



Appeal Decision

Inquiry held on 10, 11, 24, 25 and 27 June 2025

Site visit made on 12 June 2025

by **Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st September 2025

Appeal Ref: APP/Z1585/W/24/3357445

Land South of Archers Fields Close, Burnt Mills Industrial Estate, Basildon, Essex SS13 1DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Archers Fields Energy Recovery Ltd against the decision of Essex County Council (ECC).
 - The application Ref is ESS/120/20/BAS.
 - The development proposed is an Energy Recovery Facility, ancillary office block and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Proposal

2. The site, located within the Burnt Mills Industrial Estate, comprises single storey buildings, hardstanding and outdoor storage areas. The land is occupied by a vehicle depot used for the storage and maintenance of Waste-A-Way vehicles and equipment and by other small businesses.
3. The proposed development includes a waste disposal installation for the incineration of non-hazardous waste with a capacity exceeding 100 tonnes per day. The project therefore falls within Class 10 of Schedule 1 of the 2017 EIA Regulations¹ and as such is EIA development. The planning application was accompanied by an Environmental Statement, which was subsequently updated following initial consultations. In determining the appeal, I have considered all this environmental information and the environmental information that came forward during the appeal and inquiry.
4. The Environmental Statement (ES) describes the proposed development, in terms of the on-site process and activities, the site layout and the buildings and plant. In summary, the intention is to redevelop the 0.5 hectare site to provide a combined heat and power energy facility comprised of two 20MWth² energy plants (the ERF).
5. The main building would be divided into two parts – an area for fuel reception and storage, and the western part housing the two energy plants, each capable of

¹ The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

² MWth = megawatt thermal

processing 75,000 tonnes of non-hazardous residual waste materials per annum. Each plant would have a chimney stack at a height of 50 metres (m). On top of the roof of the main building would be a 26m high odour abatement stack, air cooling equipment shielded by acoustic parapets and an array of solar photovoltaic panels.

6. In simple terms the feedstock material would be fed into the furnace at a controlled rate leading to the production of ash. The steam from the combustion process would be fed to a turbine to generate electricity for export off site. The flue gasses would pass through a condenser where heat is recovered. The cooled flue gasses would be treated and discharged into the chimney.
7. The building would occupy the rear half of the site, with the area to the front primarily used for vehicle circulation and parking. A three-storey office block³ is proposed in the northeast corner, near the site frontage to Archers Fields Close. The main vehicle access would be to the west.
8. The proposal is presented as forming a wider plan for redevelopment of sites nearby, owned and operated by Clearaway Recycling Ltd⁴. In the event planning permission is granted for the ERF the appellant stated the intention to submit a planning application for the construction of an aggregate block manufacturing plant to utilise the incinerator bottom ash (the non-combustible residue left in the incinerator). To the east of the appeal site is the bulk waste management facility, generally referred to as the materials recycling facility (MRF), that would provide the feedstock for the proposed ERF. Planning permission was granted on 5 February 2024 for redevelopment and consolidation of the MRF (the 2024 MRF permission). The quantity of waste materials handled at the redeveloped MRF site within any 12-month period is restricted by planning condition to no more than 225,250 tonnes per annum. The appellant's aim is for all projects to be completed by 2028.

Planning Policy

Development plan

9. The development plan comprises the Essex and Southend-on-Sea Waste Local Plan adopted 2017 (the WLP) and the Basildon District Local Plan Saved Policies 2007 (the DLP).
10. The WLP. Policy 4 states proposals for waste management development will be supported in principle in Areas of Search defined on the Policies Map, provided the design and use of the facility is compatible with existing uses in the employment area. The site is in the Burnt Mills Central Basildon Area of Search. The supporting text explains many waste management operations are similar in impact and nature to industrial and storage and distribution facilities. Therefore, the Waste Planning Authority has a preference for waste management facilities to come forward in such locations, rather than in less suitable greenfield locations or close to sensitive areas.
11. Policy 4 also provides that proposals within the Areas of Search should be considered against other relevant policies in the WLP and the wider Development Plan as a whole. The most relevant policies in the WLP are Policy 10 Development

³ Dimensions: length 13.8m, width 9.4m and height 17.5m (CD.1.3 Table 3.3.1 on page 3)

⁴ CD.7.6 Figure 1

Management and Policy 11 Mitigating and Adapting to Climate Change. In summary, Policy 10 permits proposals for waste management development where it is demonstrated the development would not have an unacceptable impact on the list of factors set out in the policy. Policy 11 requires proposals to minimise their potential contribution to climate change.

12. The DLP. The Burnt Mills Industrial Estate (BMIE) is an existing employment area as shown on the Proposals Map. Within the Harvey Road and Archers Fields area of the estate, also defined on the Proposals Map, Policy BAS E6 permits the development or expansion of untidy industry sites. In a recent review, Basildon Council found this policy compliant with the Framework⁵. The term 'untidy industry' is used to encompass a variety of industries which are untidy in appearance, and which have the potential to cause significant environmental harm, such as salvage operations, recycling, outside storage and the parking of heavy vehicles. The appeal site is adjacent to but outside the Untidy Industry Area, where the policy requires the proposal to be assessed on the basis of its likely effects on nearby uses.
13. Policy BAS E10 broadly sets out the development control criteria appropriate to industrial, business and office development with a view to ensuring a high standard of development in relation to design, scale, car parking and environmental impact. Policy BAS E7 applies to proposals for alternative uses of industrial premises and one of the criteria requires no adverse impact upon the amenities of the area. In the Compliance Review these two policies were found to be partially compliant with the Framework because of the inconsistency with the operation of the 2020 revisions to the Use Class Order. Consequently, in the assessment by Basildon Council less weighting is applied, with greater weight given to the Framework⁶. ECC submitted any reduction in the weight should only be very slight, a point not challenged by the appellant.

National Policy

14. The National Planning Policy Framework December 2024, with amendments made in February 2025, (the Framework) should be read in conjunction with the National Planning Policy for Waste (NPPW). Additional material considerations are Planning Practice Guidance on Waste, The Waste Management Plan for England 2021 and the Department for Environment Food and Rural Affairs note on Residual waste infrastructure capacity, published in December 2024 (the Defra note).
15. Planning Practice Guidance Renewable and low carbon energy applies to developments of 50MW or less installed capacity. Above this capacity the Overarching National Policy Statement for Energy January 2024 (EN-1) and the National Policy Statement for Renewable Energy Infrastructure November 2023 (EN-3) are part of a suite of documents that set out the government's policy for delivery of major energy infrastructure.
16. The National Policy Statements (NPS) apply to nationally significant infrastructure projects, as defined in and determined under the Planning Act 2008. They may be a material consideration in decision making on applications that fall under the

⁵ CD.3.4 Compliance Review of the Saved Basildon District Local Plan Policies against the December 2024 National Planning Policy Framework page 29

⁶ CD.3.4 paragraph 2.21 and page 30

Town and Country Planning Act 1990 (as amended). Whether the policies in the NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy⁷.

Main Issues

17. ECC refused to grant planning permission for four reasons. After the appeal was made ECC confirmed they would defend reason for refusal 1 only, regarding visual impact on neighbouring residential areas. This reason cited DLP Policies BAS E7 and BAS E10, WLP Policy 10, The Framework and the National Planning Policy for Waste. In addition, ECC put forward the perception of harm to the physical and well-being of residents as a material consideration to weigh in the planning balance.
18. The main issues are:
 - The effect of the development and more specifically the two 50m chimney stacks on the visual amenity of the surrounding residential environment and the townscape of the area.
 - Whether the proposed development is an acceptable use of land at Burnt Mills Industrial Estate, considering the environmental impacts on public health and well-being and the perception of harm by the local community.
 - The effect of the development on sustainable waste management facilities in the County, in the context of local and national policy objectives.
19. A range of other matters will be taken into account before concluding on the section 38(6) duty that requires the determination of the appeal to be made in accordance with the development plan unless material considerations indicate otherwise⁸.
20. The use of planning conditions in mitigating any adverse effects will be a consideration in assessing the proposal. The Framework states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).

REASONS

Context for main issues

21. Basildon, designated a Mark 1 New Town in 1948, was built in a number of phases over 50 years based on the ideals and principles of New Town planning⁹. The town was planned around a strong segregation between land uses. This principle is seen in the self-contained residential neighbourhoods surrounding the town centre and the concentration of industry on the northern side of the town close to the A127, the Basildon Enterprise Corridor.
22. Burnt Mills Industrial Estate is enclosed by Courtauld Road to the north and east, Burnt Mills Road to the south and the A132 to the west. Recycling and waste

⁷ The role of EN-1 and EN-3 in the wider planning system is explained in section 1.2 of EN-1 (CD.5.14)

⁸ Section 38(6) of the Planning and Compulsory Purchase Act 2004

⁹ CD. 6.9 Urban Characterisation and Design Review December 2015 Basildon Borough Council

management operations take place in addition to those carried out by Clearaway Recycling Ltd. These sites are mainly in the area to the east of Archers Fields. In my view the appeal site is just as well related to the westernmost area of the estate, served by Repton Close where there is a mix of employment and distribution premises. The site backs onto modern units on Repton Court, where the landscaped parking area and outdoor space appear well maintained and, when I was there, was appreciated by employees. The estate has a wide range of firms and businesses, including 'tech' industries, service trades and support facilities¹⁰. A belt of mature trees is a particular feature along Burnt Mills Road and is important in screening buildings and operations and in providing a visual buffer between the estate and the residential area to the south.

23. The nearest residential receptors were identified in the ES as Montague Street approximately 230m to the west, Ilmington Drive/Sherbourne Drive approximately 170m to the south and Nevendon Road, approximately 195m to the northwest. The point was made that all residential properties are separated from the appeal site by existing development¹¹.

Visual Impact

Building design

24. The design is informed by the location of the appeal site in an industrial estate in the urban area of Basildon, where there is a mix of industrial, business, storage and waste related uses. Functional warehouse style buildings and open storage areas and service yards are typical. The immediately adjacent receiving environment is not sensitive. The design approach for the ERF scheme is to keep the building form purposefully simple, clean, robust and modern. Structures are limited to their functional minimum height, the plant within the building requiring a large footprint and vertical height. Little by way of openings or fenestration are required. The visual bulk of the building is broken down through the modulation of the cladding materials and the use of colour, rather than the introduction of ornamentation. The use of non-reflective materials, matt finishes and recessive colours on external surfaces aim to minimise visibility.
25. The design approach is appropriate for the use and industrial environment. The enclosure and containment of processes would do much to assist the integration of the development into the industrial townscape. Nevertheless, the cross-section plans show the building, by reason of its height and site coverage, would be relatively large even in its immediate context. There would be a substantial change to the character and appearance of the site, that would go well beyond tidying up. Site size, building and operational requirements and the character of the locality constrain the opportunity and appropriateness of introducing soft landscaping.
26. The one distinctive and essential element of the development is the means of treating emissions, comprising the two 50m stacks. The stack height determination report concluded a design stack height of 50m would give acceptable environmental performance, balanced against the costs and benefits of implementation. In other words, 50m is proposed as an 'optimal' height applying best available techniques (BAT). There is no scope for reducing the height or mitigating the visual impact through landscaping, whether on or off site. The

¹⁰ CD.IQ.9 page 1

¹¹ CD.1.2 paragraph 2.6.2

primary objection to the scheme by ECC is the visual impact of the stacks on residential areas.

Visual impact

27. The methodology of the landscape and visual impact assessment (LVIA) is acceptable. Mitigation is inherent in the design of the building and use of materials and no reliance is placed on landscaping to affect views of the development from outside the industrial estate over time. Private viewpoints from residential properties are not included within the scope of the LVIA and no residential amenity assessments have been carried out.
28. The Zone of Theoretical Visibility indicates that the buildings and the stacks would be visible from outside the urban area, primarily to the north and southeast, and from within the extent of the main built-up area within a 2 kilometre (km) radius. The visual envelope is limited by the low-lying flat topography and the location of the site within a built-up area where buildings nearby screen out views. People who may experience views of the development and the places where they would do so would include people working and visiting employment areas, residents in their home environment, users of parks and open spaces, people passing through the town and users of rights of way. People at their place of work and transport users, where attention is not on the surroundings, are likely to be less sensitive to change.
29. The proximity of the site to residential areas was a recurring theme when considering the effect of the development on the community. The site is at the western end of the designated employment area. Beyond the industrial area and perimeter roads, residential areas are located to the west, south and north, identified by ECC as the residential character areas of Fryerns, Pitsea and Nevendon respectively.
30. Taking account of the effect of distance and sensitivity of receptor, the inquiry evidence rightly concentrated on viewpoints in residential and recreational areas within a radius of about 1 km. During the appeal process five viewpoints were established that became the focus of the expert evidence. The viewpoints were representative, selected to indicate the experience of receptors from public locations. No landscape mitigation would be able to screen the stacks due to their height and so visual effects would remain constant between years 1 and 15. The visual effects would be permanent over the life of the development.
31. A point of dispute is whether a crane on the Burnt Mills Industrial Estate is an industrial feature. The exact height of the crane was not confirmed but a height of around 40m to 50m is agreed. The crane is sited just to the north of the appeal site at the premises of a mechanical engineering firm and is used to move large pipes and fabricated steel. The crane is a permanent feature and appears to be static for much of the time. The structure is visible from the surrounding residential areas and is a good reference point in terms of location and height, although the long projecting arm of open metalwork has a very different appearance to the proposed stacks. A crane is often associated with construction sites and is a typical feature at storage sites or docks. Residents probably are aware this crane is on industrial premises and not a building site. The two stacks probably would be viewed differently with negative associations because of the link with waste disposal and emissions, rather than the neutral or the constructive association of the crane.

32. A radio mast of approximate height 30m also is sited on the same engineering premises and is seen alongside the crane. Having considered the various opinions, I regard the mast as a detracting feature, not an industrial feature. The other tall structure identified in Basildon was a water tower (height about 38m) on the New Holland Factory complex, east of the Festival Leisure Park. This structure and the chimney next to it were built about 70 years ago. I consider it has little relevance to the visual assessment because of its form, siting and location.
33. Plumes from the stacks would be visible at times. The ES¹² estimates an average of around 146 plumes would occur per year, with an average duration of about 64 minutes per plume. As described, the extent of visibility would depend on conditions at the time such as wind strength and direction. Plumes could occur in summer, winter, day or night but are said to be most likely at night in winter when the surrounding air is cold. Theoretically there would be a visible plume for 1.8% of the year, leading the appellant to conclude the level of visibility would not be significant. In reality, the plumes would draw attention to the presence of the stacks and their function and are a significant factor to take into account.

Residential neighbourhoods and viewpoints

34. The Fryerns residential area dates to the initial development of Basildon new town in the 1950s and 1960s. Since then, some areas have been redeveloped to improve housing layout and quality.
35. The viewpoint PR1 Montague Side identified by ECC is on the north-eastern edge of the neighbourhood in an area of recently developed housing. The Proposals Map indicates previously the land was part of an area of amenity space that extends along the southern side of Cranes Farm Road. The housing layout is fairly tight and compact with a mix of dwelling types. Buildings (houses and garages) occupy much of the plots and dwellings are sited close to the highway. As a result, there is a high degree of enclosure along the streets, and the housing environment is urban rather than spacious. In contrast at the western end of the principal streets the frontage housing and residential road encompass an area of open space, with a children's play area. The crane and mast are visible over the roof tops, and the crane is also seen when looking down Montague Street. Background traffic noise from Cranes Farm Road is audible.
36. The Cranes industrial/employment area to the north, whilst not intrusive, does have an obvious presence when walking round the residential area. In particular there are views across to Cranes from the footways leading to the main road (such as Coahill Path). At the eastern end of Montague Street there is a clear view across to the estate with its industrial and warehouse buildings, aerials, banners, lorries and so on. Commercial buildings fronting the estate opposite, together with the business signage, are seen through gaps between houses and the covered parking spaces. Silver extract flues also catch the eye.
37. Pitsea has a mix of mid to late 20th century housing, with some areas such as Northlands enhanced by the open space and park.
38. Viewpoint 3 Sherborne Drive represents the potential views within a residential area close to the site, built in the 1980's. Dwellings are arranged in a series of cul-de-sacs and are a mix semi-detached and detached two storey houses,

¹² CD.1.10 paragraphs 10.31.7 to 10.31.10

bungalows and units in three storey buildings. Separate footways link the various streets and increase the visibility of the surroundings. Looking north along the streets (Sherbourne Drive and Ilmington Drive) the mast and crane are very noticeable rising above the roofs and mature trees, and they are seen from elsewhere within the area.

39. The proximity of Burnt Mills Industrial Estate to the residential neighbourhood is appreciated particularly from Burnt Mills Road, a principal route of access to and from the housing area. At the western end of the road a wall is effectively formed by the rear elevation of one of the warehouse buildings and there are views through to Repton Close. A distinctive development is 1-10 Nevendon Place¹³ (viewpoint C2). This building and site were recently refurbished to provide rough sleepers' accommodation. The mast and crane are prominent looking across from near the junction of Sherbourne Drive and Burnt Mills Road.
40. Viewpoint 4 Northlands Park. The park is an important open space and recreational area, with lakes, fishing platforms, circular walks, extensive open green spaces, a play area and a café. The park is easily accessible from the surrounding residential areas and appears well used by the community for active and passive recreation. Even though the park is close to main roads, views out of the park are of the mature trees enclosing the green space and of housing around parts of the park perimeter.
41. Viewpoint 14 Davenants. This residential area lies to the east of Nevendon Bushes, where houses are typically small scale two storey semi-detached. Gaps between the dwellings allow for views through to the trees beyond, a characteristic which enhances the residential environment. There are glimpses of the mast and crane but generally these are limited in occurrence and significance. The presence of the industrial estate is strong on Burnt Mills Road because of the proximity of the waste operations and the large industrial buildings near the road. Some blocks of houses and flats front onto the main road and face towards the existing MRF waste site and industrial buildings.
42. Viewpoint PR2. Within the character area defined as the Basildon Enterprise Corridor is a somewhat isolated area of residential development. Groups of houses have been developed off Church Lane and Nevendon Road, with an additional ribbon of housing extending southwards towards a commercial site at the roundabout. A distinctive building within the residential area is the grade II* listed St Peter's Church, where the churchyard offers a quiet place for reflection and contemplation. On the south side of the church building the churchyard is well enclosed on two sides by dense vegetation but where the vegetation is of lower height the crane and mast can be seen from a small number of places even in the height of summer. Photographs taken by the appellant and ECC earlier in the year demonstrate the visibility of the crane from the churchyard and Church Lane when leaf cover is low. The other detractor is the odour from the sewage treatment works, which lies to the southeast of the main area of housing.
43. Comparing the assessments of visual effects carried out by the expert witnesses, there are similarities in conclusions on significance but also marked differences. The significance of visual effects is informed by assessment of the sensitivity of visual receptors and the magnitude of change. The Guidelines for Landscape and

¹³ CD.7.8 Appendix PWB1 Viewpoint PWB C2

Visual Assessment (GLIVIA) explain that visual receptors are all people. Sensitivity is a function of peoples' susceptibility to change in views and visual amenity and the value attached to particular views. The magnitude of visual effects should be evaluated in terms of its size or scale, the geographical extent of the area influenced and its duration and reversibility.

44. The ES sets out visual sensitivity and magnitude of change criteria that take account of principles in the GLIVIA¹⁴. Having understood the expert witnesses used the same criteria in their assessments of magnitude of change to ensure consistency and ease of comparison, at the inquiry the appellant's witness updated the descriptor for the low magnitude of change. The preferred wording is a small deterioration, rather than a 'barely perceptible deterioration'.
45. ECC's expert witness assesses sensitivity as medium - high for viewpoints 4, PR1 and PR2 and medium for viewpoints 3 and 14¹⁵. In terms of viewpoint 4, the higher sensitivity for the park is said to reflect the location, user types and activities they would be partaking in. However, visitors to the park who are outside their immediate home environment are likely to focus on the activities and assets of the park rather than the wider townscape beyond the park and particular views. Views towards the scheme would be restricted and distant. I prefer the medium sensitivity assessed by the appellant. Regarding viewpoint PR1 Montague Side, again I question whether residents' enjoyment of the open space for recreation depend on appreciation of views of the townscape. The existing residential environment is not free of visual reminders of nearby industrial and commercial areas. The medium - high assessment for viewpoint PR2 Nevendon is reasonable because of the status of the church and the likely purpose of visitors to the church and churchyard. There is no reason to depart from the medium sensitivity for Sherbourne Drive and Davenants as assessed by both parties.
46. Turning to magnitude of change, the appellant's assessment is medium - low, low and negligible for viewpoints 3, 4 and 14, compared to ECC's assessment of medium, medium - high and medium - low respectively.
47. Viewpoint 3: The change is indicated by the wireline view and the photomontage with the blue wireline removed. A better sense of the size of change is experienced on site. The upper part of the new building would be visible, partly obscured by vegetation along Burnt Mills Road, together with the two tall stacks and the third lower stack further back. The ERF would appear to sit immediately behind the houses at the northern end of Sherbourne Drive and Ilmington Drive, with the height of the two tall stacks brought into sharp focus alongside the radio-mast and the dwellings. The contrast in scale and building form would be very substantial. As described by a resident, the development would tower over the area. In winter, with reduced leaf cover, more of the building would be seen, increasing slightly the effects. Given the relationship between the ERF and the residential area, the plume would emphasise the presence of the stacks. Referring to the ES criteria, at the very minimum a noticeable deterioration would occur. At the inquiry a local Councillor expressed concern the stacks would be an ever-present visual reminder of the ERF's presence. In my judgement the magnitude of change would be closer to high, representing a significant deterioration in the existing view.

¹⁴ CD.1.10A in Table 3 and Table 4

¹⁵ CD.7.12 Table 4.4

48. Viewpoint 4. For Northlands Park, the ECC assessment emphasises the absence of any industrial presence in the baseline position. The photomontage indicates the visibility of the two stacks in the distance, within a wide view where the green space, trees, houses and park building and recreation facilities are the main focus. My assessment of the magnitude of change is more in line with the appellant's low (a barely perceptible/small deterioration) and certainly no more than medium - low.
49. Viewpoint 14. The photomontage and wireline have a large bush in the foreground and neither the building nor stacks are visible in views. The vegetation has since been removed but even so from the chosen viewpoint the evidence indicates change would be negligible. Taking a wider perspective, the gaps between dwellings allow for views out of the residential area. There probably would be glimpses of the stacks and at times the plume, resulting in a low magnitude of change or as described in the ES criteria a barely perceptible/small deterioration in existing views.
50. The magnitude of change is assessed by ECC as medium - high for both the additional viewpoints PR1 and PR2 and by the appellant as low.
51. Additional viewpoint PR1 Montague side. I have explained there is a strong sense of industrial uses within the residential area, primarily related to the Cranes industrial area rather than Burnt Mills. Hence on this point my baseline departs from that of ECC. Nevertheless, the development would introduce a different form of industrial feature, namely the two chimney stacks that would be far higher than any building or feature on Cranes. Using the crane and mast as reference points, the stacks would be very visible looking across the open space and down Montague Street. Of particular note is their height and the juxtaposition of the contrasting industrial form with the domestic scale and appearance of the dwellings and the visual enhancement provided by the amenity green space. The associated plume would at times catch the eye and reinforce the purpose of the stacks. On the basis of a noticeable deterioration in the existing view the magnitude of change would be medium at least and ECC's judgement of medium - high is understandable.
52. Viewpoint PR2 Nevendon. Again, using the crane as a reference point, the two stacks would be visible from within the churchyard and to a lesser extent from Church Lane. Whilst not visible from all the churchyard, the stacks would be a focal point when entering the graveyard behind the church and where people are likely to pause or rest for contemplation. The sharp contrast between the industrial appearance of the stacks and the historic environment around the church would increase the harm to visual amenity. The proposed development would result in a noticeable deterioration in the existing view and detract from the quality of the community space within the residential environment. As a result, the magnitude of change is medium.

Overall significance of effect

53. The significance of effect is derived from a combination of sensitivity and magnitude of change for each receptor, as set out in the matrix in the ES¹⁶.
54. In my judgement the significance of effect would be minor - adverse for Davenants and Northlands Park and moderate - adverse for Montague Side and Nevendon.

¹⁶ CD.1.10A page 7 Table 5

The greatest harm, substantial - moderate adverse, would be in the Sherbourne Drive, Ilmington Drive residential area represented by viewpoint 3. In comparison, the appellant considered the Ilmington Drive area would experience the greatest effect, moderate - minor adverse, by reason of its proximity to the site but concluded the effect would not be significant. Overall, my assessment is closer to that of ECC and is above the level of harm identified by the appellant.

55. The LVIA methodology does not specify what is considered a 'significant' impact for EIA purposes and the common approach adopted by ECC, and the appellant, is reasonable to apply. Major and Major-Moderate would be considered significant while Moderate may or may not be significant. This leads to a conclusion that in EIA terms the visual impact would be significant in the areas Sherbourne Drive/ Ilmington Drive, Montague Side and Nevendon, but not significant for Davenants and Northlands Park.
56. Other locations. The zone of theoretical visibility indicates the stacks would be visible from few residential streets outside a 1 km radius of the site and within the 1 km zone visual change would be contained. This conclusion is reasonable based on the experience of my visits to the area. The additional representative viewpoints (PR1 and PR2) have picked up places that were not identified. Cranes Farm Road is an example of the visual effect on a main transport route where the photomontage viewpoint 5 indicates the stacks would not be particularly noticeable. In contrast, I found the stacks would be prominent in views from East Mayne, a very well used route by residents to travel to community venues by a range of transport means, including buses. The development would be visible in longer distance views, mainly from locations outside the main built-up area to the north of the A127 but the visual effect would not be significant due to the mitigating effect of distance.

Conclusions

57. The development and more specifically the two 50m chimney stacks would be harmful to the visual amenity of the surrounding residential environment, the level of harm varying from place to place and street to street. The greatest and unacceptable visual harm would be in the neighbourhood around Ilmington Drive and Sherbourne Drive. The substantial harm to visual amenity cannot be controlled or mitigated and would be permanent and present at all times.
58. WLP Policy 10 applies to waste management development, including in Areas of Search and does not permit proposals leading to unacceptable impacts. The supporting text to the policy assists in interpretation and understanding the scope of the criteria¹⁷. Local amenity impact refers to the effect of a proposal on the existing visual and aural characteristics of the immediate neighbourhood (criterion (a)). The visual impact on the landscape and townscape experienced as a result of a development is described as a key consideration in determining planning applications (criterion (h)). Moving to criterion (n), layout and design quality, as well as reducing impacts, are seen as a means of creating a positive impact with regard to the public perception of activities. Therefore criteria (a), (h) and (n) are relevant to the visual amenity and quality of an area. The proposed ERF fails to comply with these criteria. ECC also relies on criterion (j) public open space and

¹⁷ CD.3.2 paragraphs 9.21, 9.30 and 9.46

outdoor recreation facilities but I have not found an unacceptable visual impact in Northlands Park.

59. The deterioration in visual amenities is a very relevant factor when assessing the proposal against Policy BAS E6. Policy BAS E7 criterion (iv) does not include the word 'unacceptable'. The policy test sets a high bar and requires "no adverse impact on the amenities of the area", which I read as including visual amenities. My assessment shows this criterion is not met. All criteria must be satisfied to gain compliance with the policy. Consequently, there is a conflict with the policy as a whole and the development is not supported by Policy BAS E7. Turning to Policy BAS E10 the form and scale of the development would not be appropriate and sympathetic to neighbouring residential areas, primarily due to the two 50m stacks.
60. The appellant considers the policy context in National Policy Statements EN-1 and EN-3 is important in assessing the visual impacts of the appeal scheme¹⁸. Attention is drawn to the government's recognition that sizable infrastructure will inevitably have visual impacts and that limited weight should be placed on any harm arising, provided the proposal has been designed to minimise such impacts. However, for a proposal that is not nationally significant, a good level of coverage is given to design and visual amenity by applicable planning policy. In the Framework ECC refers in particular to paragraphs 135 and 139. My conclusion is the proposed building with the two stacks would not add to the visual quality of the area over the lifetime of the development and the scale would not be sympathetic to the surrounding built environment. In isolation, the proposal would help raise the standard of design more generally on the BMIE but in the context of the wider area, the development would not fit in with the overall form and layout of the surroundings.

Health and well-being

Policy and regulation

61. Energy from waste plants (EfWs) are accepted by national policy as forming an acceptable element of infrastructure for energy generation and waste disposal. Government policy also recognises that energy infrastructure has the potential to impact on the health and well-being of the population, positively through the provision of energy to benefit society and possibly negatively through production, distribution and use of energy. Direct impacts may include air pollution, dust, odour, noise and increased traffic.
62. The Framework states that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lives, through promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities.
63. The planning and pollution control systems are separate but complementary. With reference to paragraph 201 of the Framework the focus of planning decisions should be on the acceptability of the proposed use of land rather than the control of processes or emissions where these are subject to separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively. This point is restated in the National Planning Policy for Waste: "Waste

¹⁸ IQ.21 paragraphs 62-67

planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.”¹⁹

64. The role of the environmental permit, regulated by the Environment Agency (the EA), is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through measures to prohibit or limit the release of substances to the environment to the lowest practicable level. The permit also ensures ambient air and water quality meet standards that guard against impacts to the environment and human health.
65. The EA in their consultation response on the proposal outlined the three areas of potential harm when assessing the permit: (i) Management - including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes; (ii) Operations - including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design; (iii) Emissions - to surface water, sewer and air, odour, noise and vibration, monitoring and reporting of emissions.

Research

66. Health effects from modern waste incinerators (MWI) have been the subject of extensive research by Imperial College London²⁰. The research paper published in 2018 found no evidence for increased risk of a range of birth outcomes, including birth weight, preterm delivery and infant mortality, in relation to either MWI emissions or living near an MWI operating to the current EU waste incinerator regulations in Great Britain. A second study in 2019 investigated the risk of congenital anomalies in babies born to mothers living within 10 km of an MWI. They found no increased risk in relation to modelled PM10 emissions, but small excess risks were associated with congenital heart defects and genital anomalies in proximity to MWIs. The authors thought the latter findings may well reflect incomplete control for confounding, that is not fully adjusting the study for factors such as other sources of pollution around MWIs or deprivation. A possible causal effect could not be excluded but was not established.
67. Public Health England in a statement on these publications and research confirmed their (PHE) risk assessment “remains that modern, well run and regulated municipal waste incinerators are not a significant risk to public health. While it is not possible to rule out adverse health effects from these incinerators completely, any potential effect for people living close by is likely to be very small. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that these incinerators make only a very small contribution to local concentrations of air pollutants.” This statement is very relevant and has considerable weight in view of PHE’s role in providing government, local government, the NHS, Parliament, industry and the public with evidence-based professional, scientific expertise and support²¹.
68. The appellant also cited studies carried out on behalf of the Greater London Authority. One study sought to quantify the contribution of 5 EfWs operating in

¹⁹ CD.4.2 paragraph 7 bullet 5.

²⁰ CD.9.1, CD.9.2

²¹ Public Health England has been replaced by the UK Health Security Agency and Office for Health Improvement and Disparities

London to mortality and hospital admissions. The work found a very small number of deaths (15) were brought forward and less than 1 hospital admission per year was attributable to the EfWs. The second literature review into health effects of EfWs concluded “any potential health risks (cancer, non-cancer, pregnancy, birth and neonatal health) associated with direct emissions from modern, effectively managed and regulated EfW plants in London are exceedingly low.”²²

69. The appellant’s expert witness concluded that overall, a broad spectrum of national and international studies and publications show that modern well run EfW facilities such as the appeal scheme pose a very low risk to public health. Most of the studies related to EfW facilities operating to less stringent emissions controls than would apply to the appeal scheme and therefore the risk of harm to health is extremely low²³.
70. ECC accepted the level of risk is within the acceptable limits but reminded the inquiry the evidence, including the research studies, demonstrated risk cannot be eliminated.
71. Conclusion. The research evidence presented, when read alongside PHE’s assessment, is reassuring. However, understandably some people may be troubled by the very low risks identified, especially if they live close to the appeal site and/ or suffer from ill health.

The ES and the proposal

72. The air quality assessment included consideration of the emissions from the twin 50m stacks, dust, traffic emissions and odour, both during construction and in the operational period. The closest residential, commercial and amenity receptors are identified, noting housing is within 200m of the stacks.
73. Proposed mitigation includes:
 - A construction environmental management plan (CEMP), to include embedded mitigation through site design and duration of activities as well as any required further mitigation.
 - Treatment of combustion pollutants through processes and dilution as a result of the stack height.
 - Built-in measures to control and mitigate odour, such as fast shutting roller doors, design of the reception hall, installation of an odour abatement unit, regulation of internal air conditions and by monitoring measures at the site.
 - Treatment of feedstock material before delivery at the site.
 - A management plan for stack emissions and odour as required by the environmental permit.
74. The study concluded there is no realistic potential for a breach of air quality objectives, crucial levels or critical loads as a result of the operation of the ERF. No significant effects are identified over all phases.

²² CD.7.10 Appendix A3 Executive Summary

²³ CD.7.9 paragraph 3.36

75. The scope of technical information, methodologies and assessments were informed and where necessary revised through consultation with specialist authorities and statutory consultees, including Public Health England and the Environment Agency. No objections or undue concerns were raised on the final documents and conclusions. ECC's appointed specialist consultants, who reviewed the assessments, raised a number of points about consistency in reporting and missing details or information on certain matters. The majority of these comments were addressed by the appellant and the consultants accepted the conclusions of the air quality assessment. An odour management plan was recommended together with a revised dust risk assessment once further design details were available and a CEMP incorporating mitigation measures.
76. The ES also assessed the effects due to noise and vibration during the construction and operational periods. Subsequent revised and additional information addressed matters raised by consultees, who did not object to the proposal. Planning conditions are proposed to secure noise mitigation measures and monitoring. Subject to compliance with approved requirements the evidence indicates noise would not give rise to significant adverse effects on health and quality of life.
77. A Health Impact Assessment (HIA) considered the likely impact of the proposed EfW development on the general health and well-being of populations and communities. The health profile of the community did not identify any consistent theme in health inequalities. The HIA drew on the findings of the technical assessments presented in the ES. In identifying pathways, the HIA described potential negative and positive outcomes. By way of examples, poor air quality was linked to a range of health conditions including incidence of chronic lung disease, heart conditions and asthma levels among children as well as having implications for mental health, primarily dementia. Foul odours may cause stress and anxiety and prevent people using outdoor spaces for physical activity and relaxation. Concern over the potential for environmental hazards and accidents may cause stress and anxiety among residents. Attractive neighbourhoods contribute to a sense of place and well-being, while intrusive features can cause stress for local receptors.
78. The HIA concluded that health impacts from the construction and operation of the proposed development would be negligible or insignificant following the mitigation actions recommended and incorporated into the scheme. The HIA also recognised the perception of impacts can have implications for the health and vulnerability of local communities to change brought by new developments. The HIA recommended measures to improve transparency about the facility's operations (such as live emissions data) and ongoing liaison with the local community.
79. A human health risk assessment (HHRA) was aimed at identifying any potential health risks associated with emissions of dioxins and furans from the proposed ERF. Cancer risk, hazard risk, infant exposure and concentrations in soils were among the impacts considered. The assessment was described as very precautionary, using a range of worst case assumptions. All impacts were assessed as insignificant and no specific mitigation measures were identified beyond those incorporated into the design.
80. In the statement of common ground ECC agreed that the impact on air quality would not be significant, noting the assessment followed established methodology

and applied a number of precautionary and worst-case assumptions. Dust emissions would not be significant and residual odour concentrations would be very low, well below Environment Agency benchmarks and as such would be negligible. A Noise Impact Assessment confirmed no adverse impacts associated with the development. There is no contrary objective evidence that leads me to come to different conclusions. It has been demonstrated the development would not have an unacceptable impact on local amenity in terms of air quality, noise, odour and dust. On these environmental matters there is no conflict with WLP Policy 10.

Perception of harm

(a) The Community

81. The appellant and ECC agree perception of harm is a material consideration, the disagreement is over the weight given to this consideration. Case law referred to by the main parties²⁴ has established two principles: (i) fear and concern must be real and have some reasonable basis, though falling short of requiring the feared outcome to be proved as inevitable or highly likely; and (ii) the object of that fear and concern must be the use, in planning terms, of the land. The cases related to developments where the cause of fear was the behaviour of occupiers, but the principles are equally relevant to the current appeal.
82. Exploring these matters in more detail, the volume of objections to the proposal, whether expressed in individual comments, the petition, through a residents' association and via Members of Parliament and Councillors, confirm a genuine concern and fear over health consequences, linked primarily to emissions from the plant and traffic. The closeness of the premises to homes and the addition of another waste facility in the locality, one that involves incineration, underlie much of the concern. Residents who are not in the best of health worry they will be particularly vulnerable. A Ward Councillor referred to some of the Pitsea neighbourhoods falling within the 10% most deprived areas in England and where there are high rates of chronic illness²⁵. Representations have referred to research and reports that highlight the adverse effects of waste incineration.
83. Additionally, incidents have occurred in the local area which have increased concerns and decreased trust. Interested parties have described a fire at Clearaway's MRF premises on the BMIE in January 2024, caused by a concealed lithium battery in a skip. The fire took a weekend to control and residents had to keep their doors and windows closed because of the smoke. Two other fires took place, in 2024 and in 2023. According to one Ward Councillor complaints about smells, noise and dust from the existing recycling site at BMIE are the biggest issue in correspondence. MPs referred to the continued operation of the large landfill site at Pitsea, the issues caused to residents by the sewage treatment works and the already poor air quality.
84. The experience of the Tovi Eco Park has undermined confidence in assurances about regulation and no pollution. This mechanical and biological waste treatment plant was built on land off Courtauld Road in 2013 but was subsequently demolished some 10 years later. In oral evidence to the inquiry a Councillor

²⁴ CD.10.3 *Smith v First Secretary of State* [2005] EWCA Civ 859, which cited *West Midlands Probation Committee v SSE and Walsall MBC* [1997] JPL 323

²⁵ CD.IQ.8 page 2

described the experience of the smell and ash from the plant. A resident said that whilst the plant was in use they had to endure putrid smell and noise and to keep contacting the Environment Agency was quite stressful. People feel they have heard it all before, they say the experience took a toll on their mental well-being and they fear the same would happen again. A precautionary approach is urged.

85. In responding to these representations, the appellant confirmed no formal action has been taken in respect of odours at the MRF site and monitoring shows sound levels are within regulatory guidelines. Attention was drawn to the improvements that would be secured by the appeal proposal and the redevelopment of the MRF site. The proposal would use technology that is proven and effective in operation. The Tovi Eco Park was not relevant experience because the plant was never commercially operational and the technology used was different to that proposed at the appeal site. The appellant considered language used by elected representatives (such as toxic) and details circulated with the petition were inaccurate and unhelpful but which nevertheless informed perception.
86. Based on all the evidence outlined above my conclusion is the community's fear and concerns reflected in the many representations are genuine and have a reasonable basis. The concerns are directly related to the proposed use of land for a waste incinerator, a development where the processes and emissions require regulation, control and treatment to ensure safety standards are met and to minimise risk. The research studies show the risk to health would be very low but cannot be eliminated.

(b) Appeal decisions

87. The selection of appeal decisions before this inquiry illustrates the approach taken by and the weight given to the perception of harm issue by the Secretary of State and Inspectors. Northacre (CD.10.5) related to an energy from waste plant. The Inspector, in considering the perception of harm, referred specifically to the effect on the local housing market and relocation of businesses, a much narrower perspective than the matters raised in this appeal. Limited weight was given to the perception of harm to public health.
88. Merchant Park (CD.10.6) related to a thermal treatment facility for clinical and hazardous wastes. The Inspector recognised health fears were not irrational and were particularly understandable for vulnerable people. However, the adverse effect on the living conditions of residents and on the prospects of nearby businesses was found to be of minor significance. The Inspector gave slight weight to the perception of harm in the planning balance.
89. The Lea Castle Farm appeal (CD.10.8) was about a sand and gravel quarry with progressive restoration. There was considerable local fear and anxiety about air pollution and health risks. In particular, the potential for the appeal scheme to cause silicosis was described by the Inspector as a serious and emotive concern in many submissions and representations to the inquiry. In the planning balance the Inspector gave little or no weight to local health fears based on the absence of convincing evidence that the perception of harm to public health would be likely to have material land use consequences.
90. In the Envar appeal (CD.10.7) the Secretary of State concluded the proposed development, subject to the design and mitigation required by the environmental permit, would be unlikely to result in adverse impacts on air quality or associated

impacts on human health or the environment. The Secretary of State also recognised that even with the appellant's robust evidence the local community still had serious doubts over the likely health and safety effects of the scheme. The perceived health and well-being and related business impacts arising from the proposed development carried limited weight.

91. In summary, the weight attached to the perception of harm to public health has been assessed as slight, little or none, or limited in appeals where the technical evidence on emissions and air quality has demonstrated no significant actual harm.

(c) Communication and education

92. The appellant considered effective communication and education can be helpful in improving public understanding and reducing perception of harm. A public engagement and education plan is proposed (secured through a planning condition), to include local outreach, the provision of transparency on emissions data and key information about operation of the facility and channels of communication. An aim is to reassure the local community that operations are being performed to the highest standards and not causing harm. The perceived harm to health is expected to be mitigated, justifying a reduction in the weight attached to this consideration in the planning balance to neutral. Greatmoor (an EfW facility) was given as an example where open days are held and emission reports published on their website. Other sites around the country were said to do similar. Sizewell was the one development identified where a planning condition was used, although few details were provided to assist with any meaningful conclusions.
93. ECC explained why in their view the use of such a condition does not justify reducing the weight on the perception issue from limited to neutral, referring to the extensive amount of information already in the public domain and the public's experience of the failure of the Tovi Eco Park scheme.
94. The current proposal for future communication, should planning permission be granted, reflects the recommendations of the HIA, which recognised that perceptions of impacts can have implications for health and the vulnerability of local communities to change brought by new development. The proposed planning condition must meet the six tests. The effectiveness of such a condition is relevant too, given the appellant's submission on weight.
95. Going back to the start of the application process the appellant carried out a consultation programme to engage with the local community. Various forms of communication were used including a questionnaire, press releases, virtual meetings and use of local media. The consultation was undertaken during the COVID 19 lockdown period, ruling out the possibility of a public event. The Consultation Report²⁶ presents an overview of the feedback indicating some support for the proposal but also a range of objections including those about the location and concerns over the impact on health. The report sets out responses to comments and explains various aspects of the scheme but no significant amendments to the development are highlighted.

²⁶ CD.1.37

96. The large volume of objections following the formal notification of the application by ECC indicates the initial attempts at public engagement were not successful in explaining the scheme and dispelling people's worries about a EfW facility close to where they live. No initiatives were taken to engage in additional dialogue and the initial consultation exercise was subject to adverse criticism from residents. Representations indicate an independent-led form of engagement may be more appropriate going forward.
97. The scope of the proposed Public Engagement and Communication Plan is outlined in the draft planning condition²⁷, but detail is lacking. Sanctions to enforce the condition are not explained. On the education aspect, reference is made to local schools but there is nothing to show schools would be receptive to such an initiative. A lot of uncertainty remains. Regarding timescale, the plan would be submitted and approved before commissioning of the development, which would reasonably be expected to relate to the Commissioning Testing phase identified in condition 2.
98. There is a distinction between the purpose and content of the proposed engagement and communication plan and the purpose and requirements of a CEMP.²⁸ The CEMP planning condition requires measures for liaison with the local community and procedures to deal with any complaints received during the construction of the development. This reflects common practice, ECC was content with the provision, its validity and ability to meet the 6 tests. My understanding is the engagement and communication plan would be directed towards the time when the development is operational. Even though this is not clear from the stated reason for the condition²⁹, in earlier drafts the reason for the condition was specific to reducing public perception of fear and enhancing public relations.
99. The permissions granted on appeal in the cases referred to above do not include such a condition. Liaison and complaints procedures were provided for during the construction phase through a CEMP (Merchant Park). A stakeholder management plan was required in Northacre, directed at ensuring adequate communication with the local community and adjacent businesses about any emergency procedures that may have an impact on the operation of such adjacent businesses. The appellant sees the proposed condition as going a positive step further. An alternative view is to question the necessity and reasonableness of a condition on the matter.
100. The appellant's expert witness placed the perception of harm in the context of health risk characterisation, suggesting the development of effective communication and education strategies to address public concerns as a more balanced approach to the issue. Interestingly the quoted article supporting this approach highlighted the difficulty of bridging the gap between the real risks of modern waste to energy plants and the perceived risks of residents living nearby. The author placed the onus on policymakers and waste management authorities, using a trans-disciplinary approach involving scientists and experts from different domains, rather than an operator of a waste management facility³⁰.

²⁷ CD.IQ.19 condition 28

²⁸ CD.IQ.19 condition 5

²⁹ CD.IQ.19 reason for condition 28 "To ensure that the public are kept informed as to progress of the development and are informed of the appropriate channels to raise any concerns about operations prior to the first commissioning of the facility."

³⁰ CD.7.10 Appendix 4

101. Planning conditions would require submission of information to the waste planning authority on matters including the quantity and source of waste delivered to the site, heat export, dust monitoring and foul drainage monitoring. The Environment Agency would be the enforcing authority over matters to do with the environmental permit, such as emissions. In developing a management system to carry out activities under an environmental permit, a consideration would be the provision of information to neighbours and the local community to explain how activities are managed to comply with the permit. Duplication of controls should be avoided and responsibility for enforcing compliance, if necessary, would remain with the relevant authorities.
102. A planning condition may be imposed to make an otherwise unacceptable development acceptable, so avoiding a refusal of planning permission. A condition ought not to be imposed unless there is a definite need for it. The appellant may wish to carry out educational and engagement activities and could do so but that is not a justifiable reason to impose a condition. No case has been made that without the proposed condition permission should be refused.

Conclusions

103. The technology on energy from waste facilities is well established and reliable research has demonstrated they operate with very low risk to public health when all regulations and standards are met. The favourable risk assessment from PHE is particularly significant. The reported research was directed primarily at physical health conditions rather than effects on mental health and well-being.
104. The technical evidence on air quality, noise and dust indicate the impacts on human health from the proposed ERF would not be significant, provided the operation is controlled and conditions are complied with. There is no objective evidence to support a different conclusion and the assessment has to accept the pollution control regimes will operate effectively. Planning conditions would be an appropriate mechanism to secure the necessary details for planning purposes on dust and odour control, and noise mitigation. Applying the test in criterion (a) of WLP Policy 10, the technical evidence shows an unacceptable impact on local amenity (air quality, odour, noise) would not occur.
105. An element of people's concern is founded on inaccurate information. The misunderstanding over traffic movements is the obvious example, where the connection with the existing MRF facility was not recognised and so HGV movements were over-stated by interested parties. Vehicle movements would be much less than generated by the existing use of the site and hence air quality impacts from traffic are expected to be negligible. Equating two energy plants with two waste incinerators probably has not been misleading in effect, as it makes no difference to the proposed volume of waste material processed.
106. Despite the evidence presented to support the safe operation of the development, the public perception of harm is strong. In part the genuine concerns are founded on the wide range of potential physical and mental health conditions linked to poor air quality. The potential environmental hazards associated with an ERF has the potential to cause anxiety and stress. The HIA described a number of these potential risks. The appellant's expert witness, the research cited by the appellant and PHE accept not all risk may be eliminated.

107. An important consideration in this case, which appears not to have been present in the other appeals, is the local, first hand experience of major problems caused by and associated with waste management developments in the neighbourhood. Unsurprisingly the community's confidence in technical reports and promised regulation has suffered. There probably is a lot of scepticism over the evidence, which in turn results in perceived harm. The potential adverse health consequences of this perception are very relevant. A strong message from the representations is that Basildon has more than its fair share of waste disposal sites, leading to poor air quality and more risk. People equate an additional waste management plant with a higher risk to their own and their family's well-being, resulting in stress and anxiety. Planning policy recognises the importance of people feeling at ease and safe in their home environment. The scope of protection under Article 8 (the right to respect for private and family life, their home and correspondence) extends to adverse effects on well-being and quality of life arising from various sources of environmental harm and risk of harm.
108. The selected appeal decisions illustrate previous assessments of the perception of harm and the similarity in the low level of weight attributed by the decision-maker to the matter. The number of decisions is small and cases may exist where a higher level of weight has been applied. The circumstances in Basildon and the detail of the representations are very different. The decisions do not set a precedent that must be followed.
109. Concluding on the issue, the objective evidence demonstrates the probable risk to public health would be very low and the development would be an acceptable use on the BMIE site. The representations from local community express a contrary view, largely based on their experience over the years.
110. My conclusion is the perception of harm adds a moderate amount of weight against the proposal. The proposed condition on a Public Engagement and Communication Plan is not a sufficient reason to reduce the level of adverse weight attributable to the perception of harm issue.

Sustainable waste management

111. The proposed ERF raises policy matters regarding sustainable waste management and meeting the challenge of climate change. The various considerations arising from these policy areas are very much interrelated, which will be taken into account when assessing the impacts and weight of any benefits of the scheme.

Waste hierarchy

112. The WLP identifies sustainable waste management as a key challenge, with a need to move away from traditional forms of waste management towards greater levels of re-use, recycling and recovery. A significant element of the policy context informing the plan's vision and strategy is the Waste Hierarchy. Priority goes to preventing the creation of waste in the first place, followed by preparing waste for reuse, next is recycling and then recovery. Disposal, which includes landfill and incineration plants which do not have R1 status, is regarded as the worst option. This approach is consistent with the National Planning Policy for Waste (2014) and the Waste Management Plan for England (2021) and is also a legal requirement

under the 2011 Regulations³¹. A priority of policy is on moving up the waste hierarchy, to minimise the amount of waste we produce by improving our resource efficiency and keeping products in circulation longer so that they do not become waste.

113. The WLP spatial strategy for waste management also is based on net self-sufficiency, where practicable and an adherence to the 'proximity principle', the treatment of waste as close as possible to its source.
114. Referring to the stated rationale for the proposed ERF, the facility has been designed specifically to handle residual waste outputs from the MRF. The appellant explained that the MRF currently handles over 185,000 tonnes of waste per annum. A total of 35,000 tonnes is recycled and 87,500 tonnes is sent to landfill in Rainham, Ockenden, Colchester, Ipswich and Canterbury³². Due to a lack of capacity, the remaining 62,500 tonnes is exported to Sweden for refuse derived fuel (RDF). The appellant has reaffirmed the scheme is to provide a standalone private local facility to handle an existing waste source arising directly from the existing Clearaway operation³³.
115. The ability to divert residual waste away from landfill would move waste up the hierarchy. The treatment of the residual waste so close to the source would be in accordance with the proximity principle, at least for the latter phase of the waste's treatment. To ensure achievement of the scheme objectives, a planning condition would be necessary to limit and monitor the total amount and source of the waste feedstock, to ensure maintaining the link with the MRF at Archers Fields throughout operation. Secondly, the ERF would have to achieve and maintain R1 recovery status (a proxy for the energy-generating efficiency of a facility) from the Environment Agency in order to be classed as a recovery operation for the purposes of the waste hierarchy and be considered a level up from 'disposal'. Given the importance of this factor to the justification for the proposed plant, a planning condition similar to that proposed by ECC would be necessary to secure evidence of R1 status before commencement of site preparation works.
116. Deciding on the level of positive weight to be attached to moving waste up the hierarchy in the planning balance, at least in ECC's case, became closely related to the need for the facility and the availability of alternatives. This was prompted by the approach said to have been taken by the Inspector in the Envar appeal. The comparison is not very helpful, given the understanding that may be gained from the decision letter, Inspector's report and the specific paragraphs drawn to my attention. In particular, the Envar proposal included a healthcare waste energy recovery facility where the waste would be from multiple sources, very different to the single source in the appeal proposal. The report and the Secretary of State's decision dated 29 July 2024 pre-dated the Defra note, which is a key document in considering capacity and need.

Capacity, Need

117. The available capacity of waste management facilities and the need for the proposed waste treatment plant was considered when the application was before the ECC Committee in January 2024. No reference was made to the issue in the

³¹ The Waste (England and Wales) Regulations 2011

³² CD.7.6 Table 2.1 page 10

³³ CD.IQ.18 paragraph 1.4

reasons for refusal in the decision notice dated 3 July 2024, in the context of policy prevailing at the time. National Planning Policy for Waste only expects applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

118. The stated purpose of the proposal is to meet a specific local need in so far as the plant would be restricted to treating residual waste from the MRF, which in turn would divert waste away from landfill. This result would be in accordance with the aim at national level to substantially reduce the amount of waste going to landfill. The Waste Strategy for Essex 2024 - 2054 has a more ambitious target to stop using landfill by 2030. No questions were raised over the continuity and reliability of the feedstock supply, whether now or into the future, or the effective control of the source through a planning condition. No justification is put forward that the proposal would address or ease any shortfall in waste handling capacity in the County. No objection is made by ECC that the proposal would lead to over-capacity in waste treatment facilities.
119. Within that context, the main point ECC sought to demonstrate from the Defra note is that England is on track for capacity to meet municipal waste arisings and the East of England is also on track to address the current capacity gap as waste falls and capacity increases. ECC noted that since December 2024 consented capacity in the East of England has increased by 600,000t with the Medworth scheme. In contrast, the appellant highlighted the stated current requirement for alternative treatment options to landfill for municipal residual wastes in the East Midlands and the East of England. To support their submissions on need and government policy the appellant referred to the Secretary of State's reasoning on the application for development consent for the North Lincolnshire Green Energy Park dated 13 March 2025³⁴.
120. The Defra note confirms the government's commitment to transitioning to a circular economy and the management of any residual wastes in the most efficient manner. Regional variations in residual waste treatment capacity are acknowledged, along with the requirement for alternatives to support the diversion of non-municipal wastes from landfill. I consider the proposal at Archers Fields should not be resisted on need/capacity grounds, taking into account its size, purpose and co-location functions.
121. Alternatives. ECC indicated the potential options that may be available in 2028 to process 120,000t³⁵ of residual waste from the MRF. These options include Rivenhall which is expected to be fully operational by the end of 2026, Tilbury due to open in 2028, Boston where construction has not started, Rookery and Wisbech that currently have no spare capacity. In addition, Medworth is not under construction and restrictions are placed on sources of feedstock.
122. There are too many uncertainties over development, operational and available capacity, to identify future realistic and available options, even if this matter should be debated. Likewise, whether the export of waste to Sweden would continue to be necessary into the future is questionable. As stated in the Defra note, the UK

³⁴ CD.4.11

³⁵ The figure of 120,000 takes account of the 30,000t of waste already sent to Rivenhall.

has a thriving competitive market for waste management services and a range of recovery options available to waste handling operators which will be selected according to market conditions and local needs.

Co-location

123. The co-location of waste facilities with other waste uses and/or complimentary non-waste development is a strategic objective of the WLP. Co-location is regarded as a means of encouraging the efficient use of waste as a resource, such as a potential source of heat and energy, achieving a potential reduction in waste transportation and an opportunity for potential diversion from landfill, as supported by the waste hierarchy. The Defra note confirms the government is committed to transitioning to a circular economy in which we maximise resource use and minimise residual waste arisings.
124. At the outset, the ES explained the reasoning behind the location of the proposed EfW plant and its relationship to other operations and landholdings of the appellant group³⁶. In summary, a distinct role of the ERF is to support the existing Clearaway waste recycling business to divert post recycled residual waste from landfill sites. In so doing there would be a reduction in the number of heavy vehicle movements on the wider highway network. The processing of the incinerator bottom ash at a nearby site also would reduce traffic. Secondly, the energy and heat generated would be exported to local users. Sufficient residual material would be available locally and finding economically and technically viable end users for the full amount of electricity and heat generated was considered highly likely. The relatively small scale of the facility, designed to meet local requirements, was linked to these factors.
125. Matters progressed with the 2024 MRF permission. At the inquiry the appellant emphasised the role of the ERF in achieving a wider vision to deliver truly circular waste management. The current proposal for the ERF would unlock investment for the MRF redevelopment and that without permission the MRF scheme would not go ahead. In terms of timescale, a start on the appeal site in 2026 was anticipated, leading to completion in 2028. The appellant advised phasing of the MRF scheme would allow sufficient feedstock to be available throughout the course of its redevelopment. In the event the appeal is successful, a planning application would be submitted immediately for the incinerator bottom ash development, in order to tie all projects together.
126. The proposal would lead to improvements. With or without the MRF redevelopment scheme the operational link and the close proximity of the two waste management sites would bring significant benefits, primarily a decrease in traffic movements. As set out later in this decision, the reduction in the daily flow of traffic on the wider road network has been estimated at 180 fewer cars and 52 fewer HGVs. This outcome is consistent with the WLP Vision that identifies the minimisation of waste transportation distances and landfilling as ways to minimise the impact of waste management on climate change.
127. Co-location also would contribute to the transition to a more circular economy by encouraging re-use, as in the proposed aggregate block manufacture. The use of waste as a resource through the potential source of heat and energy is linked with the policies on climate change and moving to a low carbon future.

³⁶ CD.1.2 Fig 2.1.3. CD.7.6 at Figure 1 confirms the current position.

128. However, evidence is lacking to demonstrate development of the EfW facility is necessary to realise redevelopment of the MRF. There is no planning mechanism in place or proposed to ensure the developments would be carried out concurrently and no information to indicate phasing. The reasoned conclusion of the planning authority for the 2024 permission focussed on the planning merits of the regularisation and redevelopment of the MRF site (such as the provision of a specialist building for the processing of waste) and acknowledged the opportunities offered by the application to the wider waste management dominated activities within the industrial estate location. Co-location was not a matter highlighted and no direct reference was made to the ERF proposal, even though the planning application was under consideration at the time. The conditions imposed on the 2024 permission do not appear to anticipate phasing of construction. Justification for the ERF has consistently been based on the 150,000t of residual waste from the existing MRF, not the amount of residual waste from the new MRF. The realisation of the MRF redevelopment scheme, and the improvements that scheme would bring, add little weight in support of the ERF.
129. Similarly, there is no planning mechanism in place to ensure the incinerator bottom ash from the ERF would be recycled at a facility constructed on land nearby. The appellant acknowledged if the facility was not ready the residual ash would be stored and taken off-site.
130. In summary, the ERF proposal is one element of the appellant's vision for consolidation of waste management facilities on the BMIE. The proximity of sites offers the potential to secure significant waste management and energy benefits associated with co-location. Full implementation of the vision is uncertain. The actual direct benefits realised through the current ERF proposal would be significantly less, related primarily to the source of feedstock and the reduction in vehicle movements. Heat export is considered below.

Low carbon future and climate change impacts

131. There is an overall need for low carbon and renewable energy production within the mix of energy supply. The Framework (paragraph 168) states local planning authorities should give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.

Energy

132. To recap, the proposed ERF is described as a combined heat and power energy facility, comprised of two 20MWth energy plants generating a thermal output of 28MW and an electrical output of 11MW of low carbon energy³⁷. The intention is the ERF would supply the MRF with electricity via a private wire system and provide electrical energy used to power on site electrical vehicle charging points. Heat would be supplied to the wider Clearaway group operations and used in the block manufacturing plant proposed to be constructed on a nearby site. The sale of any remaining heat and electricity to local businesses on the BMIE through local purchase agreements is being explored. Notwithstanding, any surplus electricity would be exported to the grid to reinforce local and national supply. Potential grid connection points located north of the A127 would be explored once planning permission has been obtained.

³⁷ CD.7.6 paragraphs 2.3.22 to 2.3.24

133. The amount of electricity and heat generation is not disputed. The fuel to generate the energy would be from a reliable source of feedstock, unaffected by external political risk. In that way the development would make a small contribution to increasing energy security. To realise the full benefit of energy generation relies on having in place infrastructure and viable arrangements to distribute the power and ensure grid resilience. Greenhouse gas emissions, the use of the heat and carbon capture are also matters that inform the weight given to the proposal's contribution to a low carbon future.

Greenhouse gas assessment

134. The ES reported that based on the operating profile of the ERF and assuming the applicant could secure users for their heat, the operation would equate to a reduction of about 15,000 tonnes of CO₂ per annum. This initial assessment of climate change impacts with the development was reconsidered in response to consultee comments. A greenhouse gas assessment July 2023, with a subsequent amendment in response to comments from Basildon Council, were submitted, followed by a scenario calculation (October 2023).

135. The Greenhouse Gas Assessment July 2023 was based on guidance from the Institute of Environmental Management Association. Net emissions from the proposed development were set against an alternative waste-to-landfill baseline emissions scenario. Mitigation of emissions included removal of refuse derived fuel (RDF) to landfill and associated methane and transport, co-location with the existing MRF and the potential to export heat and electricity to local networks. Depending on the assumptions the proposed development is said to have the potential, but is not guaranteed, to lead to a net reduction in greenhouse gas emissions. In summary, total net greenhouse gas emissions ranged from a low estimate of -46,144 to a high estimate of 29,044 tonnes CO₂e per annum³⁸.

136. The low estimate (net emissions) was based on a total heat export potential of 29 MWth, where the heat offtake would depend on the end users connecting into the planned district heat network (details to be developed fully once planning permission is secured). The range in values in the table were acknowledged to reflect the uncertainty in predicting emissions and no values were considered incorrect. Worst case emissions were considered very small in the context of greenhouse gas emission budgets. The assessment concluded the impact of the proposed development would be between beneficial and minor adverse, and not significant.

137. In the October 2023 assessment³⁹ the calculation showed the ERF would create a carbon saving of approximately 615 CO₂e per annum using a 2021 baseline and 583 CO₂e per annum using a 2020 baseline. On these figures a beneficial impact on greenhouse gas emissions was demonstrated. This calculation included a heat export emission saving (2MW) committed to Clearaway heat usage, indicating potential for further reductions if additional heat export sources could be provided.

138. The greenhouse gas assessment makes no allowance for carbon capture and storage. The expectation is that its application would substantially reduce the lifetime emissions of the facility (depending on the commissioning date) and would enhance the potential greenhouse gas emissions savings of the facility compared

³⁸ CD.1.26 Table 18 page 27

³⁹ CD.1.26

to landfill. This approach is appropriate in view of the uncertainty over timescale and carbon capture readiness.

139. In conclusion, the greenhouse gas emission assessments demonstrate the uncertainties in estimating savings and show the sensitivity of the results to the assumptions made. An important variable affecting emissions is the amount of heat exported.

Heat export

140. The appellant relies on a planning condition to ensure the ERF “will supply heat to local businesses (including the MRF)”. The proposed condition on heat export provides for a Combined Heat and Power Feasibility Review to assess potential commercial opportunities for the use of heat from the plant, continuing the review process until all of the reasonably available heat for export is utilised.
141. The condition, as drafted, would provide no assurances on securing heat export once the ERF becomes operational. The emphasis is on commercial arrangements. A lack of definition of terms results in imprecision and the binding of potential third party customers into the Feasibility Review would be an unreasonable requirement. The condition does not meet the six tests. Heat export to the appellant’s waste management sites on the BMIE (existing and planned) would be the most probable outcome, on the basis of proximity and ownership but no planning mechanism or plan has been proposed to ensure this benefit would be delivered and when, whether on day one of operation, or in the longer term.
142. The ECC Committee Report noted it is not unusual at this stage of the development process for there to be no committed consumers⁴⁰. However, as it stands there is a lack of clarity and uncertainty over the level of heat export that would be achievable, whereas the Defra note requires that a proposal “must be able to demonstrate that making use of the heat they produce is viable”. WLP Policy 11 also expects proposals which are capable of directly producing energy or a fuel from waste to demonstrate, where reasonably practicable, that excess heat can be supplied locally to a district heat network or directed to commercial or industrial users of heat. An appropriately worded planning condition, or planning obligation, could tighten up the process but the current scheme falls short in achieving requirements.

Carbon capture ready

143. The appellant confirmed the ERF is designed to be carbon capture ready and is planned with the necessary infrastructure and space to accommodate the technology. As described in the evidence, the carbon capture and storage would be retrofitted by means of a bolt-on module, once the plant is fully operational and the technology is significantly advanced to make it commercially viable. The footprint for the carbon capture equipment and integration with existing systems was considered through evaluation of the proposed site to ensure it has sufficient space and infrastructure. The facility engineers had successfully trialled carbon capture storage technology on a similar plant in the Netherlands. Carbon capture was said to be technically viable. The technical configuration allows for up to 95% of the emissions generated by the plant to be captured and with space within the red line boundary to allow for the necessary ducted work to transport emissions to

⁴⁰ CD.2.3 Section 4 Appraisal Part A page 73

a future capture plant⁴¹. Latterly the appellant stated land has been acquired for siting the carbon capture and storage equipment to facilitate the retrofitting of the technology⁴².

144. The appellant's information on this element of 'decarbonisation readiness' is short on detail and lacks consistency, which is surprising in view of the reported trial of the technology and the matters raised in the written representations by UKWIN.⁴³ The appellant's case primarily consists of general statements unsupported by documentary evidence. The proposed main building and office block, circulation and parking space, water tank and pump house take up practically all the space on the site. There is no indication on the submitted layout plan where the bolt-on module would be sited. Notwithstanding initial assurances it emerged expansion of the site would be required but the land in question was not clearly identified. The carbon capture technology under consideration is not explained, nor is there consideration of any potential barriers to use of a retrofit bolt-on module. The economic feasibility has not been explored. With reference to the Defra note, the proposal has not demonstrated that the ERF would be carbon capture ready and ready to respond to the government's 'decarbonisation readiness' requirements when they come into force.
145. In summary, the proposals for carbon capture readiness have not been supported by consistent evidence. I accept not all details would be available at this stage of the development process and economic changes may occur in future. Nevertheless, the land use planning implications have not been addressed satisfactorily, nor has appropriate provision been made or demonstrated to overcome potential constraints and to facilitate delivery when required. Such matters significantly reduce the weight argued for by the appellant.

Conclusions

146. The development would make a positive contribution to sustainable waste management facilities in the County and would promote achievement of local and national policy objectives. The size of the contributions and benefits are not fully supported by evidence, leading to uncertainty over delivery and timescales. The use of planning conditions, as currently proposed, do not adequately address concerns. These considerations limit the amount of positive weight that may be attached in the overall planning balance. With reference to the matters set out in the statement of common ground: co-location has moderate weight, movement up the waste hierarchy and supporting the transition to a low carbon future have slightly less weight.

Other matters

Employment and economic effects

147. The WLP outlines the economic implications of waste development and the importance of waste management to the economic growth of the Plan area. Waste is seen as an input to economic activity, through material or energy recovery. The waste industry also contributes to the economy of the Plan area as an employer, whilst businesses require effective waste management to offset costs associated with disposing of the waste it produces.

⁴¹ CD.7.6 paragraphs 5.1.23 to 5.1.26, 2.3.25, 7.9.1 to 7.9.2

⁴² CD.IQ.21 paragraphs 20 and 135(vi)

⁴³ CD.7.6 paragraphs 2.3.25, 5.1.23

148. The ES indicates the potential for introducing benefit into the economy through climate change related outcomes, as well as the socio-economic aspects related to the development. The appellant stated the construction spend was anticipated to be £50 million at the time of the application and would be significantly higher now. Latterly, in considering benefits, the focus has been on employment and the creation of jobs during construction (about 50) and operation of the EfW facility (about 10) and by the relocation of existing business units to another location. Much of the employment, especially during construction, was expected to be local but specialist skills were likely to bring staff from outside the area.
149. When reporting on the planning application, ECC referred to the development acting as a catalyst to future investment and uplift of skill levels on the BMIE. An employment and skills plan, secured through a planning obligation, was anticipated but has not been pursued. Mitigation identified in the ES amounted to advertising opportunities locally and the developer working with local contractors. Basildon Council took the view the development would deter new high-end innovative businesses the Council is looking to attract to Basildon. In that respect the text to Policy BAS E6 cautions that untidy industries can act as a disincentive to investment in other economic activities, particularly B1 business uses, in close vicinity.
150. The Framework (paragraph 85) states that significant weight should be placed on the policy objective to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In terms of the project itself, the prospect of sizeable investment and the employment opportunities are positive considerations. In this case, the evidence on employment and likely effects on the economy is for the most part of a generalised nature and typical of that associated with building projects. The development would employ a low number of staff on site when operational and little detail has been presented on safeguarding existing businesses. All matters considered, a small to moderate amount of weight is justified.

Traffic

151. The Transport statement estimated that based on an existing use as a vehicle depot and car repair business the site generated a total daily traffic flow of 200 cars and 60 HGVs. Overspill car parking was likely to take place on the verges of Archers Fields Close. The proposed redevelopment would generate a daily total of 43 HGV movements and 20 cars. However, because the MRF site would supply the feedstock, most of the HGV movements would be within the BMIE, with 8 HGVs travelling on the wider network. The result would be a substantial reduction in the daily flow of traffic on the wider road network, estimated at 180 fewer cars and 52 fewer HGVs.
152. The reduction in traffic would be primarily because of the supply of source material from the nearby MRF site and the fewer number of people employed on the site (10 compared to a total of about 74). The proposal complies with criterion (g) of Policy 10 and with Policy 12 of the WLP because of the acceptable impact on the safety, efficiency and effective operation of the road network.

Historic environment

153. In considering whether to grant planning permission for development which affects a listed building or its setting Section 66(1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess. The Framework (paragraph 212) confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

154. The Church of St Peter Nevendon⁴⁴, a grade II* listed building, was once the parish church to a rural community at the core of a small village with medieval or earlier origins. The building dates from the 13 to 15th centuries. Alterations and restoration subsequently took place but it remains that the simplicity of the church reflects the relative poverty of the parish. The church has high architectural, historic and archaeological heritage interest. The surrounding churchyard with burial ground forms part of the setting to the designated heritage asset. The relationship with Nevendon Hall, a grade II listed building on the opposite side of Church Lane, provides group value and is a reminder of the historic village centre. During the 20th century the rural setting substantially changed with housing development near the church and retail and industrial development beyond. Adjacent land to the south of the churchyard remains undeveloped, although vegetation restricts views and limits the ability to experience the significance of the heritage asset.
155. The two stacks would be visible from the churchyard and adjacent highway, introducing a distinct alien industrial element into the setting, harmful to the significance of the designated heritage asset. The level of harm would be less than substantial and towards the lower end of the scale, but even so of considerable importance and weight.
156. Applying the balance required by the Framework, the harm to the designated heritage asset is outweighed by the public benefits of the proposal, including those in relation to waste management and climate change. The proposed development complies with criterion (m) of WLP Policy 10, that protects the historic environment, including heritage assets and their settings, from unacceptable impacts.

Biodiversity and landscaping

157. Survey work confirmed that the site supports no important habitats or species and is primarily bare ground with a few scattered shrubs near the frontage. Buildings were found to provide negligible suitable roosting potential for bats and only limited suitable nesting habitat for a restricted range of common bird species. The ecological assessment found no connectivity or wildlife corridor function with the locally designated wildlife sites at Nevendon Bushes a short distance to the south or Burnt Mills to the north east.
158. Proposed biodiversity enhancement responds to the character of the proposal and the conditions present on the site and the industrial estate. Two bird boxes and a single bat box are proposed to be installed on the office building. Landscaping would be confined to tree and shrub planting and ground cover on small areas on the frontage. The intention is to achieve at least 10% biodiversity net gain.

⁴⁴ The significance of the Church is informed by CD.1.20 Historic Environment Assessment

159. The WLP notes that biodiversity occurs everywhere, including more built-up areas. The site is isolated and is within a generally harsh industrial environment. Despite the constraints, the opportunity exists to improve biodiversity and landscaping as part of the development. The provision made for planting within the scheme appears minimal, confined to the space left after accommodating the building and functional requirements. As a guide, the 5m planting width sought by Policy BAS E10 has not been achieved. Establishment, protection and maintenance of the planting would require particular care and attention in such conditions.
160. Having considered the report on the European Sites within 10 km radius of the appeal site I accept the conclusion there would be no likely significant effect on the designated sites from the scheme, whether alone or in combination with other plans and projects. No appropriate assessment is necessary. There is no conflict with Policy BAS C1 of the DLP protecting sites of nature conservation value and criterion (I) of WLP Policy 10.

Flood risk and drainage

161. The proposed surface water management strategy is to provide an on-site underground attenuation tank with restricted greenfield discharge rates. Foul drainage would connect to an existing sewer that has available capacity. Anglian Water found the proposals acceptable. A planning condition could secure the implementation of the strategy. The proposal complies with criterion (c) of WLP Policy 10 in respect of the effect on the capacity of existing drainage systems and with a requirement of WLP Policy 11, to show no unacceptable risk of flooding on site or elsewhere.

Representations

162. Many of the matters raised in the extensive representations from UKWIN have been addressed through my consideration of the sustainable waste management issue. As to other matters, UKWIN challenged the claim that the intended feedstock would otherwise go to landfill, primarily by reference to press and social media posts by the appellant stating no waste goes to landfill. The evidence of the appellant for the appeal and inquiry is the preferable source of information, which has been accepted by ECC as the waste authority. For the purposes of this appeal, the forecasts on residual waste treatment capacity in the Defra note takes precedence over UKWIN's assessment.

Planning balance

Development plan

163. The appeal site is within the Burnt Mills Central Basildon Area of Search. The design and use of the proposed ERF facility would be compatible with existing uses in the employment area. On that assessment the proposal is supported in principle by WLP Policy 4. The next step is to consider other relevant policies in the WLP and wider development plan. In terms of the DLP the ERF falls within the 'untidy industry' category and the site is located adjacent to but outside the Untidy Industry Area. The relevant test of DLP Policy BAS E6 is to assess the proposal on the likely effects on nearby uses.
164. On the visual amenity issue, the scale and design of the development would fit in with the character and appearance of the surrounding industrial area. The

proposal would not be compatible with the nearby residential areas, primarily because the design incorporates two 50m chimney stacks. These stacks would have an unacceptable visual impact on the neighbourhoods closest to the site and cause significant harm to visual amenity in other residential areas and places of community use. There would be a harmful effect on nearby residential uses. The proposal fails to comply with criteria in WLP Policy 10. For a similar reason there is conflict with Policies BAS E6, BAS E7 and BAS E10. This policy conflict and harm cannot be resolved by the use of planning conditions. The unacceptable visual impact has substantial weight.

165. The technical evidence on air quality and noise demonstrates the proposal, incorporating mitigation, meets the policy test in WLP Policy 10, subject to confirmation of details on dust and odour control and noise mitigation measures in response to planning conditions. There is a related perception of harm consideration in that the concerns of residents, expressed individually and through their elected representatives, is real and has a reasonable basis. The object of the worry and concern is the proposed use of the land. The perception of harm experienced by the community would impact on their quality of life. The adverse weight I attach to this consideration is moderate, having taken into account the proposed planning condition.
166. The issue of sustainable waste management encompasses various matters related to the treatment of residual waste, energy and climate change. The ERF is to meet a specific local need, facilitated by the appellant's land ownership and on-going waste operations on the BMIE. Positive aspects are centred on the waste hierarchy, the proximity principle and the reduction in waste transportation, all benefits associated with co-location. The proposal would contribute to achieving the Vision and strategic objective SO7 of the WLP. Potential significant benefits, linked to the siting, also include the generation and distribution of energy, enhanced energy security, a reduction in greenhouse gas emissions and carbon capture. The timescales involved in securing the necessary arrangements and the performance in respect of greenhouse gases emissions, energy distribution including heat export is uncertain. The proposals for carbon capture are unclear and lack evidential support. Overall, the contribution of the proposal to sustainable waste management has significant weight but the proposal falls short in meeting requirements of Policy 11 of the WLP.
167. The statement of common ground lists WLP Policy 1 Need for waste management facilities and Policy 3 Strategic site allocations, as relevant to the appeal. They provide a background to the proposal. The appeal site at Archers Fields is not allocated as a strategic site and the proposed ERF is specifically designed to handle waste outputs from the MRF to meet a local need. I go only so far as to conclude the proposal does not conflict with Policy 1 and Policy 3, rather than attribute the positive weight indicated by the appellant's submissions⁴⁵.
168. Turning to other matters, the impact on the road network would be acceptable in compliance with WLP Policies 10 (criterion (g)) and Policy 12. Criteria in Policy 10 are met regarding the protection of designated heritage assets (criterion (m)) and sites of nature conservation value (criterion (l)). There is no objection in respect of Policy 11 (criterion 2) in respect of flood risk and ground water, subject to the submission of acceptable details through a planning condition. The effect on

⁴⁵ CD.IQ.21 paragraphs 123, 124

employment and the local economy merits small to moderate weight. Biodiversity gain has limited positive weight.

169. In summary, the in-principle support is outweighed when considering the effects of the proposal in more detail against all relevant development plan policies. WLP Policy 10 and Policies BAS E6, BAS E7 and BAS E10 direct the proposed development should not be permitted. Turning to WLP Policy 11, the proposal has not demonstrated adequately the operation of the ERF would minimise the potential contribution to climate change.

Material considerations - National policy

170. The Framework is about achieving sustainable development, founded on the three overarching objectives of the planning system.
171. Achieving good design is identified as a key aspect of sustainable development. The location of the ERF would function well in terms of its proximity to the source of feedstock, reducing the amount of waste going to landfill and traffic movements. The quality of building design would bring improvement to the site and the proposal would make more effective use of brownfield land that is currently under-utilised. On the negative side the development would not add to the overall quality of the surrounding area by reason of the harm to visual amenity caused primarily by the two 50 m chimneys, which are essential to the scheme. The building design is appropriate for the use and operation but the development is in the wrong location because of the proximity to residential areas.
172. The control of processes and emissions would be primarily through the environmental permit. The early engagement with the community did not manage to overcome their concerns over the impact of the waste incinerator on health and the risks of living close by. These concerns about the land use have a reasonable basis. When the perception of harm is considered alongside the harmful visual impact, the scheme would not foster the well-being of the community and not support the social objective of sustainable development.
173. On planning for climate change the Framework states significant weight should be given to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future. Driving waste up the waste hierarchy is an integral part of the National waste management plan for England 2021 and the National Planning Policy for Waste. The proposal responds to this aim and the need for a mix of types and scale of waste management facility. Existing operational facilities do not satisfy the need the ERF is proposed to meet. However, the Defra note is clear that for the energy recovery developments we do need, projects should only be supported that offer the best efficiency and are future proofed towards supporting the net zero objectives. The proposal is inadequate in demonstrating that making use of the heat generated would be viable and the development can be built carbon capture ready. The position on heat export and carbon capture weighs strongly against the scheme in view of the requirements for new waste incinerators set out in the Defra note.
174. The proposal would enable the appellant to invest, expand and adapt the waste management business on the BMIE but for the reasons explained above the employment and economic related considerations have small to moderate weight.

Balance

175. The proposed development is not in accordance with the development plan when read as a whole and the development should not be permitted. Material considerations do not indicate otherwise.

Conclusion

176. The proposed ERF plant is described by the ES⁴⁶ as being based on a model of smaller community-scale facilities that source material locally and export the heat and electricity produced to local users, the next generation of energy recovery facility. The proposal is not intended to be, nor would it be, a nationally significant infrastructure project. The prospect of more efficient local waste management through the linking of operations on Clearaway sites and the distribution of heat and electrical energy to users on BMIE potentially has much to commend it. Detail of implementation and securing the planning benefits have not been adequately addressed, moderating their weight in the planning balance. Employment and biodiversity gains are noted.

177. The very evident presence of the waste facility would be strongly expressed by the two 50m chimney stacks, an essential element of the building design. The visual harm to the home environment of many residents would be significant and for the nearest residential area, unacceptable. The substantial weight of this identified and permanent harm is sufficient to outweigh the benefits. The adverse effect on the well-being of the community through the perception of harm supports that conclusion.

178. For the reasons given above the appeal should be dismissed.

Diane Lewis

INSPECTOR

⁴⁶ CD.1.18 paragraphs 2.8.9 to 2.8.16

APPEARANCES

FOR THE APPELLANT:

Mark Westmoreland Smith KC	Instructed by Murray Graham
He called	
Paul Beswick BA(Hons) Dip LA	Director of Landscape Architecture and Environmental Impact Assessment with Enzygo Limited
Laurence Caird MSc MIES MIAQM	Technical Director at Air Quality Consultants Ltd
Murray Graham BSc(Hons) MA DipTP MRTPI FRSA	Associate Director (Planning) Enzygo Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant	Barrister, instructed by the Solicitor to Essex County Council
Paul Reynolds BA(Hons) PGDip MA CMLI UDGRP FRSA	Director of Tapestry (Tapestry Urbanism Ltd)
Christopher Whitehouse BSc(Hons) MRICS	Managing Director of NextPhase Planning Consultancy
Tom McCarthy BSc(Hons) PGDip MRTPI	Acting County Planning Development Management Manager – present for the discussion on planning conditions

FOR INTERESTED PARTIES:

Susan Barnes	Spoke on behalf of Rob Hill, Chair, Northlands Park Residents Association
Kaye Edwards	Resident
Councillor Mike Baker	Councillor Pitsea North West
Councillor Pat Reid	Councillor Pitsea North West and resident
Councillor Emma Callaghan	Councillor Pitsea North West and County Councillor for Pitsea
Councillor Gavin Callaghan	Leader of Basildon Council
Councillor Aidan McGurran	County Councillor for Pitsea, Cabinet Member for Basildon Council
Councillor Kerry Smith	Independent Member for the Westley Heights Division and Nethermayne Ward, Basildon Council
Francis Jordan	Resident
Tina Hailstone	Resident
Mr Barry	Resident

DOCUMENTS submitted at the inquiry

- 1 Extract from Appeal decision and report APP/T1600/A/13/2200210
- 2 Opening statement on behalf of the appellant
- 3 Opening statement on behalf of Essex County Council
- 4 Statement by Rob Hill, Chair, Northlands Park Residents Association
- 5 Statement by Kaye Edwards

- 6 Statement by Councillor Mike Baker
- 7 Statement by Councillor Pat Reid
- 8 Statement by Councillor Emma Callaghan
- 9 Statement by Councillor Gavin Callaghan
- 10 Statement by Councillor Aidan McGurran
- 11 Statement by Councillor Kerry Smith and petition documents
- 12 Statement by Francis Jordan
- 13 Statement by Tina Hailstone
- 14 Statement by Craig and Amy Partridge
- 15 Statement by Mr Barry
- 16 List of planning conditions v3
- 17 Waste Strategy for Essex 2024-2054
- 18 Appellant's response to Third Party Representations
- 19 Revised list of planning conditions
- 20 Closing submissions on behalf of Essex County Council
- 21 Closing statement on behalf of the appellant