
Appeal Decision

Hearing held on 29-30 November 2022 and 31 May 2023

Site visit 1 December 2022

by John Woolcock BNatRes (Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State ¹

Decision date: 5th July 2023

Appeal Ref: APP/EPR/603

**Belmont Industrial Estate, Rochdale Road, Sowerby Bridge
Halifax HX6 3LL**

- The appeal is made under Regulation 31 & Schedule 6 of the Environmental Permitting (England and Wales) Regulations 2016 (EPR 2016).
 - The appeal is made by Calder Valley Skip Hire Ltd (CVSH) against the deemed refusal of an Environmental Permit (EP) application to operate a Schedule 13 small waste incineration plant (SWIP).
 - The application, Refs.S13/005 and MAU/31215, dated 6 August 2020, was not determined by the regulator, Calderdale Metropolitan Borough Council (CMBC), in the relevant period.
 - The applicant served a notice on the regulator referring to paragraph 15(1) of Schedule 5 EPR 2016 and so the application was deemed to have been refused on 23 May 2022.
 - The appeal form is dated 26 May 2022.
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Decision

1. The appeal is dismissed.

Preliminary matters

The EP application

2. The site for the EP application is part of a larger waste management site operated by CVSH at Belmont Industrial Estate, Rochdale Road, Sowerby Bridge, which includes an existing waste transfer station (WTS) regulated by the Environment Agency (EA). At the time of my site visit the building proposed for the SWIP contained plant and equipment for a SWIP.
3. The application form is entitled "Application for a permit to operate Schedule 13 small waste incineration plant". Schedule 13 EPR 2016 applies in relation to; (a) every small waste incineration plant, and (b) every waste incineration plant or waste co-incineration plant, to which Chapter IV of the Industrial Emissions Directive (IED) applies.² EPR 2016 defines a "small waste incineration plant" as a waste incineration plant or waste co-incineration plant with a capacity less than or equal to 10 tonnes per day for hazardous waste or

¹ The Secretary of State as 'appropriate authority' has delegated this responsibility. The appointment is as 'appointed person' under paragraph 5 of Schedule 6 EPR 2016.

² Industrial Emissions Directive (Directive 2010/75/EU) at CD35.

3 tonnes per hour for non-hazardous waste. A SWIP is a regulated facility for the purposes of EPR 2016.³

4. The EP application is for a facility that would burn non-hazardous refuse derived fuel (RDF), with a European Waste Catalogue Code 19 12 10, at a feed rate of up to 2 tonnes per hour with a maximum throughput of 10,000 tonnes per annum. The RDF would be pre-treated within the adjacent WTS. The EP application included three drawings: Emission Points JER1902-PER-001, Illustrative Drawing 9677/17/03C and Existing Drainage Plan 9677/17/35A.⁴
5. The application was the subject of public consultation in 2020 and CMBC received 93 responses. The broad categories of issues raised in these submissions are summarised in the Cabinet Report. These included concerns about the impacts of air pollution on health and the local environment in this valley location, along with concerns about the material to be burned. CMBC considered the Cabinet report, dated 8 February 2021, recommending that the application be approved.⁵
6. On 10 February 2021 CMBC, as the regulator, issued an EP to CVSH pursuant to Schedule 13 EPR 2016 for the operation of a SWIP.⁶ This referred to Drawings S13/005/P1a, S13/005/P1b and JER1902-001_D_200702. Due to a procedural error in determining the application a Quashing Order was made by the High Court by consent on 14 September 2021.⁷ The application then fell to be redetermined by the regulator.
7. The claimant for judicial review drew attention to the fact that there was a gap between the boundary of the EP for the WTS and the EP boundary for the proposed SWIP.⁸ CVSH considered that this gap was of no legal consequence, but in April 2022 submitted a revised drawing JER1902-0002-01 to enclose the gap.⁹ The site identified on this drawing is referred to as the 'appeal site' in this decision.

The appeal

8. CVSH served a notice on the regulator referring to paragraph 15(1) of Schedule 5 EPR 2016 and so the application was deemed to have been refused on 23 May 2022. The appeal against the deemed refusal is dated 26 May 2022.
9. CMBC's Statement of Case, which was submitted on 18 August 2022, indicated that the regulator does not seek to resist the grant of an EP that is the subject of this appeal. At the appeal local residents and third parties opposed the grant of an EP.¹⁰
10. Paragraph 4(1) of Schedule 6 EPR 2016 states that the regulator must, within 10 days after receipt of a copy of a notice of appeal, give notice of it to any person whom the regulator considers is affected by, is likely to be affected by, or has an interest in, the subject matter of the appeal. Paragraph 4(2) of Schedule 6 EPR 2016 provides that representations in writing may be made to

³ EPR 2016 Regulation 8(1)(h).

⁴ CD3 with Supporting Statement at CD2 and CD10.

⁵ HD23.

⁶ CD12.

⁷ CO/1295/2021 at CD13.

⁸ The High Court did not consider this point as the permit was quashed for another reason.

⁹ HD7, CD10 and CD11.

¹⁰ CD22 and HD5.

the appropriate authority within a period of 15 working days after the date of the notice.¹¹ Notice about the appeal was not given by the regulator in this case until 5 October 2022.

11. During the consultation period at the appeal stage PINS received 90 written submissions. These largely reiterated many of the issues raised in the earlier consultation and included concerns about air quality modelling and stack height calculation. The appellant responded to these submissions prior to the opening of the Hearing.¹²
12. Those attending the Hearing on 29 and 30 November 2022 expressed views about the likely implications of the late notice for the appeal and how best to remedy the procedural defect. The Hearing was adjourned to enable the submission of further written representations.¹³
13. The initial public consultation on the application was on the basis of the drawings included in the application. Drawing JER1902-0002-01 was not subject to formal public consultation at the application stage. However, the draft EP devised by the appellant and the regulator stated, "The boundary of the site is shown in Plan S13/005/P1 and in drawing 'Permit Site Boundary Plan 1902-0002-01' ". This draft EP was submitted on 9 December 2022 and was made available on CMBC's website during the period up to 10 February 2023 for further written representations.¹⁴
14. The postcode cited for the address of the appeal site in some of the application and appeal documentation is HX6 3BL. This postcode includes the entrance to the appeal site off Rochdale Road, whereas postcode HX6 3LL includes all the appeal site. Concern was raised at the Hearing that use of the HX6 3BL postcode to assess flood risk would have resulted in a different outcome from an assessment based on the HX6 3LL postcode. However, it was confirmed at the Hearing that the submitted Flood Risk Assessment correctly identified the location of the appeal site. The HX6 3LL postcode should be preferred.
15. I have taken into account the written submissions received by 10 February 2023¹⁵, along with the response to those submissions by CVSH¹⁶. The Hearing was resumed on 31 May 2023. Following the without-prejudice discussion about suggested EP conditions the Hearing was adjourned to enable revisions to the wording of some conditions to be submitted. The Hearing was closed in writing on 7 June 2023.
16. The permit issued and subsequently quashed by the High Court referred to a 'small waste incinerator plant', but also referred to 'co-incineration' and the 'waste co-incineration plant'.¹⁷ The draft EP submitted by CVSH in the lead up to the opening of the Hearing described the facility as a small waste co-incineration plant.¹⁸ A comparison of the original and draft EPs was submitted by a third party.¹⁹ Following the discussion at the Hearing on 30 November

¹¹ The appropriate authority has delegated this to the Planning Inspectorate (PINS).

¹² CD28 and CD29.

¹³ Any further third party submissions were required to be received by PINS no later than 10 February 2023. The appellant and the regulator were given until 10 March 2023 to respond. HD14, HD19 and HD20.

¹⁴ HD21.1 was submitted when the Hearing was adjourned.

¹⁵ HD25.

¹⁶ HD26.1, HD26.2 and HD26.3.

¹⁷ CD12 Conditions 1.4 and 3.8.

¹⁸ CD36.

¹⁹ HD13.

2022 about suggested conditions the appellant and the regulator submitted an agreed draft EP.²⁰ This draft was made available on CMBC's website and was the subject of written submissions to PINS during the adjournment. There were further discussions about conditions at the resumed Hearing on 31 May 2023, resulting in an agreed position between the appellant and the regulator.²¹

17. Third parties raised concerns about the adequacy of public consultation throughout the application and appeal process. However, I am now satisfied that the appeal process has provided those who wished to do so a reasonable opportunity for effective participation. Third party submissions are critical of the way CMBC has dealt with the redetermination and the appeal, but that is not an issue for me in determining the appeal on its merits.

Planning appeal and EP for the WTS

18. Planning permission was granted on appeal for the site operated by CVSH in February 2020 for the construction of external flue and change of use of existing building from recycling use (B2) to heat and energy recovery process (*sui generis*) and introduction of mechanical drying of inert soils and aggregates (B2) adjacent to the existing recycling shed together with the installation in underground ducts of pipes connecting the energy recovery plant to a dryer.²²
19. The EA in April 2021 issued a notice of variation and consolidation of CVSH's EP for the WTS. This authorised CVSH to operate a household, commercial and industrial waste transfer station, including treatment of up to 145,000 tonnes of waste per year. The introductory note to the EP records that the variation notice extended the permitted treatment activities on site by allowing the drying and shredding of non-hazardous waste. It also regularised an installed shredder unit. A drying plant would be utilised to dry inert soils and aggregates from the existing waste transfer activity. Heat for drying activities would be generated by the SWIP that is the subject of the current appeal, with the heat transferred to the drying plant via underground pipework.²³

Schedule 13 EPR 2016

20. In determining this appeal, I am required by paragraph 4 of Schedule 13 EPR 2016 to ensure compliance with certain provisions of the IED. These include some of the special provisions for waste incineration plants and waste co-incineration plants set out in Chapter IV of the IED.²⁴ Paragraph 3 of Schedule 13 EPR 2016 states that the regulator must ensure that every application for the grant of an environmental permit includes the information specified in Article 44 of the IED.
21. Objectors argue that the application does not meet the requirements of IED Article 44 to guarantee that the plant is designed, equipped and will be maintained and operated to meet the relevant IED requirements.²⁵ Article 44

²⁰ HD21.1.

²¹ HD21.2.

²² Appeal decisions APP/A4710/W/18/3205776 and APP/A4710/W/18/3205783 at CD4.

²³ EPR/SP3196ZQ/V002 at CD20.

²⁴ IED Article 5(1) and (3); Article 7; Article 8(2); Article 9; Article 42(1); Article 43; Article 45(1), (2) and (4); Article 46; Article 47; Article 48(1) to (4); Article 49; Article 50; Article 51; Article 52; Article 53; Article 54; Article 55; Article 82(5) and (6).

²⁵ HD34 paragraph 5.

provides that an application shall include a description of the measures which are envisaged to guarantee that the following requirements are met: (a) the plant is designed, equipped and will be maintained and operated in such a manner that the requirements of Chapter IV are met taking into account the categories of waste to be incinerated or co-incinerated; (b) the heat generated during the incineration and co-incineration process is recovered as far as practicable through the generation of heat, steam or power; (c) the residues will be minimised in their amount and harmfulness and recycled where appropriate; (d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and Union law. However, the objection omits the reference in Article 44 to measures 'envisaged' to guarantee requirements. I am satisfied that the application reasonably complies with Article 44 because it describes the measures contemplated to guarantee that the specified requirements would be met. Whether those envisaged measures would do so is a matter to be assessed having regard to other relevant Articles of the IED.

22. There is no published guidance for determining Schedule 13 SWIP permit applications. However, I have had regard to the General Guidance Manual on Policy and Procedures for Part A2 and B Installations.²⁶

Main issues

23. The main issues in this appeal are the effects of granting an environmental permit for a SWIP on human health and the environment.

Reasons

Environmental Permitting and Planning

24. The appellant's contention, based upon paragraph 188 of the National Planning Policy Framework (NPPF) and the scope of environmental permitting, is that, planning permission having been granted for the particular development including the SWIP, the planning issues, including the air quality issues, should not be revisited through the environmental permitting regime. In the appellant's submission the impact of the SWIP on air quality was undoubtedly a planning issue, and therefore should not be revisited as part of this appeal.²⁷ CMBC notes that the planning regime and the environmental permitting regime are separate regimes and considers that the findings of the planning appeal serve as a useful background to some of the matters in the current EP appeal.²⁸
25. NPPF paragraph 188 provides that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes) and that planning decisions should assume that these regimes will operate effectively. It adds that where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

²⁶ SWIPS do not constitute a Part A or Part B permit for the purposes of EPR 2016. However, for local authority-regulated facilities the Environmental permitting: Core guidance refers to the General Guidance Manual on Policy and Procedures for Part A2 and B Installations.

²⁷ CD28 paragraph 29.

²⁸ HD36 paragraph 1.4.

26. Appeal decisions APP/A4710/W/18/3205776 and APP/A4710/W/18/3205783 are relevant material considerations in determining this EP appeal, but are binding considerations only insofar as the use and development of land is concerned. With this exception, I do not believe that paragraph 188 means that an extant planning permission fetters the discretion of a pollution control authority in exercising its functions pursuant to EPR 2016. It seems to me that there is a distinction to be drawn between assessing air quality to determine whether a proposal is an acceptable use of land; and determining what is required to control processes or emissions. This is especially so in this case, where IED Article 46 1. provides that waste gases from waste incineration plants and waste co-incineration plants shall be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.²⁹
27. In any event, the conclusions in the appeal decisions about the effects on air quality were based on a combination of the imposition of planning conditions and the regulatory controls likely to be associated with the required EP.³⁰ I read this as an acknowledgement by the Planning Inspector that air quality would remain a relevant consideration to be assessed in a separate jurisdiction pursuant to EPR 2016.
28. IED Article 46 2. provides that emissions into air from the SWIP shall not exceed the emission limit values set out in Annex VI of the IED, but air quality in the vicinity of the SWIP would also depend upon stack height.

Stack height calculation

29. The appellant undertook a stack height determination to establish the height at which there is minimal additional environmental benefit associated with the cost of further increasing the height of the stack.³¹ This notes that the EA removed its Horizontal Guidance Note EPR H1 (xv) for risk assessments in 2016, but considers that the appellant's approach is consistent with the guidance insofar as it identifies an option that gives acceptable environmental performance but balances costs and benefits.
30. The appellant's ADMS-5 model was run for a range of stack heights between 12 m to 18 m in 1 m increments. Tables D.5 and D.6 in Appendix D of CD21 indicate that the Predicted Environmental Concentrations (PEC)³² are below the Environmental Assessment Level (EAL) at all stack heights for both the long-term and short-term IED emission limit values, and so according to EA guidance the impacts would be considered not significant at all heights modelled. Appendix D of CD21 also referred to HMIP Technical Guidance Note (Dispersion) D1 Guidelines on Discharge Stack Heights for Polluting Emissions (TGN D1)³³, and applied a 3 m clearance between the roof of the tallest nearby building (9 m) and the top of the stack to arrive at an acceptable stack height of 12 m.
31. Local objectors to the granting of an EP raised questions about the height of the proposed stack and the implications for the health of nearby residents.

²⁹ CD23, CD24, CD25 and CD26.

³⁰ CD4 paragraphs 57 and 61.

³¹ CD21 Appendix D. I have also had regard to CD19, CD27, HD17 and HD24 regarding stack height calculation.

³² The PEC is calculated as the Process Contribution (PC) added to the Ambient Concentration (AC).

³³ HD32.

There is particular concern that the discharge height would be below the tops of nearby trees and at a lower level than Rochdale Road.³⁴

32. At the Hearing the appellant/CMBC proposed deletion of a previously suggested EP condition concerning off-site air quality monitoring. To properly assess the modelling in the absence of such a condition, I required further information about how the appellant's dispersion model deals with the likely effects on the plume emitted from the 12 m high stack due to the height, proximity and density of the nearby trees/woodland.³⁵ I requested a plan agreed by the appellant and CMBC to show the distance of nearby trees/woodland from the stack, along with the above Ordnance Datum (AOD) height of the top of the trees.³⁶ The extent to which the tops of existing trees/woodland would exceed the discharge height of the stack is evident from the following table derived from the submitted Tree/Woodland Assessment Plan.³⁷ This table excludes trees/groups with a life expectancy of '<10 years' and those that are in 'poor' or 'poor/fair' condition.

Tree T Group G	Distance from stack (m)	Difference between AOD of tops of trees and AOD of top of 12 m high stack (m)	Life expectancy of Tree/Group (years)
T2	41	+11	20+
T3	52	+16	20+
T4	36	+12	20+
T5	50	+22	40+
T6	57	+19	40+
T7	58	+19	40+
T8	57	+17	40+
G3	48	+16	20+
G4	60	+17	10+
G5	67	+18	10+
G6	52	+14	40+

The above table indicates that the tops of nearby trees would be significantly higher than the proposed discharge height of the stack, and at relatively close separation distances. Many of these trees have a long life expectancy and so any adverse effect they might have on dispersion of the plume would be likely to persist for a considerable time.

33. In answer to my question whether the existing trees/woodland result in a local reduction in ventilation in the vicinity of the proposed stack, the appellant indicated that the effect of the trees in this location, even though they are tall and in places densely packed and many of them are higher than the discharge height of the stack, is to reduce the velocity of the air flow and increase turbulence. The appellant's response to another of my questions was that the trees/woodland would not result in drag, wake or other aerodynamic effects that would at times be similar to that likely to result from buildings of a comparable size and proximity as the trees/woodland. The appellant considers

³⁴ Including HD3, HD11 and HD12.

³⁵ HD27.

³⁶ HD29.

³⁷ The distance from the stack to the group of trees is the closest distance between the stack and any tree in the group. The height of the groups of trees is the consistent height of trees within the group at the time of the survey.

that the sensitivity test applied, which involved increasing the surface roughness length around the site to 1.51 m to represent the high density of tall trees, fully accounts for the effect of the trees, and that no further sensitivity testing is necessary.³⁸

34. The appellant's model, insofar as the effect of the trees is concerned, relies solely on surface roughness length, and draws on guidance from the ADMS-5 User Guide to support this approach. The guide states; "If there are a large number of buildings on a large site, the user should consider whether to include those that are nearest to/attached to the sources and/or those that will have the greatest effect on dispersion (tallest/largest), or consider a higher surface roughness, which can be entered in the Meteorology screen, as a means of representing the buildings in a complex site". The appellant argues that this indicates that the use of a higher surface roughness is a good approximation of multiple buildings.
35. However, at the Hearing the appellant also argued that the reduced air flow velocity due to the trees would result in better plume rise because higher wind speeds reduce plume rise. But lower wind speeds would also reduce the rate at which emissions were moved away from the discharge location. No specific evidence was adduced at the Hearing about how these effects would be likely to impact on dispersion of emissions from the proposed 12 m high stack, or whether and to what extent these considerations are given effect in the surface roughness length input to the model relied upon by the appellant. Furthermore, there is no evidence to quantify how much the trees would reduce the velocity of the air flow, or how this would compare with the wind speed data used in the model.
36. In the appellant's submission, the trees would not behave like buildings and would not have the effect of causing the undiluted plume to be brought down to the ground. However, in TGN D1, which the appellant cited in the appeal notwithstanding the fact that it was published in 1993, trees are assessed as resulting in half the effect of a building of the same height. Paragraph 5.4.3 of TGN D1, about the effective heights and widths of trees, lattice towers and porous structures, states that trees and dense foliage should be taken as having their actual height, but an effective width of half their actual maximum width in the TGN D1 calculation.³⁹
37. TGN D1 and ADMS-5 apply different methodologies. Nevertheless, TGN D1 does indicate that trees can potentially have an effect on a plume that is similar, to some extent, to that which would result from nearby buildings. Although, in respect of trees, ADMS-5 applies an overall turbulence factor by way of surface roughness length, that is not specifically derived from the actual height and proximity of trees in the vicinity of the stack. The appellant considers that the use of a higher surface roughness is a good approximation of multiple buildings (and trees in this case). I am not satisfied that reliance on such an approximation is adequate here. The trees/woodland are so close and so much higher than the 12 m high stack that I consider a more detailed site-specific assessment would be required to properly assess the effects of the trees on the dispersion of emissions.

³⁸ HD28 paragraph 2.14.

³⁹ HD32.

38. Given the height and proximity of the trees/woodland in the vicinity of the proposed stack, I am not convinced that it would be reasonable to rely solely on surface roughness length to properly take into account the likely effect of the trees on the dispersion of emissions from the SWIP. In the circumstances, I am unable to find that waste gases from the SWIP would be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.
39. Because of an error at the planning application stage in the AOD of the proposed stack, a previous run of the model inadvertently assessed a stack height 9 m higher than the correct discharge height.⁴⁰ The results from this modelling do not provide any reassurance about the robustness of the stack height calculation now relied upon by the appellant because that run of the model also dealt with the trees solely by means of surface roughness length.
40. The planning appeal decision acknowledged that the data used had been modified by the models to take account of local topography, surface roughness effects, such as the neighbouring woodland, and building effects.⁴¹ The Planning Inspector would have seen the trees on his site visit, but there is nothing to indicate that the evidence before him included details about the height and proximity of the trees/woodland that is now documented in the Tree/Woodland Assessment Plan at HD29. Furthermore, there is nothing to indicate that the appellant in the planning appeal made the Planning Inspector aware of the fact that the trees reduce the velocity of the air flow. I have determined this EP appeal on the evidence before me.
41. The appellant stated at the Hearing that if I did not have sufficient information about stack height calculation to direct the regulator to grant an EP, I should adjourn the Hearing and request the additional information. However, this would not provide a fair and reasonable opportunity for consultees and third parties to participate in the assessment of the EP application. Consideration of any further information about stack height calculation should be, in the first instance, a matter for the regulator and subject to the consultation procedure required by EPR 2016.
42. Taking all the above into account, I consider that the appeal should be dismissed because I am not satisfied on the evidence adduced that the proposal complies with IED Article 46 1., which requires that waste gases from waste incineration plants and waste co-incineration plants shall be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment. Furthermore, I am unable to find that the necessary measures have been taken to ensure that waste management would be carried out without endangering human health, without harming the environment and, in particular without risk to air, in compliance with Article 13 of the Waste Framework Directive 2008/98/EC.

Operator competence

43. Paragraph 13 of Schedule 5 EPR 2016 provides that the regulator must refuse an application for the grant of an environmental permit if it considers that, if the permit is granted, the following will not be satisfied; (a) the applicant must be the operator of the regulated facility, and (b) would operate the regulated

⁴⁰ CD4 paragraph 5.

⁴¹ CD4 paragraph 45.

facility in accordance with the environmental permit. However, this applies if the permit is granted. Given that I am dismissing the appeal and the deemed refusal will stand, it is not necessary for me to consider the application of paragraph 13 of Schedule 5 EPR 2016.

Other considerations

44. Similarly, as the deemed refusal will stand it is not necessary for me to rule on the technical objections raised by third parties. However, it is necessary to comment on the objectors' concern that CMBC has shown only limited understanding of the regulatory processes and that there is no evidence that CMBC has the technical expertise to regulate this facility.⁴² CMBC is the regulator for the proposed SWIP and has statutory responsibilities in this regard. Planning decisions should assume that the pollution control regime will operate effectively.⁴³ It seems to me that the same assumption should apply to the monitoring and regulation of environmental permits. Local reservations about CMBC's ability to properly regulate the SWIP are no part of my decision to dismiss the appeal.

Environmental Permit conditions

45. Many of the requirements of the IED could be the subject of EP conditions, as was discussed at the Hearing.⁴⁴ However, the imposition of conditions would not overcome the conflict I have identified with IED Article 46 1.

Conclusions

46. I have taken into account all other matters raised in the evidence but have found nothing to outweigh the main considerations that lead to my conclusions. I am unable to find that granting an environmental permit for the SWIP would not have an unacceptable adverse effect on human health and the environment.
47. In accordance with Regulation 31(6) EPR 2016 the appeal is dismissed and the deemed refusal stands. This appeal decision, including the above reasons, comprises the determination for the purposes of paragraph 6 of Schedule 6 EPR 2016.

John Woolcock
Inspector

⁴² HD34 paragraph 31.

⁴³ NPPF paragraph 188.

⁴⁴ HD21.2.

APPEARANCES

FOR CALDERDALE METROPOLITAN BOROUGH COUNCIL (CMBC):

John Barrett of counsel	Instructed by CMBC Legal Services
David Dunbar	Principal Environmental Health Officer CMBC
Ian Hughes	CMBC Legal Services
Kate Ryley	Senior Environmental Health Officer CMBC

FOR CALDER VALLEY SKIP HIRE LTD (CVSH):

Satnam Choongh of counsel	Instructed by Gunnercooke LLP solicitors
Michael Krantz	Partner Gunnercooke LLP
Jennifer Stringer MEng MSc	Technical Director RPS
Daniel Smyth BSc MSc DIC	Director Environment and Infrastructure Savills
Robert James (Jim) Moore	Director Calder Valley Skip Hire Ltd
Joseph William (Joe) Sawrij	Director Calder Valley Skip Hire Ltd

INTERESTED PERSONS:

George Pickles	Local resident
Cllr Steven Leigh MBE	Calderdale Council
Richard Frost	Local resident
Liz Leach	Local resident
Frank Darnley	Local resident
Cllr Leah Webster	Ripponden Parish Council
Richard Davis	Local resident
Jane Pugh	Local resident
David Pugh	Local resident
Clive Wilkinson	Local resident
Peter Davis	Local resident
Cllr Audrey Smith	Calderdale Council
Tadeusz Sulich	Local resident
Cllr Dot Foster	Calderdale Council
Michael Foster	Local resident
Graham Prescott	Local resident
Cllr Stuart Cairney	Calderdale Council
Andrew Dobson	Local resident
Fred Davis	Local resident
Cllr Felicity Issott	Calderdale Council Ripponden Parish Council
George Pitt	Local resident
Mr Wager	Local resident
Cllr Jenny Lynn	Calderdale Council

Other local residents and objectors joined in the without-prejudice discussion at the Hearing about suggested EP conditions

DOCUMENTS SUBMITTED DURING THE HEARING (HD):

HD	1	Opening submissions on behalf of the appellant
HD	2	Opening on behalf of CMBC
HD	3	Respiratory data for COPD and Asthma 2021 [submitted by Cllr Audrey Smith]
HD	4	CMBC notes on draft EP
HD	5	CMBC note on delegated authority
HD	6	Code for complaints and complaints from 2004 - 2021
HD	7	Joint note from appellant and council on amended permit boundary plan
HD	8	EA invoice for subsistence charges 2020, 2021 and 2022
HD	9	Odour assessment by Environment Agency in 2016
HD	10	Information Update Calder Valley Skip Hire by Environment Agency April 2016
HD	11	Written statement by Cllr Dot Foster
HD	12	Written statement by Tadeusz Sulich
HD	13	Comparison of original EP and draft EP [submitted by Mr Powell]
HD	14	Written statement by Cllr Steven Leigh MBE
HD	15	Email from CMBC Planning Services dated 30 November 2022 concerning complaint history 2008 - 2020
HD	16	Email from CMBC dated 30 November 2022 concerning complaint history advising that no enforcement sanctions issued
HD	17	Email from Tetra Tech dated 30 November 2022 concerning stack height calculation
HD	18.1	Review of compliance with planning conditions April 2016
	18.2	Analysis of a number of planning conditions [submitted by Mr Dobson]
HD	19	Inspector's Hearing Note 1 dated 2 December 2022
HD	20	Email from appellant dated 2 December 2022 in response to HD19 clarifying that appellant while pragmatically agreeing with CMBC's position on leaving the Hearing open for further written submissions does not consider that there has been any procedural flaw
HD	21.1	Draft Environmental Permit with conditions agreed by appellant and CMBC
	21.2	Revised suggested conditions agreed by appellant and CMBC submitted on 7 June 2023
HD	22.1	Summary evidence about EA compliance bands
HD	22.2	Extract from EP variation application re: operator competence
HD	23	Cabinet Report dated 8 February 2021 Calder Valley Skip Hire Application Determination
HD	24	WYG's response to Planning Inspector's questions dated 25 November 2019
HD	25	Bundle of 55 third party written representations received by 10 February 2023 including Statement of Objection from 1,017 Residents (personal details omitted) with 12 Appendices
HD	26.1	Legal Response to Statement of Objection with Appendices 1-6
	26.2	RPS Response on behalf of the Appellant to Third Party Representations dated 10 March 2023 with Appendices A and B
	26.3	RPS Response on behalf of the Appellant to Objections re Stack Height and Air Quality dated 10 March 2023
HD	27	Inspector's Hearing Note 2 dated 13 April 2023

HD	28	Appellant's response to HD27 Stack Height Calculation and Air Quality dated 9 May 2023
HD	29	Tree/Woodland Assessment Plan RPS Drawing 800 P03 May 2023
HD	30	Draft Agenda for resumed Hearing 31 May 2023
HD	31	Inspector's without-prejudice questions about draft EP conditions
HD	32	Technical Guidance Note (Dispersion) D1 Guidelines on Discharge Stack Heights for Polluting Emissions HMIP June 1993
HD	33	Objectors' response to Inspector's questions about HD21
HD	34	Closing Position from Objectors
HD	35	Review individual flood risk assessments: standing advice for local planning authorities Gov.UK February 2022
HD	36	Closing on behalf of Calderdale Council

CORE DOCUMENTS (CD):

[Also referred to as 'Appeal Hearing Bundle' pages 1-1,372]

CD	1	Appeal Form
CD	2	SWIP Permit Application
CD	3	Application Form
CD	4	Appeal decisions APP/A4710/W/18/3205776 and APP/A4710/W/18/3205783
CD	5	Noise assessment ES Addendum
CD	6	Other technical documents
CD	7	Chapter 3 ES Addendum to 2017 ES Chapter 7:Air Quality July 2019
CD	8	Residence time calculation
CD	9	Process Flow Diagram
CD	10	Application drawings 1, 2 and 3
CD	11	Revised Permit Application Site Plan drawing number JER1902-0002-01
CD	12	Environmental Permit for SWIP dated 10 February 2021 granted by CMBC
CD	13	High Court Quashing Order dated 14 September 2021
CD	14	Air Quality and Permit Review dated 23 November 2021 prepared by Air Quality Consultants Ltd (AQC) commissioned by local resident
CD	15	Response to AQC Review of Air Quality Assessment dated 15 March 2022 prepared by RPS
CD	16	Human Health Risk Assessment prepared by Gair Consulting Limited February 2022
CD	17	Environmental Management System Addendum for the SWIP prepared by RPS
CD	18	CFD Flow Simulation Report by Solid Solutions submitted to CMBC on 18 March 2022
CD	19	Correspondence between appellant and CMBC including Technical Note dated 17 March 2022 and Report dated May 2022 by Tetra Tech. Including notice of non-determination dated 23 May 2022
CD	20	Consolidated and Varied Environmental Permit issued by the EA dated 21 April 2021 for waste operation adjacent to appeal site
CD	21	ES Addendum Vol 2 Additional Air Quality Assessment July 2019
CD	22	Council's Statement of Case
CD	23	Appellant's Statement of Case
CD	24	Objection by Malcolm Powell October 2022
CD	25	Objection by Celia Cullen October 2022
CD	26	Advice of Richard Harwood KC 21 October 2022

CD	27	Air Quality Consultants Technical Note October 2022
CD	28	Appellant's legal response to third party objections 18 November 2022
CD	29	Appendix B RPD Response on behalf of the appellants to third party objections 17 November 2022
CD	30	Proof of Evidence Daniel Smyth 12 March 2019
CD	31	Appellant's closing submissions 28 November 2019
CD	32	Calderdale MBC Air Quality Annual Status Report 2022
CD	33	Extracts from EPR 2016
CD	34	<i>R (aoa James) v Dover DC and Another</i> [2022] EWHC 961 (Admin)
CD	35	IED Directive 2010/75/EU (as amended)
CD	36	Draft Environmental Permit prepared by appellant