition suggested by Veolia.
- ID 76 Shropshire Council Memorandum of Understanding.
- ID 77 Closing statement by Michael Ryan.
- ID 78 Closing statement by Shrewsbury Friends of the Earth.
- ID 79 Closing submissions for Battlefield 1403, including extracts from judgements.
- ID 80 [This Written Statement from Dr Mark Broomfield, dated 4 November 2011, was submitted in error and was withdrawn by letter dated 15 November 2011. I have not taken the Statement, or the subsequent correspondence about it, into account in determining this appeal]
- ID 81 Closing submissions on behalf of Shropshire Council.
- ID 82 Closing submissions on behalf of VESS.

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- Figure 3.1 - Site Location
- Figure 3.2 - Site Context
- Figure 3.3 - Existing Site
- Figure 3.4 - Aerial View of Existing Site
- Figure 3.5 - Aerial View of Developed Site and Surroundings
- Figure 4.1 - Indicative Landscape Masterplan
- Figure 4.2 - Cross Sections
- Figure 4.3 - Computer Generated 3-D Images of Development
- Figure 4.4 - Input-Output Flow Diagram
- Figure 4.5 - EWF Process Flow Schematic
- Figure 4.6 - Construction Layout (Indicative)
- Figure 14.1 - Land-use
- Drawing 101-0 - Site Plan
- Drawing 102-0 - Existing Site & HRC-WTS Facility
- Drawing 110-0 - Proposed Layout
- Drawing 112-0 - Circulation Plan

Drawing 113-0 - General Internal Arrangement  
Drawing 114-0 - HRC Extension  
Drawing 115-0 - Office-Welfare Arrangement  
Drawing 120-0 - South Elevation & Section AA  
Drawing 121-0 - North Elevation & Section BB  
Drawing 122-0 - West Elevation & Section CC  
Drawing 123-0 - East Elevation & Section DD  
Drawing 130-0 - Gatehouse

CORE DOCUMENTS [CD]

A	<u>Planning Application Documents</u>
CD 1	Application Form – 20 January 2009.
CD 2	Supporting Statement – January 2009.
CD 3	Environmental Statement – January 2009.
CD 3.a	Volume 1 - Non Technical Summary.
CD 3.b	Volume 2 - Main Text.
CD 3.c	Volume 3 – Appendices A to E.
CD 3.d	Volume 4 – Appendices F to G.
CD 3.e	Volume 5 – Appendices H to J.
CD 4	Design and Access Statement – January 2009.
CD 5	Figures and Drawings.
CD 5.a	Figure 3.1 - Site Location.
CD 5.b	Figure 3.2 - Site Context.
CD 5.c	Figure 3.3 - Existing Site.
CD 5.d	Figure 3.4 - Aerial View of Existing Site.
CD 5.e	Figure 3.5 - Aerial View of Developed Site and Surroundings.
CD 5.f	Figure 4.1 – Indicative Landscape Masterplan.
CD 5.g	Figure 4.2 – Cross Sections.
CD 5.h	Figure 4.3 – Computer Generated 3-D Images of Development.
CD 5.i	Figure 4.4 – Input-Output Flow Diagram.
CD 5.j	Figure 4.5 – EWF Process Flow Schematic.
CD 5.k	Figure 4.6 – Construction Layout.
CD 5.l	Figure 14.1 – Land-use.
CD 5.m	Drawing 101-0 – Site Plan.
CD 5.n	Drawing 102-0 – Existing Site and HRC-WTS Facility.
CD 5.o	Drawing 110-0 – Proposed Layout.
CD 5.p	Drawing 112-0 – Circulation Plan.
CD 5.q	Drawing 113-0 – General Internal Arrangement.
CD 5.r	Drawing 114-0 – HRC Extension.
CD 5.s	Drawing 115-0 – Office-Welfare Arrangement.
CD 5.t	Drawing 120-0 – South Elevation and Section AA.
CD 5.u	Drawing 121-0 – North Elevation and Section BB.
CD 5.v	Drawing 122-0 – West Elevation and Section CC.
CD 5.w	Drawing 123-0 – East Elevation and Section DD.
CD 5.x	Drawing 130-0 – Gatehouse.
CD 6	Regulation 19 response dated 6 November 2009.
CD 6.a	Volume 1 – Main Text.
CD 6.b	Volume 2 – Annexes A to K and Appendix 1.
CD 7	Habitats Regulations – Updated Appropriate Assessment dated 19 February 2010.
CD 8	Clarifications for Shropshire Council, March 2010.
CD 8.a	Scott Wilson, Battle of Shrewsbury - Registered Battlefield Conservation Management Plan, May 2010.

- CD 8.b Scott Wilson, Battlefield Energy from Waste Facility Offsite Landscape Proposals Adjacent to A1524 and the Registered Battlefield, May 2010 - Rev C.
- CD 9 Report to Strategic Planning Committee dated 26 July 2010.
- CD 10 Supplementary Report to Strategic Planning Committee dated 1 September 2010.
- CD 11 Minutes of Strategic Planning Committee held on 1 September 2010.
- CD 12 Shropshire Council Decision Notice and Reasons for Refusal dated 22 September 2010.
- CD 13 Consultation responses received in connection with the Planning Application.
- CD 13.a Environment Agency letter dated 29 July 2009.
- CD 13.b Environment Agency letter dated 17 March 2010.
- CD 13.c Natural England letter dated 7 April 2010.
- CD 13.d Shropshire Wildlife Trust letter dated 12 January 2010.
- CD 13.e Primary Care Trust letter dated 8 April 2010.
- CD 13.f English Heritage letter dated 22 April 2009.
- CD 13.g English Heritage letter dated 17 June 2010.
- CD 13.h E-ON Central Networks letter dated 2 April 2009.
- CD 13.i Network Rail letter dated 15 January 2010.
- CD 13.j Health and Safety Executive letter (undated).
- CD 13.k Defence Estates (Safeguarding) letter dated 22 January 2010.
- CD 14 Letters of representation received from local community.
- CD 14.a Albright Hussey objection letter dated 22 April 2009.
- CD 14.b Balfours objection letter dated 29 April 2009.
- CD 14.c Battlefield Farm Shop objection letter dated 24 April 2009.
- CD 14.d Country Land & Business Association objection letter dated 29 April 2009.
- CD 14.e Friends of the Earth Shrewsbury objection letters dated 26 April 2009 and 21 January 2010.
- CD 14.f Friends of the Earth West Midlands objection letters dated 1 June 2009 and 20 January 2010.
- CD 14.g Hadnall Parish Council objection letter dated 21 May 2009.
- CD 14.h Haston Reynolds objection letters dated 8 May 2009 and 6 April 2010.
- CD 14.i Mr Michael Ryan objection letter dated 27 April 2009.
- CD 14.j National Farmers Union objection letter dated 28 April 2009.
- CD 14.k NOBIS objection letter dated 25 January 2010.
- CD 14.l Safe Waste in Shropshire objection letter dated 29 April 2009.
- CD 14.m Shrewsbury Town Council objection letter dated 8 May 2009.
- CD 14.n Shrewsbury Town Centre Residents Association objection letter dated 20 April 2009.
- CD 14.o CPRE Shrewsbury objection letter dated 10 April 2009.
- CD 14.p Resident comments (various).
- CD 14.q Letter of objection from the Battlefields Trust, dated 31 August 2010.
  
- B. Development Plan Policy Documents
- CD 15 West Midlands Regional Spatial Strategy (June 2004) [original document no longer available – please see CD16]
- CD 16 West Midlands Regional Spatial Strategy Phase One Revision (January 2008).
- CD 17 Shropshire Core Strategy DPD (February 2011).
- CD 18 Shropshire and Telford & Wrekin Joint Structure Plan (November 2002).
- CD 19 Shropshire Waste Local Plan (October 2004).



- CD 20 Shrewsbury and Atcham Borough Local Plan (June 2001).  
CD 20.a Shrewsbury and Surrounding Area Place Plan 2011/2012.
- C. National Planning Policy: Planning Policy Statements (PPS) Planning Policy Guides (PPG) and Companion Guides.
- CD 21 Planning Policy Statement 1 – *Delivering Sustainable Development* (2005).  
CD 22 Planning Policy Statement 1 Supplement – *Planning and Climate Change* (2007).  
CD 23 Planning Policy Statement 4 – *Planning for Sustainable Economic Growth* (2009).  
CD 24 Planning Policy Statement 5 – *Planning for the Historic Environment* (2010) (including English Heritage Practice Guidance).  
CD 25 Planning Policy Statement 9 – *Biodiversity and Geological Conservation* (2005).  
CD 26 Planning Policy Statement 10 – *Planning for Sustainable Waste Management* (2005).  
CD 26.a Updated: Planning Policy Statement 10 – *Planning for Sustainable Waste Management* (March 2011).  
CD 27 Planning Policy Statement 10 – Companion Guide (2005).  
CD 28 Letter to Chief Planning Officers: Update to Planning Policy Statement 10 (31 March 2011).  
CD 29 Planning Policy Guidance Note 13 – *Transport* (2011).  
CD 30 Planning Policy Statement 22 – *Renewable Energy* (2004).  
CD 31 Planning Policy Statement 22 – Companion Guide.  
CD 32 Planning Policy Statement 23 – *Planning and Pollution Control* (2004).  
CD 33 Planning Policy Guidance Note 24 – *Planning and Noise* (1994).  
CD 34 Planning Policy Statement 25 – *Development and Flood Risk* (2010).
- D. Waste Strategy Documents
- CD 35 The National Waste Strategy for England plus Annexes (2007).  
CD 35.a Government Review of Waste Policy in England 2011.  
CD 36 Designing Waste Facilities (DEFRA) (2008).  
CD 37 Shropshire Municipal Waste Management Strategy 2000-2020.
- E. Waste PFI Contract
- CD 38 Redacted Project Agreement between Shropshire County Council (1) and Veolia ES Shropshire (2) dated 29 September 2007.  
CD 38.a Shropshire Waste PFI Contract schedule 7a – Payment Mechanism.  
CD 38.b Shropshire Waste PFI Contract schedule 7a Appendix 1 - Contract Rates.  
CD 38.c Shropshire Waste PFI Contract schedule 7a Appendix 2 - Contract Performance Metrics.
- F. Environmental Permit
- CD 39 Permit Application Documents.  
CD 39.a Volume 1.  
CD 39.b Volume 2.  
CD 39.c Volume 4.  
CD 40 Environment Agency Decision Notice dated 17 June 2010.  
CD 41 Environment Agency Environmental Permit (Number: EPR/XP3239GF) issued on 21 June 2010.  
CD 41.a Application to EA for variation of EP.

- G.            Waste Legislation  
CD 42        European Union Waste Framework Directive (75/442/EEC amended 91/156, 91/692 and 96/350).  
CD 43        European Union Council Directive 1999/31/EC of 26 April 1999 on the Landfill of Waste.  
CD 44        European Union Council Directive 91/689/EEC of 12 December 1991 on Hazardous Waste.  
CD 45        European Union Council Directive on Integrated Pollution Prevention and Control (IPPC) (2008/1/EC).  
CD 46        European Union Waste Incineration Directive (2000/76/EC).  
CD 46.a      European Union Directive on Industrial Emissions (2010/75/EU).  
CD 47        European Union Directive 2006/12/EC of the European Parliament and of the Council on Waste.  
CD 48        European Union Directive 2008/98/EC of the European Parliament and the Council of 19 November 2008 on Waste.  
CD 49        The Landfill (England and Wales) Regulations 2002.  
CD 50        The Hazardous Waste (England and Wales) Regulations 2005.  
CD 51        Landfill Allowance Trading Scheme (LATS).  
CD 52        EU Directive 2009/28/EC of the European Parliament and Council on the promotion of the use of energy from renewable sources (amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC).
- H.            Other Material Considerations  
CD 53        National Infrastructure Plan (2010).  
CD 54        Shropshire Council LDF Annual Monitoring Report 2009-2010.
- I.            Emerging National, Regional and Local Planning Policies  
CD 55        Overarching NPS for Energy (EN-1) (as designated, July 2011).  
CD 56        NPS for Renewable Infrastructure (EN-3) (as designated, July 2011).  
CD 57        West Midlands Regional Spatial Strategy Phase Two Revision (2007).
- J.            New Legislation  
CD 58        The Waste (England and Wales) Regulations 2011.
- K.            Biodiversity and Ecology Documents  
CD 59        Scoping report (submitted to SCC in Feb 2008).
- L.            Landscape and Visual Documents  
CD 60        *Guidelines for Landscape and Visual Impact Assessment*, Second Edition, IEMA/LI 2002.  
CD 61        Landscape Assessment Guidance, 2002 (CA/SNH).  
CD 62        Topic Paper 6: Techniques and criteria for judging capacity and sensitivity (Countryside Agency 2003).  
CD 63        Shropshire Landscape Typology (2006).  
CD 64        Shrewsbury and Atcham Landscape Sensitivity and Capacity Study (2007).
- M.            Cultural Heritage Documents  
CD 65.1      The Setting of Heritage Assets – Consultation Draft (English Heritage) (2010).  
        65.2      *The Setting of Heritage Assets* English Heritage Guidance published 4 November 2011. [added after close of the Inquiry]  
CD 66        Conservation Principles, Policies and Guidance for the sustainable management of the historic environment, English Heritage, April 2008.

- CD 67 English Heritage/CABE, Guidance on Tall Buildings (July 2007).  
CD 68 The Shropshire Historic Landscape Character Assessment (2004) with Final Report dated 2007.  
CD 69 English Heritage Battlefield Report: Shrewsbury 1403.  
CD 70 English Heritage Plan of Registered Battlefield: Shrewsbury 1403.  
CD 70a Seeing the History in the View: A Method for Assessing Heritage Significance within Views. May 2011.
- N. Relevant Planning Appeals
- CD 71 Energy from Waste Facility at Belvedere, Bexley – Report dated 16 December 2005 and Decision of Secretary of State dated 15 June 2006 (Ref:GDBC/C/003/00001).  
CD 72 Ineos Chlor EfW CHP Generating Station, Runcorn, Cheshire – Decision of Secretary of State dated 16 September 2008.  
CD 73 Energy from Waste Facility at Eastcroft, Nottingham – Report dated 10 December 2008 and Decision of Secretary of State dated 12 February 2009 (Ref:APP/Q3060/S/2063129/NWF).  
CD 74 Resource Recovery Park at Ince Marshes, Cheshire – Report dated 3 October 2008 and Decision of Secretary of State dated 11 August 2009 (Ref:APP/20645/A/07/2059609).  
CD 75 Biomass Generating Station at Avonmouth Dock, Bristol Port – Decision of Secretary of State dated 26 March 2010.  
CD 76 Resource Recovery Park at Stalbridge Dock – Appeal Decision dated 5 October 2010 (Ref:APP/Z4310/A/09/2117527).  
CD 77 Waste Treatment Facility at Sinfin Lane, Sinfin, Derby – Appeal Decision dated 16 November 2010 (Ref:APP/C1055/A/10/2124772)  
CD 78 Energy from Waste Facility at Dunbar Landfill, Oxwell Mains, Dunbar – Appeal Decision dated 14 December 2010 (Ref:P/PPA/210/2012).  
CD 79 Resource Recovery Centre at Former Sevalco Site (North), Severn Road, Avonmouth, Bristol – Report dated 3 February 2011 and Decision of Secretary of State dated 6 April 2011 (Ref:APP/Z0116/A/10/2132394).  
CD 80 Energy from Waste Facility at Ardley Landfill Site, Ardley, Oxfordshire – Report dated 14 October 2010 and Decision of Secretary of State dated 17 February 2011 (Ref:APP/V3100/A/09/2119454).  
CD 80.a Waste to Energy Plant at Land at Rostowrack Farm, St Dennis, Cornwall – Inspector’s Report dated 3 March 2011 and Decision of the Secretary of State dated 19 May 2011 (Ref:APP/D0840/A/09/2113075).  
CD 80.b Energy Recovery Facility at Land at the former Rufford Colliery, Rainworth, Nottinghamshire – Report dated 17 March 2011 and Decision Letter of Secretary of State dated 26 May 2011 (Ref: APP/L3055/V/09/2102006).  
CD 80.c Energy Recovery Facility at Land off Pochin Way and ERF Way, Middlewich, Cheshire – letter from the Planning Inspectorate dated 8 April 2011 plus Inspector’s ruling.  
CD 80.d Severnside decision and report, APP/P0119/A/10/2140199.  
CD.80.e Grounds of Claim Rufford Colliery appeal.  
CD.80.f IPC Decision and Statement of Reasons, Rookery South, Ref:EN0100011.  
CD.80.g Lawtel document, dated 14 October 2011, concerning Waste to Energy Plant at Land at Rostowrack Farm.

P.	<u>Other</u>
CD 81	Written ministerial statement by Minister of State for Decentralisation Rt. Hon. Greg Clark MP on "Planning for Growth" 23 March 2011.
CD 82	Energy White Paper, May 2007.
CD 83	AEA Energy and Environment (2008), Investigation of Waste Incinerator Dioxins during start up and shut down phases (a report prepared for the Environment Agency).
CD 84	Audit Commission: Well Disposed – Responding to the Waste Challenge Report (September 2008).
CD 85	Survey of Commercial and Industrial Waste Arisings 2009 – Final Report, May 2011 (DEFRA).
CD 86	WLP Public Inquiry Written Responses from the Council.
CD 87	IPPC Reference Document on Best Available Techniques for Waste Incineration (EU, JRC, Seville, August 2006).
CD 88	Climate Change of Incineration Commentary on Eunomia Report, Fichtner 2006.
CD 89	Environment Agency Technical Guidance WM2, 2 <sup>nd</sup> Edition, v2.2.
CD 90	The Inspector's Report into the Shropshire Waste Local Plan Inquiry, May 2004.
CD 91	Figure 2.10 - Master Plan for all phases and corresponding Planning Permission (Reference: MS2003/0985/SY).
CD 92	The Outline Planning Permission for the Battlefield Food Enterprise Centre (Reference: 20/1429/O), 1 October 2003.
CD 93	Guidelines on the interpretation of the R1 energy efficiency formula for incineration facilities dedicated to the processing of municipal solid waste according to Annex II of Directive 2008/98/EC on waste, July 2011.
CD 94	Supplementary Environmental Statement, 22 July 2011.
CD 95	[See CD 98]
CD 96	The Annual Energy Statement.
CD 97	The UK Renewable Energy Strategy.
CD 98	Draft National Planning Policy Framework.
CD 99	[Leave Blank]
CD 100	The UK Low Carbon Transition Plan, National Strategy for Climate and Energy, 2009.
CD 101	Waste Strategy 2000.
CD 102	Planning Permission 06/1117/F approved 7 November 2006 (Erection of 12 incubator food production units plus associated enterprise centre comprising administration and cafeteria facilities) and associated Site Location, Layout and Elevational drawings.
CD 103	Planning Permission 08/0448/F approved 18 July 2008 (Erection of three B1 (a – ancillary, b & c), B2 and B8 industrial storage units (4359 sq m) with associated car parking/service areas and landscaping (amended description) and associated Site Location, Layout and Elevational drawings).
CD 104	Applying the Waste Hierarchy: Evidence Summary (DEFRA, WRAP, EA) June 2011.
CD 105	Veolia Letter to PINS dated 11 August 2011.
CD 106	Veolia Response, dated 8 August 2011, to SFoE queries raised on 22 July 2011.
CD 107	Spreadsheet containing Waste Data sent to Keith Kondakor from Veolia (5 July 2011).
CD 108	Annual Incinerator Performance Reports:
CD 108.a	Coventry (2009).

- CD 108.b Dudley (2010).
- CD 108.c Wolverhampton (2010).
- CD 108.d Stoke (2010).
- CD 108.e Birmingham (2010).
- CD 108.f Basingstoke (2010).
- CD 109 EA's West Midlands: Landfill Capacity Trends 1998/99 – 2009 (000s cubic metres) (published 2010) with Note re: Need to correct Candles.
- CD 109.a EA's West Midlands: Landfill Capacity Trends 1998/99 – 2009 (000s cubic metres), updated 2011.
- CD 110 Letter from Mr Ryan to the Environment Agency, dated 18 March 2009.
- CD 111 Letter from Mr Ryan to Mr Rod Thomson, dated 20 August 2010.
- CD 112 Letter from Mr Ryan to Shropshire Council, dated 25 August 2010.
- CD 113 Letter from Mr Ryan to the Planning Inspectorate, dated 2 April 2011.
- CD 114 The Economics of Waste and Waste Policy (Defra), June 2011.
- CD 115 Further Statement of Common Ground between Shropshire Council, Shropshire Friends of the Earth and Veolia, 6 September 2011 (SoCG3).
- CD 116 Environment Agency Briefing Note, Qualifying for R1 status using the R1 energy efficiency formula, August 2011.
- CD 117 *Anaerobic Digestion Strategy and Action Plan*, DECC and Defra.
- CD 118 DECC Government Response to the Statutory Consultation for the Renewables Obligation Order 2011.
- CD 119 CLG letter from Chief Planning Officer, dated 9 November 2009.
- CD 120 Waste Prevention Plan 2011-16, Shropshire Council.
- CD 121 Statement of Common Ground, 6 May 2011 (SoCG1).
- CD 122 Statement of Common Ground on Landscape and Visual Matters, 22 August 2011 (SoCG2).

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ABBREVIATIONS

ABP	An abattoir and meat processing/packing plant located in north Shrewsbury
AD	Anaerobic Digestion
AOD	Above Ordnance Datum
BAT	Best Available Technique
BF1403	Mrs Jagger for Battlefield 1403
BPEO	Best Practicable Environmental Option
BREEAM	BRE Environmental Assessment Method
BS4142	British Standard 4142: 1997 <i>Method for rating industrial noise affecting mixed residential and industrial areas</i>
C&I	Commercial and Industrial
CD	Inquiry Core Document
CHP	Combined Heat and Power
CIL	Community Infrastructure Levy
CMP	Conservation Management Plan
ConstMP	Construction Management Plan
CS	Shropshire Core Strategy DPD 2011
EA	Environment Agency
EIA	Environmental Impact Assessment
EH	English Heritage
EMS	Environmental Management System
EN-1	National Policy Statement EN-1 <i>Overarching Energy</i>
EN-3	National Policy Statement EN-3 <i>Renewable Energy Infrastructure</i>
EP	Environmental Permit
ES	Environmental Statement
EFW	Energy from Waste Facility
FGT	Flue Gas Treatment
FRA	Flood Risk Assessment
GCN	Great Crested Newt
GHG	Greenhouse Gases
GLVIA	<i>Guidelines for Landscape and Visual Impact Assessment</i> , Landscape Institute
GRWP	Government Review of Waste Policy in England 2011
HPA	Health Protection Agency
HRC	Household Recycling Centre
IBA	Incinerator Bottom Ash
ID	Inquiry Document – document submitted during the Inquiry
IPC	Infrastructure Planning Commission
IVC	In-Vessel Composting
IWMF	Integrated Waste Management Facility
LP	Saved policies of the Shrewsbury and Atcham Borough Local Plan 2001
LVIA	Landscape and Visual Impact Assessment
MBT	Mechanical Biological Treatment
MoU	Memorandum of Understanding by Shropshire Council
MRF	Materials Recovery Facility
MSW	Municipal Solid Waste
MWe	Megawatts (electricity)
NE	Natural England
NPPF	Draft National Planning Policy Framework
NPS	National Policy Statements
PFI	Private Finance Initiative

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POPs	Persistent Organic Pollutants
PPS1	Planning Policy Statement 1: <i>Delivering Sustainable Development</i>
PPS1Supp	<i>Supplement on Planning and Climate Change</i>
PPS9	Planning Policy Statement 9: <i>Biodiversity and Geological Conservation</i>
PPS10	Planning Policy Statement 10: <i>Planning for Sustainable Waste Management</i>
PPS10CG	<i>Companion Guide to Planning Policy Statement 10</i>
PPS5	Planning Policy Statement 5: <i>Planning for the Historic Environment</i>
PPS5PG	<i>Historic Environment Planning Practice Guide</i>
PPS22	Planning Policy Statement 22: <i>Renewable Energy</i>
PPS22CG	<i>Planning for Renewable Energy – A Companion Guide to PPS22</i>
PPS23	Planning Policy Statement 23: <i>Planning and Pollution Control</i>
PPG24	Planning Policy Guidance Note 24, <i>Planning and Noise</i>
PPS25	Planning Policy Statement 25: <i>Development and Flood Risk</i>
PRoW	Public right of way
R1	Formula cited in WFD
RCV	Refuse Collection Vehicles
RE	Renewable energy
RSS	West Midlands Regional Spatial Strategy 2004
SAM	Scheduled Ancient Monument
SES	Supplementary Environmental Statement
SFoE	Shrewsbury Friends of the Earth
SIC	Standard Industrial Classification
SoCG1	Statement of Common Ground between Council and appellant May 2011 at CD 121
SoCG2	Statement of Common Ground on landscape and visual matters between Council, appellant and BF1403 August 2011 at CD 122
SoCG3	Addendum to Statement of Common Ground between Council and appellant concerning development plan policies at ID 40
SoCG4	Statement of Common Ground between appellant and BF1403 re distance between appeal site and registered battlefield at ID 68
SP	Saved policies of the Shropshire and Telford & Wrekin Joint Structure Plan 2002
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Drainage Systems
tpa	tonnes per annum
VESS	Veolia ES Shropshire Ltd
WFD	Waste Framework Directive 2008/98/EC
WHO	World Health Organisation
WID	Waste Incineration Directive
WLP	Saved policies of the Shropshire Waste Local Plan 2004
WRATE	Waste and Resources Assessment Tool for the Environment
WSE 2007	Waste Strategy for England 2007
WTS	Waste Transfer Station/Materials Recycling Facility

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