



OT100-060-458

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12 February 2009

Addleshaw Goddard LLP
Alder Castle
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Our Ref: APP/Q3060/A/08/2063129
Your Ref: 07/01502/PMFUL3

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

**APPEAL BY WASTE RECYCLING GROUP LTD: EASTCROFT ENERGY FROM
WASTE FACILITY, OFF INCINERATOR ROAD, NOTTINGHAM NG2 3JH
APPLICATION REF 07/01502/PMFUL3**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Stephen Roscoe, BEng MSc CEng MICE, who held a public local inquiry between 9 and 24 September 2008 into your client's appeal against a failure by City of Nottingham Council ('the Council') to give notice within the prescribed period of a decision on an application for planning permission for new external treatment to the existing Energy from Waste (EfW) facility together with its extension to create 100,000 tonnes per annum additional capacity for non-hazardous waste treatment, comprising: new architectural cladding treatment to the existing main building and colour treatment to the chimney stack; louvre and mesh screens around the existing flue gas treatment and residue storage facilities; extension of the existing building to house a new boiler and grate and a turbine hall and air condensers; additional free-standing flue gas treatment plant; a replacement gatehouse and weight weighbridge office; and new landscape planting at the Eastcroft EfW facility, off Incinerator Road, Cattle Market Road, Nottingham, Nottingham NG2 3JH, in accordance with application number 07/01502/PMFUL3, dated 6 August 2007.
2. On 30 September 2008 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason for this recovery was that the appeal relates to proposals of major significance for the delivery of the Government's climate change programme and energy policies.

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Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal should be allowed. For the reasons given below, the Secretary of State agrees with his conclusions and with his recommendation and allows your client's appeal, thereby granting planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching her decision, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR247). She is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for her to assess the environmental impact of the application.
5. An application for costs was made by the appellant against the council. The Secretary of State's decision on that application is the subject of a separate letter.
6. The Secretary of State has had regard to the fact that the operation of the facility, including the proposed third line extension, obtained a Pollution Prevention and Control (PPC) permit from the Environment Agency on 22 December 2005 and that the permit allows the proposed third line to treat 100,000t per annum of non-hazardous waste (IR14).

Policy considerations

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan comprises the Regional Spatial Strategy for the East Midlands (RSS8), the 2006 Nottingham & Nottinghamshire Joint Structure Plan (SP), and saved policies of the 2005 Nottingham Local Plan (LP) and 2002 Nottingham & Nottinghamshire Waste Local Plan (WLP). The Secretary of State considers that the policies of the development plan most relevant to this appeal are those considered by the Inspector at IR44 – 48, 53, 248 & 249.
9. The emerging RSS, the Draft East Midlands Regional Plan, is now at an advanced stage, with the Secretary of State having published her Proposed Changes in July 2008 (IR54 & 250). She has therefore accorded its policies significant weight.
10. The Nottinghamshire and Nottingham Waste Core Strategy and Development Control Policies development plan documents are being prepared jointly by the Council and Nottinghamshire County Council. As these are at a very early stage in their preparation (IR 56 & 340 – 341), the Secretary of State has accorded their policies no weight.

11. Other material considerations which the Secretary of State has taken into account include Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, the *Planning and Climate Change Supplement* to PPS1; PPS10: *Planning for Sustainable Waste Management* and its companion guide; PPG13: *Transport*; Circular 11/95: *The Use of Conditions in Planning Permission*; and Circular 05/05: *Planning Obligations*.
12. The Secretary of State has also taken into account the Southside Regeneration Interim Planning Guidance (SRIPG), Eastside Regeneration Area Interim Planning Guidance (ERAIPG) and the Waterside Regeneration Interim Planning Guidance (WRIPG) (IR49 - 52), the 2007 Waste Local Plan Annual Monitoring Report (IR57), the 2006 East Midlands Regional Waste Management Strategy (IR55) and the 2007 Waste Strategy for England (IR61).

Main issues

13. The Secretary of State agrees with the Inspector that the main issues in this case are those set out at IR246.

Accordance with the development plan

14. For the reasons given below, the Secretary of State agrees with the Inspector that the appeal proposal would not be in conflict with the development plan (IR365 – 366).

Regeneration

Waterside Regeneration Zone (WRZ)

15. For the reasons given by the Inspector at IR251 – 252, the Secretary of State agrees with him that the existing incinerator, and its expansion, has been clearly embedded in local policy (IR253). She also agrees that the saving of WLP Policy W.6 has maintained the position of the incinerator in relation to the development plan and confirmed that the policy complies with national policy (IR253). For the reasons set out at IR254 – 259, the Secretary of State agrees with the Inspector that, in terms of its main regeneration aims, the Waterside Regeneration Interim Planning Guidance (WRIPG) would appear to be generally compatible with the presence of the existing generator (IR260).
16. Like the Inspector, the Secretary of State has considered the relationship between the existing incinerator and development potential at the Eastcroft depot site identified in the LP and WRIPG (IR261). She agrees fully with his consideration of this matter as set out at IR262 – 272 and considers that no compelling evidence has been found to suggest that the absence of redevelopment on any of the Eastcroft depot site has been due to the presence of the existing incinerator (IR273). For the reasons given at IR 274 – 275, she also does not consider that the existing incinerator is incompatible with the aims of the development plan, or that it has materially impeded development in the WRZ (IR276).
17. For the reasons given at IR278 – 280, the Secretary of State agrees with the Inspector that, overall, the physical effect of the proposal on the facility would be

positive, would give the impression of a more modern facility and should improve performance (IR280). She further agrees that, as the incinerator already exists, the proposal would therefore accord with LP Policy MU6 (IR280). Like the Inspector, she considers that the slight adverse impact in views caused by additional use of the access ramps would be outweighed by improvements to the appearance of the plant and stack (IR281). For the reasons given at IR282, she considers that the proposal would not have any material effect on highways and the environment. Overall, the Secretary of State agrees with the Inspector that there would be no materially adverse impact and that the site would be suitable for the proposal, and therefore that the proposal would not conflict with LP Policy MU7 (IR283). She also agrees with the Inspector's conclusion about there being no impact on redevelopment of the river frontage (R284).

18. For the reasons given at IR285, the Secretary of State agrees with the Inspector that the proposal would not represent an extension to the life of the facility or reduce the likelihood of its relocation or its replacement with other technologies. She also does not consider that the proposal would anchor the presence of the incinerator in the WRZ, and concludes that the proposal would accord with the aims of LP Policy ST2 (IR286). She agrees with the Inspector that the proposal would have no unacceptable adverse cumulative effect on environmental quality or economic potential in its immediate area (IR288). For the reasons given at IR289 - 290, she shares the Inspector's view that the WRZ as a whole does not appear to be expected to be an extension of the city centre, or to accommodate high density and high technology employment uses (IR290).
19. Overall, the Secretary of State agrees with the Inspector that the proposal would not have a harmful effect on the regeneration of the WRZ, nor conflict with relevant development plan policies and supplementary planning guidance (IR291).

Southside Regeneration Zone (SRZ)

20. The Secretary of State agrees with the Inspector's reasoning and conclusions, as set out at IR292 – 301, on the impact of the proposal on the SRZ. In particular, the presence of the incinerator does not appear to have inhibited development in the central parts of the SRZ (IR296) and, in terms of visual impact, as a result of stack improvements the proposal would have a limited and beneficial effect on the more central parts of the SRZ (IR301). Overall, she agrees with the Inspector that the proposal would not have a harmful effect on the regeneration of the SRZ, nor conflict with LP Policy MU2 and the relevant supplementary planning guidance (R302).

Eastside Regeneration Zone (ERZ)

21. The Secretary of State has considered the Inspector's assessment of the impact of the proposal on the ERZ, as set out at IR303 – 308, and agrees with his reasoning and conclusions. In particular, she considers that, despite the funding gap, the potential for District Heating System (DHS) expansion still supports the appeal proposal and adds weight to its acceptability (IR308). Overall, she therefore considers that the proposal would not have a harmful effect on the

regeneration of the ERZ, nor conflict with LP Policy MU4 and relevant supplementary planning guidance (IR 309).

Other Areas of the City

22. For the reasons given by the Inspector at IR310 – 311, the Secretary of State is not convinced that there would be sufficient medium term demand to fill the city centre to a level that would overflow into the WRZ and specifically the Eastcroft Depot site. She agrees with him that the proposal would therefore not conflict with emerging RSS policies 19 and 20 (IR311). Like the Inspector, she sees no evidence that the proposal would have an adverse impact on the city centre and finds that the area around the incinerator was not included in the city centre when it was last extended in 2005 (IR314). She therefore agrees with him that the proposal would not conflict with LP policies ST1 and ST3 (IR314). The Secretary of State agrees with the Inspector that the proposal would improve the situation in relation to any hotel proposal (IR315). She also agrees that there is nothing to suggest that the proposal would result in any lowering of density or curtailment of development on residential sites and considers that the proposal would not conflict with LP policy H2 (IR316).
23. The Secretary of State has had regard to a number of other appeals elsewhere, referred to by the Council, where incinerator proposals have been dismissed. She has carefully considered the Inspector's assessment of these as set out at IR317 – 323 and agrees with him that none of the cited cases support the dismissal of this appeal (IR324). She has also had regard to the lack of direct evidence to suggest that to dismiss the appeal would save greenfield land from development (IR325).
24. For the reasons given by the Inspector at IR326 – 327, the Secretary of State agrees with him that the proposal would not have an adverse impact on Sneinton. She also agrees with him that the proposal would not have a material visual impact on the St Ann's and Meadows areas of the city (IR328), and that the low density of jobs that would be created would not necessarily impact on employment prospects for the area around the appeal site (IR330).
25. The Secretary of State has considered the Inspector's assessment of the impact of both the existing incinerator and the proposal on the health of the local population, as set out at IR331– 333. She fully agrees with his reasoning and conclusions on this matter and considers that the proposal would not present any material risk to the health of the local population (IR333). She has had regard to the Environment Agency's view that the regulatory performance of the existing incinerator is very good and is satisfied that the circumstances surrounding reported breaches have been addressed and do not, on balance, represent sufficient reason to dismiss the appeal. She considers that the absence of objections to the proposal from the statutory authorities in this regard adds weight to this conclusion (IR335). For the reasons given by the Inspector at IR337 – 338, the Secretary of State agrees with him that the proposal would preserve the character of the Sneinton and Midland Station Conservation Areas.

26. Overall, the Secretary of State agrees with the Inspector that the proposal would not have a harmful effect on regeneration of the city as a whole and that it would not conflict with LP Policies ST1, ST3 and H2 (IR339).

Sustainable Waste Management

27. The Secretary of State has had regard to the fact that waste DPDs are being prepared by the Council (IR340), but agrees with the Inspector that, in this case, with consultation only at an issues and options stage, it would be inappropriate to dismiss the appeal on grounds of prematurity (IR341). The key planning objectives in PPS10 require planning authorities to drive waste management up the waste hierarchy, address waste as a resource and look to disposal as the last option. The waste hierarchy in PPS10 places energy recovery above disposal. The Secretary of State agrees with the Inspector that the proposal reflects this approach in that energy recovery will be available and that the waste to be incinerated will arise from treated sources (IR342). She further agrees that the proposal would accord with SP Policy 2/15 which seeks to encourage the generation of renewable energy (IR343). Like the Inspector, the Secretary of State is satisfied that the proposal relates to measures to deal with residual waste by moving it up the hierarchy, thereby resulting in landfill diversion, and that it encompasses the management of waste where it arises (IR343).

28. For the reasons given at IR 344, the Secretary of State agrees with the Inspector that need is not relevant to this appeal (IR344). She also agrees that the proposal is consistent with the emphasis in the Climate Change Supplement to PPS1 on providing renewable and low carbon energy and supporting infrastructure, including in this case the potential for some of the energy generated to be used via the Nottingham District Heating System (IR 243, 344 & 364). She agrees that the proposal would be compliant with those aspects of the RSS that concern the provision of waste management infrastructure and the waste hierarchy, as set out by the Inspector at IR345 and 347. The Secretary of State also agrees that the proposal would accord with LP Policy ST1 for the reasons set out at IR346, and not conflict with LP Policy ST2 for the reasons at IR348.

29. Overall, the Secretary of State agrees with the Inspector's conclusion that the proposal would be compatible with the aims of sustainable waste management, and that it would not conflict with local, regional and national policy in this regard (IR349).

Conditions & Planning Obligation

30. The Secretary of State has considered the recommended conditions set out at Appendix A of the IR, the Inspector's comments on these at IR350 - 363 and national policy as set out in Circular 11/95. She agrees with the Inspector's analysis and considers that his proposed conditions are reasonable and necessary and meet the tests of Circular 11/95.

31. The Secretary of State has also considered the provisions of the signed and submitted planning obligation, the Inspector's comments on this at IR364 and national policy as set out in Circular 05/05. She considers that the obligation is

relevant to the proposed development and meets the policy tests of Circular 05/05.

Overall Conclusions

32. The Secretary of State considers that the appeal proposal would not have a harmful effect on the regeneration of Southside, Eastside or Waterside Regeneration Areas, or the city as a whole. She concludes that the proposal would be compatible with the aims of sustainable waste management, accords with the objectives of the Climate Change Supplement to PPS1 and PPS10, and would not be in conflict with the development plan, local planning guidance or emerging RSS.
33. Having carefully considered the arguments for and against the appeal proposal, the Secretary of State concludes that there are no material considerations to cause her to decide other than in accordance with the development plan.

Formal Decision

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's appeal and grants planning permission for new external treatment to the existing Energy from Waste (EfW) facility together with its extension to create 100,000 tonnes per annum additional capacity for non-hazardous waste treatment, comprising: new architectural cladding treatment to the existing main building and colour treatment to the chimney stack; louvre and mesh screens around the existing flue gas treatment and residue storage facilities; extension of the existing building to house a new boiler and grate and a turbine hall and air condensers; additional free-standing flue gas treatment plant; a replacement gatehouse and weight weighbridge office; and new landscape planting at the Eastcroft EfW facility, off Incinerator Road, Cattle Market Road, Nottingham, Nottingham NG2 3JH, in accordance with application number 07/01502/PMFUL3, dated 6 August 2007, subject to the conditions set out in the schedule at Annex A to this letter.
35. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
36. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
37. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

38. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

39. A copy of this letter has been sent to the Council and all parties who requested to be informed of this decision.

Yours faithfully

Julian Pitt

Authorised by Secretary of State to sign in that behalf

ANNEX A – SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. No development shall take place until details of the following, to be provided as part of the development hereby permitted, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
 - (a) Colours and materials of the proposed cladding, and the external treatment and enclosure of existing and proposed buildings and structures;
 - (b) External lighting;
 - (c) Surface and foul water drainage;
 - (d) Construction techniques or methodology, including management control measures, to minimise noise and dust emissions during the construction period and to ensure that there will be no adverse effect on breeding birds;
 - (e) A soft landscaping scheme, including planting plans and schedules of plants noting species, plant sizes and numbers or densities.
3. The development hereby permitted shall not be used until the approved surface and foul water drainage works have been completed. The development hereby permitted shall not be used, other than for the purpose of commissioning trials, until the following have been completed.
 - (a) The approved proposed cladding, and the external treatment and enclosure of existing and proposed buildings and structures;
 - (b) External lighting.
4. No development shall take place until details of the following, to be provided as part of the development hereby permitted, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
 - (a) Parking arrangements for construction staff, to be retained throughout the construction period;
 - (b) A travel plan: for the management and use of construction and staff vehicles travelling to and from the site, in order to minimise car use for travel to and from work; to encourage construction staff working within the development to use alternative transport modes to the private car; and to avoid queuing vehicles and associated congestion from vehicles entering and leaving the site.
5. The soft landscaping scheme shall be carried out during the first planting and seeding season following the completion of the development. Any trees which die, are removed or become seriously damaged or diseased within five years

shall be replaced in the next planting season with others of a similar size, unless the local planning authority agrees in writing to any variation.

6. Energy shall be recovered from the incineration of waste in the development hereby permitted.
7. No development shall take place until a local liaison panel has been established in accordance with details to be submitted to, and approved in writing by, the local planning authority. The details shall include terms of reference and frequency of meetings of the panel. The panel shall meet in accordance with the approved details unless otherwise agreed in writing by the local planning authority.



Report to the Secretary of State for Communities and Local Government

by Stephen Roscoe BEng MSc CEng
MICE

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Date 10 December 2008

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY WASTE RECYCLING LTD

NOTTINGHAM CITY COUNCIL

Inquiry held on 9-12, 16-19 and 24 September 2008

Site Visit held on 25 September 2008

Eastcroft Energy from Waste Facility, Off Incinerator Road, Cattle Market Road, Nottingham NG2 3JH

File Ref: APP/Q3060/A/08/2063129

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Glossary of Abbreviations

APC	Air pollution control
AQMAs	Air Quality Management Areas
CABE	The Commission for Architecture and the Built Environment
C&I	Commercial and industrial
CAs	Conservation Areas
CHP	Combined heat and power
CO ₂	Carbon Dioxide
CS	Core strategy
CWI	Clinical waste incinerator
DHS	District heating system
DPDs	Development plan documents
EA	Environment Agency
EfW	Energy from Waste
EMRWS	East Midlands Regional Waste Management Strategy (January 2006) [CD45]
ERAIPG	Eastside Regeneration Area Interim Planning Guidance: June 2004 [CD53]
ERZ	Eastside Regeneration Zone
GOEM	Government Office for the East Midlands
HGV	Heavy goods vehicle
HIA	Health Impact Assessment
HMIP	Her Majesty's Inspectorate of Pollution
IMD	Indices of Multiple Deprivation
LP	Nottingham Local Plan [CD47]
MSW	Municipal solid waste
NAQS	National Air Quality Standard
NCC	Nottingham County Council
NO _x	Oxides of nitrogen
NO ₂	Nitrogen Dioxide
PCT	Primary Healthcare Trust
PPC	Pollution Prevention and Control
PS:GP	The Planning System: General Principles
PUAs	Principal Urban Areas
RBC	Rushcliffe Borough Council
RSS	Regional Spatial Strategy for the East Midlands (RSS8) [CD43]
SOAs	Super Output Areas
SoCG	Statement of Common Ground
SO ₂	Sulphur Dioxide
SP	Nottingham and Nottinghamshire Structure Plan [CD49]
SPG	Supplementary Planning Guidance
SRIPG	Southside Regeneration Interim Planning Guidance: July 2003 [CD52]
SRZ	Southside Regeneration Zone
SSSIs	Sites of Special Scientific Interest
VOCs	Volatile organic compounds

WFD	EU Waste Framework Directive
WID	European Union Waste Incineration Directive 2000
WLP	Nottinghamshire and Nottingham Waste Local Plan [CD48]
WPAs	Waste planning authorities
WRIPG	Waterside Regeneration Interim Planning Guidance: November 2001 [CD51]
WRZ	Waterside Regeneration Zone
ZVI	Zone of Visual Influence

File Ref: APP/Q3060/A/08/2063129

Eastcroft Energy from Waste Facility, Off Incinerator Road, Cattle Market Road, Nottingham NG2 3JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Waste Recycling Group Ltd against City of Nottingham Council.
- The application Ref 07/01502/PMFUL3 is dated 6 August 2007.
- The development proposed is new external treatment to the existing Energy from Waste Facility together with its extension to create 100,000 tonnes per annum additional capacity for non-hazardous waste treatment, comprising: new architectural cladding treatment to the existing main building and colour treatment to the chimney stack; louvre and mesh screens around the existing flue gas treatment and residue storage facilities; the extension of the existing building to house a new boiler and grate and a turbine hall and air condensers; an additional free-standing flue gas treatment plant; a replacement gatehouse and weight weighbridge office; and new landscape planting.

Summary of Recommendation: Planning permission is granted subject to the conditions listed in Appendix A.

Procedural Matters

- 1) At the Inquiry, an application for costs was made by the appellant against the Council. This application is the subject of a separate Report.
- 2) The appeal was submitted as recorded above. Following closure of the Inquiry, the appeal was recovered by the Secretary of State on 30 September 2008 under section 79 of the Town and Country Planning Act 1990. I have therefore prepared the following report in relation to the appeal and the subsequent Inquiry.

The Site and Surroundings

- 3) The site and surroundings are comprehensively described in the Statement of Common Ground (SoCG) [CD17] which has been agreed between the appellant and the Council. The site covers an area of approximately 2ha, and operations are centred around the main complex, which is 28m in height. It was designed and constructed in the 1970s and makes extensive use of reinforced concrete and cladding.
- 4) The main complex houses the waste reception and tipping hall, waste storage bunkers, boiler hall with two lines and residuals bunker. Flue gas treatment equipment is attached to the north of the main complex. Vehicular access to the tipping hall is provided by means of a circulatory ramp which enters to the east of the main complex and exits to the west.
- 5) The site offices and staff accommodation are situated primarily within the main complex, although temporary offices with adjacent car parking are situated to the west of the main complex. A gatehouse, three weighbridges and additional car parking are located at the entrance to the site. The site includes some areas of grass and occasional trees. A row of conifers runs contiguous with part of the northern site boundary, but these lie outside the site fence and planning application boundary. A 91.5m high, single fluted reinforced concrete chimney stack is situated to the north of the main complex. The stack is partly

painted grey with the remainder natural concrete, although the top 10.5m is treated with black paint. The appeal site is predominantly hard-standing, and surface water run-off is collected in various drainage channels across the site and discharged to a foul sewer. The complex provides employment for 35 people with four out of five categorised as skilled operatives or technical engineers.

- 6) The layout of the site has remained largely unchanged since its construction, except for minor extensions to the main complex building to the south in 1993 and to the north in 2000. Two dry lime flue gas treatment plants were installed in 1996 to the north of the main complex, leaving a space previously occupied by electrostatic precipitators. There is also a clinical waste incinerator which is owned and operated by White Rose Environmental Ltd. The flue gases from this facility exhaust into the main chimney.
- 7) Adjoining railway land to the north of the site comprises railway sidings, a maintenance depot and workshops. To the west, a former car showroom and workshops are now used as training workshops and classrooms by the Castle Further Education College. The Council's Eastcroft Depot, also to the west of the site, comprises offices, workshops and stores. The County Business Park adjoins the site to the south, and to the south east is a wholesale fruit and vegetable market which was relocated from Sneinton, within the Eastside Regeneration Zone (ERZ), in 1994. This involved the redevelopment of a derelict railway embankment. Immediately to the east of the site, the Ladybay Retail Park occupies the site of a former railway engineering works.
- 8) The appeal site is situated close to the south east boundary of the city centre as defined in the Nottingham Local Plan [CD47] (LP). It lies within the north west part of the Waterside Regeneration Zone (WRZ) and is located 250m to the east of the Nottingham Canal which runs from north to south and parallel to London Road. The canal connects the city centre with the River Trent and joins the river further south at Trent Bridge. The boundary of the ERZ is approximately 120m to the north, and the boundary of the Southside Regeneration Zone (SRZ) is some 270m to the west of the appeal site. There is a single means of vehicular access to the site from Incinerator Road via Cattle Market Road to the south of the site. The residential areas of Sneinton and St Ann's lie to the north east of the site, and the Meadows residential area is located to the west of the site.

Planning History

- 9) The planning history is comprehensively described in the Statement of Common Ground [CD17] which has been agreed between the appellant and the Council.
- 10) A planning application for an Incinerator and District Heating Plant on former railway land was considered by Nottingham Corporation's Planning and Development Committee in December 1971. It was reported that the amount of refuse to be disposed of was estimated to be 178,000 tons per annum and the number of vehicle trips was expected to be between 200 and 300 per day. Permission was granted subject to a landscaping scheme, details of which were submitted in June 1973 and subsequently approved.
- 11) An application for the extension of the facility, to provide an additional 100,000t per annum of waste management capacity, was submitted by the

appellant on 28 July 2005. The proposal included the construction of buildings and plant within three separate areas of the site, but all contained within the existing built footprint. In addition to the above elements, the scheme included architectural enhancement of the facility on both the new and existing parts of the facility, primarily through re-cladding.

- 12) On 20 September 2006, the Council refused to grant planning permission for the proposal for the following reason:

The proposal would unacceptably constrain the sustainable regeneration of the city by inhibiting the development of mixed communities in the South Side, East Side and the Waterside Regeneration Zones and be contrary to Policies MU2, MU3, MU4, MU5, MU6, and MU7 of the Nottingham Local Plan and paragraph 27 of Planning Policy Statement 1, and would not satisfy the key criteria concerning the suitability of the site for development contained in paragraph 21(i) of Planning Policy Statement 10 including neighbouring land uses, and the accumulative effect of previous waste disposal facilities on the well being of the local community in terms of social cohesion and inclusion and economic potential.

- 13) Following the refusal of planning permission, the appellant lodged an appeal on 11 October 2006 to be heard at a Public Inquiry. The appeal was subsequently withdrawn in June 2007 in favour of a new planning application, which is the subject of this appeal.
- 14) The operation of the facility, including the proposed third line extension, obtained a PPC permit [CD24], from the EA on 22 December 2005. The permit allows the third line to treat 100,000t per annum of non-hazardous waste.
- 15) The new planning application for the third line extension was submitted by the appellant on 6 August 2007 [CD1]. The new application differs from that submitted in 2005 by incorporating a different major architectural refurbishment of the entire facility. The application also includes for the replacement of the gatehouse and weighbridge office with a new building.
- 16) The statutory time period for the determination of the new application expired on 26 November 2007. The Council wrote to the appellant's planning consultant on 6 November 2007 and advised them that it was unlikely that the new application would be reported to its Development Control Committee before March 2008. As a consequence, the appellant elected to appeal on the basis of non-determination of the planning application.
- 17) Subsequent to the lodging of the appeal, the Council's Development Control Committee resolved, on 20 February 2008, that, had it been in a position to determine the application, it would have refused planning permission for the following reasons:

- 1 *The proposal would unacceptably constrain the sustainable regeneration of the city by inhibiting the development of mixed communities in the South Side, East Side and the Waterside Regeneration Zones and be contrary to Policies MU2, MU3, MU4, MU5, MU6, and MU7 of the Nottingham Local Plan and paragraph 27 of Planning Policy Statement 1, and would not satisfy the key criteria concerning the suitability of the site for development contained in paragraph 21(i) of Planning Policy*

Statement 10 including neighbouring land uses, and the accumulative effect of previous waste disposal facilities on the well being of the local community in terms of social cohesion and inclusion and economic potential.

- 2 *As an inappropriate use in the Waterside Regeneration Zone, a decision on the expansion of the Eastcroft Incinerator should not be taken until the review of waste planning policy, through the preparation of new Waste Development Plan Documents, has been undertaken.*

The Proposal

- 18) The proposal is comprehensively described and set within the context of current operations in the SoCG [CD17] which has been agreed between the appellant and the Council.
- 19) Currently, incoming waste quantities are recorded at the vehicle weighbridge adjacent to the gatehouse. Random checks are also carried out to verify the nature of the incoming waste. Vehicles proceed up a one-way entry ramp and discharge loads into refuse bunkers within the enclosed tipping hall. The vehicles then leave the hall via a one-way exit ramp, and vehicle weights are again recorded at the gatehouse.
- 20) The tipping hall incorporates 8 tipping bays which feed two waste bunkers. The entry and exit doors to the hall are closed when waste delivery is not taking place, such as at night. Each waste bunker can accommodate 1,000t of material. Provision was made in the design and construction of the complex for a future extension of two lines and one of the bunkers was intended for this. The current operation however makes use of both bunkers to maximise storage capacity, which is some four days at normal operation rates.
- 21) Two overhead travelling cranes with cactus grabs are provided to mix and load the waste into the feed chutes of the two furnaces. Under normal operations, only one crane is required to feed both furnaces. Crane operators overlook the bunkers, and CCTV cameras ensure maximum visibility. The operators inspect the waste during mixing and loading to identify and remove any unsuitable or unauthorised waste for appropriate disposal.
- 22) Odour and dust in the hall and bunkers is controlled by forced draught fans. These create a slight negative pressure within the building thus preventing odour, dust or litter from escaping. Anaerobic conditions in the bunkers are prevented by regular mixing. The waste is transferred from the chutes to the grates by hydraulically powered feeding units. The backward flow of combustion gases and the premature ignition of waste are prevented by keeping the chute full and the furnace under negative pressure. A level detector warns against unsafe low levels of waste.
- 23) Inclined and moving grates transport the burning waste from the feed inlet to the residue discharge point. The grate movement turns and mixes the waste to ensure that all of it is exposed to the combustion process. Primary air is fed to the underside of the grates. Secondary air is admitted above the grates to ensure complete combustion with minimum levels of oxides of nitrogen (NOx). Air volumes and the waste feed rate are regulated by a combustion control system.

- 24) This system minimises levels of pollutants and particulates in the pre-treatment flue gas and controls the boilers. Auxiliary burners automatically maintain a temperature of 850°C, but are rarely used. A slight negative pressure is maintained in the combustion chambers, casings, ducts and ancillary equipment to prevent the release of gases. The plant meets the European Union Waste Incineration Directive 2000 (WID) requirements which are reflected in its Pollution Prevention and Control (PPC) permit [CD24].
- 25) The plant recovers energy to generate heat and power. Combustion gases pass to a boiler above each grate, which between them generate some 26t of steam per hour. Each line recovers approximately 19MW in the form of steam and 2 MW of hot water. The steam is piped to the London Road combined heat and power (CHP) facility, some 600m to the north west of the site. It is used for district heating in some 5,000 homes and buildings, through a district heating system (DHS), and is also converted to electricity for distribution in the local supply grid [CD7 fig 3.2].
- 26) Each line has a separate flue gas treatment system comprising dry adsorption that includes activated carbon injection, dry lime scrubbing and fabric filters. It is designed to ensure that the plant operates within the WID emissions limits. Dry lime scrubbing removes acid combustion gases, using hydrated lime as a reagent which neutralises the acid gases. Residual material is recovered at an outlet. The injection of activated carbon into the flue and ducts minimises emissions of dioxins, mercury and other heavy metals. The gases are then drawn through a fabric bag filter to remove particulates, including lime and activated carbon particles. Each filter is divided into four compartments of 169 bags giving a total filtration area of 1,757m² per line. The bags are cleaned using compressed air pulses, and the residues are collected in hoppers beneath the filters. The treated flue gases then pass into the stack for release. The stack contains two separate gas flues and also takes treated flue gases from a nearby clinical waste incinerator. Stack emissions are automatically and continuously monitored, and reported in accordance with Environment Agency (EA) requirements.
- 27) The plant produces three types of solid by-products which are bottom ash, ferrous material and air pollution control (APC) residues. Bottom ash is the burnt out combustion residue. It falls into a common residuals bunker which has sufficient capacity to store four days of ash from both lines. The ash is then fed into a hopper by a grab crane from where it is discharged onto a conveyor system by a vibrating feeder. A magnetic separator then removes ferrous materials before the ash is discharged into a hopper which has a capacity of 8 hours at full production. The ash is then transported to landfill where it is used as a substitute for virgin aggregate in roads or as a capping material. Current landfill locations include Barnstone to the south east, Staple Quarry to the north east and Sutton and Dorket Head to the north.
- 28) The ferrous materials are discharged to a storage pit and are then sold as scrap. APC residues comprise fine particles of ash and residues from the flue gas treatment process which have collected in the bag filters. They are stored in the residue ash silo which has a capacity sufficient for approximately 20 days storage, although normally only 10% of this capacity is used. The APC residues are classified as a hazardous waste due to their alkaline nature. The residues are therefore mixed with water for transport by road to a treatment facility.

- 29) The incinerator has been operational since 1973 with two waste lines which together have a current maximum capacity of approximately 150,000t of non-hazardous waste per annum. The original design of the plant included scope for the addition of a third and fourth line to ensure that the plant would be able to meet local waste management demands at some time in the future. The constructed plant included feed hopper chutes for the third and fourth lines.
- 30) The PPC permit allows for the disposal of up to 160,000t of mixed municipal solid waste (MSW) per year, of which up to 3,200t per year can be non-hazardous commercial and industrial (C&I) wastes. In addition, up to 8,000t of the 160,000t per year can be separately collected fractions of municipal, packaging and related wastes.
- 31) There would be no change in reception and tipping procedures as a result of the proposed extension, and the proposal would not require the construction of any additional refuse bunkers. It does however include the replacement of the existing gatehouse and weighbridge office with a new facility.
- 32) The additional combustion line would be designed to meet the requirements of the WID, to ensure the destruction of dioxins, furans and other undesirable combustion products. During operation, the combustion chamber temperature would be continuously monitored and recorded to demonstrate compliance with the WID. The combustion control system for the proposed and existing lines would be automated, including: the monitoring of combustion and temperature conditions of the grate; modification of the waste feed rates; and the control of primary and secondary air. The new boiler and grate would be provided in an area previously identified for expansion adjacent to the existing boiler house.
- 33) The proposal would include a steam turbine to generate 8.4MW of electricity to connect to the local supply grid and would have the capability of exporting steam to the DHS. An air cooled condenser would be installed for steam from the new turbine. The new turbine hall and condenser would be situated to the west of the main complex, the extent of which would be controlled by the location of the tipping hall exit ramp.
- 34) A demineralisation plant would be provided for the new line. Flue gas treatment for the new line would follow the same methods for gas scrubbing and fabric filtering, although the system for the new line would be completely separate from the existing systems. Selective NO_x reduction methods would be provided for the new line, as have been provided on the existing plant. The new gas flue treatment system would be situated to the north of the existing residuals bunker.
- 35) The combustion gases generated by the proposal would be discharged to an unused gas flue within the existing stack. Stack height calculations, in accordance with Her Majesty's Inspectorate of Pollution (HMIP) guidance, for the extended facility recommend a minimum height of 61m. As the existing height is 91.5m and the proposal would discharge through an unused flue, no stack modifications would be required.
- 36) There would be no change in the methods of bottom ash handling as a result of the proposal, and the existing residuals bunker would be used. The proposal would however generate an additional 4t per hour of bottom ash, and this would reduce its storage capacity to about 2½ days. The travelling crane

would therefore be expected to operate for more hours every day, to keep the bunker clear, and the hopper would need to be emptied more frequently. The additional bottom ash would be used in a manner similar to that in the current operation.

- 37) There would be no change in the methods of ferrous metal handling as a result of the proposal. It would however recover a further 0.3t of metal per hour.
- 38) The proposal would generate about an additional 0.5t of APC residues per hour, which would be stored in a separate re-circulation silo prior to being transferred to the existing silo.
- 39) The proposal would be accommodated within the existing footprint of the main complex [CD7 fig4.1]. Once extended, the facility would have a waste processing capacity of 250,000t per year. The waste that would be accepted at the extended facility would be non-hazardous MSW and C&I waste. No restriction is being sought on the proportions of MSW and C&I waste that would be treated, within the overall 100,000t of new capacity per annum. The facility would continue to be accessed from the main entrance off Incinerator Road, but the proposal would also include a new gatehouse and weighbridge office which would replace the existing arrangement.
- 40) The re-design of the external fabric of the facility would consist of:
 - a) re-cladding of the facility;
 - b) cleaning of the existing concrete facades;
 - c) painting of the stack; and
 - d) shrouding of the external process areas.

Other Agreed Facts

- 41) Other facts agreed between the applicant and the Council are included within the SoCG and refer to highways and transportation issues together with a landscape and visual baseline position.

Planning Policy

- 42) The development plan comprises the Regional Spatial Strategy for the East Midlands - RSS8 [CD43] (RSS), the Nottingham and Nottinghamshire Structure Plan [CD49] (SP), the LP and the Nottinghamshire and Nottingham Waste Local Plan [CD48] (WLP). The SP and LP were saved in their entirety for a period of three years from the dates of their adoption of February 2006 and 28 November 2005 respectively. The WLP was saved in its entirety for a period of three years from September 2004.
- 43) The Council made submissions to the Government Office for the East Midlands (GOEM) to extend the saved period for 69 policies within the WLP, but not to extend the period for four. One of these four was Policy W6.1 which is permissive towards proposals to increase capacity at the Eastcroft incinerator, the subject of this appeal, subject to adequate environmental safeguards. Nottingham County Council (NCC) made submissions to extend the period for all but three policies, but these three did not include Policy W6.1. GOEM subsequently wrote to the Council [CD23] directing it to extend the period for Policy W6.1 for three reasons:

- e) "A third party representation has been submitted expressing views that differ from those of your authority in relation to your application to not extend Policy W6.1."
 - f) "The policy makes provision for proposals to increase capacity at the Eastcroft incinerator."
 - g) "The Secretary of State does not accept your request not to extend Policy W6.1. The policy supports waste management, including unimplemented site allocations. The policy is therefore extended."
- 44) RSS Policy 38 sets out the principles for a regional waste strategy and seeks to reduce the amount of waste sent to landfill. Policies 39 and 40 set out the regional priorities for waste management and energy reduction and efficiency respectively.
- 45) The SP does not contain any policies which specifically relate to waste management. The plan does however refer to the WLP and contains Policy 2/15 which seeks to encourage renewable energy generation.
- 46) The LP was adopted in November 2005 and provides for extending the city centre compared with the previous plan. Chapter 4 of the plan concerns regeneration and mixed use development. Policies under: MU2 relate to the SRZ; MU3 to development sites in the SRZ; MU4 relate to the ERZ; MU5 to development sites in the ERZ; MU6 relate to the WRZ; and MU7 to development sites in the WRZ.
- 47) Specifically the LP, in paragraph 4.26, intends that the Waterside, which I take to mean the WRZ, will become the focus of a new strategic quarter for Nottingham. It also describes, in paragraph 4.27, a new urban business location, including housing and leisure uses, centred around a new canal basin on the current Eastcroft depot. Paragraph 4.28 confirms the Waterside Regeneration Interim Planning Guidance: November 2001 [CD51] (WRIPG) as Supplementary Planning Guidance (SPG). Policy MU7.1 is permissive towards a mix of uses on the Eastcroft depot site. Policies MU7.2, MU7.3 and MU7.4 are permissive towards a mix of uses at Trent Basin, Meadow Lane and Iremonger Road respectively. Policy MU6 seeks to encourage proposals which would create a vibrant mixed use riverside quarter in the WRZ and to maximise the development potential for the area in accordance with an agreed masterplan and the principles of sustainable development. It also seeks to encourage high quality offices and east to west transport links, amongst other things.
- 48) Policy MU4 seeks to similarly encourage a new urban quarter in the ERZ, and Policy MU2 aims to similarly improve the attractiveness and use of sites in the SRZ. Policy ST1 seeks to encourage development which would strengthen and diversify the economic base of the city and ST2 promotes the development of sites allocated in the LP. Policy ST3 is permissive towards development that would enhance the role of Nottingham as a major European regional centre. Policy H2 seeks higher residential development densities where there is a good level of accessibility, such as in the city centre.
- 49) The LP allocates a number of regeneration zones, the SRZ, ERZ and WRZ on the edge of the established core of the city centre. These have associated planning guidance as follows; Southside Regeneration Interim Planning Guidance: July 2003 [CD52] (SRIPG); Eastside Regeneration Area Interim

Planning Guidance: June 2004 [CD53] (ERAIPG); and WRIPG. The appeal site lies within the WRZ.

- 50) At the start of its introduction [Para1.1], the WRIPG identifies the Waterside and the River Trent waterside and emphasises the unique locations offered alongside the River Trent. The WRIPG includes plans showing land use concepts and main development areas which also show the incinerator and the Ladybay Retail Park. It refers to a 20 year masterplan for the WRZ and a development investment of some £1bn [Para1.1]. The guidance advises that it does not envisage the Eastcroft incinerator facility being removed or redeveloped within 20 to 25 years [Para2.18].
- 51) The regeneration aims of the WRIPG are as follows [Para1.4]. The first aim is the reconnection of the waterside with the city and adjoining communities. Plan 1 shows routes and transport links. The second aim of the WRIPG is to provide homes, and their locations are shown on Plan 1. The third aim includes the provision of access to new employment and leisure facilities. With the exception of the existing football ground, leisure facilities are concentrated along the waterfront [Para6.1]. Leisure facilities would also probably make use of the river corridor and would be likely to face it [Para6.2].
- 52) In the first five years of the life of the WRIPG, development in the WRZ was envisaged at London Road, Meadow Lane and Trent Lane. Development at London Road is described as occupying part of the areas between London Road, the incinerator and the football ground. The WRIPG also emphasises the unique locations offered on the Eastcroft depot site alongside the canal. It describes the creation of an environment of an equivalent quality to the city centre and superior to other edge of centre office locations in Nottingham. This development is said to be located around the canal and compatible with the southern city gateway aim for the SRZ in the LP and the WRIPG [Para1.6]. The WRIPG and LP acknowledge that the Canal City Basin Business Quarter would be a draw for development.
- 53) The WLP was adopted in January 2002, shortly after the WRIPG in November 2001. Chapter 6 of the WLP refers to waste treatment and energy recovery from waste. It offers the view that Nottingham is fortunate in having its own municipal incinerator at Eastcroft [Para6.6] and identifies a range of planning considerations in relation to the siting of incinerators [Para6.8]. It also looks favourably on an increase of capacity at the Eastcroft incinerator [Policy W6.1 and Para6.12]. The reasons given are that it would result in more of Nottinghamshire's waste being managed higher up the waste management hierarchy and would save landfill space which is in short supply, particularly in Greater Nottingham. Policies W6.5 and W6.6 are supportive of energy recovery schemes at incinerator sites provided there is no unacceptable impact and require that, where economical, energy recovery schemes are incorporated.
- 54) An emerging RSS has been published and examined in public. The Secretary of State has subsequently published a further proposed changes version of the draft regional strategy for further consultation [CD44A]. Policy 19 seeks to focus regeneration activity in the Principal Urban Areas (PUAs) within the region, of which Nottingham is one. Policy 20 seeks to encourage sustainable employment land allocations which: are responsive to market needs; encourage the development of specific sectors which have local economic significance; improve the regeneration of urban areas; assist in the

development of sites in Priority Areas for Regeneration; and are of a scale to encourage urban concentration. Policy 37 considers waste management strategy.

- 55) The East Midlands Regional Waste Management Strategy (January 2006) [CD45] (EMRWS) provides a strategic framework to allow the region to rapidly progress to more sustainable waste management. It identifies current capacity in the region and future waste management needs.
- 56) The Nottingham and Nottingham Waste Core Strategy (CS) and the Development Control Policies Development plan documents (DPD) are being prepared by the Council and NCC. An issues and options consultation document [CD50], has been produced.
- 57) The Council and NCC publish a WLP annual monitoring report, the latest of which was in December 2007 [CD22]. This report shows an estimated remaining capacity at landfill sites of 5,663,758m³ at June 2006.
- 58) In May 2007, a report on Planning and the Response to Climate Change was considered by the Council, and it was resolved [CD18]:
 - a) that the Government's recent package of inter-related climate change documents be welcomed and addressed by the Council by the promotion of regeneration and development approaches which fully encompass sustainable design principles, contribute to reducing the impact of climate change and demonstrate the highest standards of sustainability in design and construction;
 - b) that, in line with Government advice, an interim standard be adopted with immediate effect, prior to the adoption of the CS, requiring 10% of energy supplied, interpreted through carbon emissions, in all new developments over 1,000m² to be gained on site and renewably and/or from a decentralised, renewable or low carbon energy supply.
- 59) One of the key planning objectives in PPS10 [para 3] is that the delivery of planning strategies should encourage competitiveness. The PPS10 Companion Guide [para 6.46] suggests that waste planning authorities (WPAs) should not arbitrarily restrict the movement of waste across borders. The EMRWS [CD45 pg 41 issue B] also recognises that flexibility is required to accommodate cross boundary waste flows.
- 60) Article 5 of the WFD requires waste to be disposed of in one of the nearest appropriate installations. Disposal and recovery are identified individually in Article 4 and Annexes IIA and IIB. PPS10 also distinguishes between energy recovery and disposal.
- 61) WS2007 supports recovering energy from waste which cannot be sensibly reused or recycled and describes it as an essential component of a well balanced energy policy [Para17]. Experience throughout the EU has shown that high incineration and recycling rates go hand in hand⁸³ [WS2007 Para23].
- 62) The glossary for Climate Change Supplement to PPS1 identifies EfW as a renewable and/or low carbon energy supply. It suggests that planning authorities should not require applicants to demonstrate either overall need for renewable or low carbon energy development, or the energy justification for its

siting [Para20]. PPS10 [Para3] places this duty on regional planning bodies and planning authorities in terms of planning strategies.

The Case for the Appellant

The material points are:

Architecture

- 63) The appeal facility is just beyond half way though a 60 year waste incineration contract with the Council and is located approximately 1.5km south east of Nottingham city centre [GM1 para3.1]. The existing facility has over time seen many updates and improvements to the operation and process. The external fabric of the building however remains as it was originally designed 30 years ago, and the facility is now looking very tired [GM1 para4.1, GM2 AppGM1 Drg15233/A1/152]. It does not reflect the advances in technology and the key role that the facility brings in terms of providing energy from a renewable source to the local area.
- 64) The existing building is constructed in precast concrete, steel frame and steel profiled cladding. Whilst the structure and concrete are sound, the concrete is showing signs of age and the steel profiled cladding is generally in a poor state of repair. The cladding has been replaced on a piecemeal basis over the years and this has given the metal clad areas a patchwork appearance. Crowning the top of the largest building elements of the facility are galvanised handrails that have been added at parapet level around the perimeter of the reception hall and the waste storage bunker building. These handrails have a very temporary appearance and are visually prominent. The stack is the most prominent feature in any distant views, and the black band at the top highlights its prominence.
- 65) The facility was one of the first Energy from Waste (EfW) plants in the UK and, although the technology has advanced with many updates to the facility, the key built elements are still common today in modern EfW facilities. The building has proved to be efficient and flexible in its design, and the original building was designed to allow for expansion, including space for a further third and fourth line. It is the addition of the third line that forms the basis of this planning application.
- 66) The application can be broken down into two parts. The first part is the new build elements that are required for the addition of the third line. The second part is the complete redesign of the external fabric of the building, emphasising its importance in the sustainable regeneration of the area and reflecting modern advances in technology used in the facility.
- 67) The proposal to redesign the external fabric of the facility would transform the building from its original and tired 1970s appearance into a modern striking facility that would significantly lift the standard of design and quality of build in the area. This would have a positive impact on the regeneration of the city and would not act as a constraint to sustainable regeneration. All design decisions have been informed by the following factors: the retention of the integrity of the original design and building forms; the appearance in context; and the functional and operational requirements of the facility.

- 68) The building has key functional components that create its very strong visual form. From the outset, the design concept was to retain the approach of form following function, whilst lifting the building from its 1970s origins into the 21st Century. The key functional building elements would be treated individually in different ways with the careful selection of cladding materials and colours so that the various elements could be recognised more easily and the function of the building more easily understood.
- 69) A key design component would be the louvered shroud. The north elevation is dominated by the external process equipment. The shroud would provide a visual form that would partly screen the process equipment and provide a strong, cohesive and striking form to this otherwise cluttered industrial face of the facility.
- 70) The proposal has received positive feedback from the East Midlands Design Review Panel, and has been amended to take on board suggestions made by the panel [GM1 Secn8.9].
- 71) In summary, the proposal to re-design the external fabric would transform its appearance into a modern striking facility that would significantly lift the standard of design and quality of build in the area. The proposal therefore represents an opportunity to celebrate this renewable source of energy and act as a catalyst for the regeneration of the area.

Appearance

- 72) The landscape and visual assessment was undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment: Landscape Institute and Institute of Environmental Management and Assessment: 2002 [JM1 para3.2]. The appeal site is dominated by the existing facility with its tall stack. Whilst no landscape designations apply, 10 character areas have been identified in the landscape assessment. Of these, the historic core of the city centre and The Park residential area, to the west of the city centre, have been judged to have a high quality and value. The campus area of the city centre has a medium to high quality and value, with the remaining areas being low to medium [JM1 Tbl JM1].
- 73) As the appeal facility was designed to allow expansion, the third line components would be accommodated within the existing footprint. As such, they would intensify the development, but would not cause any great increase in its external dimensions. Some of the cosmetic elements of the proposal would result in small increases to the height and bulk of parts of the structure. Their effect however would be to transform the appearance of the facility. The overall nature of change would therefore be a small increase in the size of the facility combined with a substantive change in its appearance.
- 74) The landscape assessment found that there would be a moderate and beneficial effect upon the landscape fabric and that there would be a minor and beneficial effect on the landscape character of the immediate setting of the plant [JM1 para6.1.1-6.1.2]. All of the effects on each of the surrounding character areas would be beneficial and would range from negligible to moderate [JM1 Tbl JM3].

- 75) The Nottingham City Centre masterplan recognises that there are a number of key views across the city [JM2 AppJM3 FigJM2]. These, plus four gateway views, have been used in the visual assessment.
- 76) The Zone of Visual Influence (ZVI) of the stack is widespread, as would be expected for any tall solid structure standing in a low lying landscape. The main part of the plant has a much more restricted ZVI, principally because it is not as tall and is far more readily concealed by intervening features. The water vapour emissions plume, when visible, has the potential to have a very widespread ZVI due to its height within a relatively flat landscape. Plumes vary in their visual characteristics in response to weather conditions. Plume visibility for the existing plant has been assessed as being visible for about 42.9% of the time, with an average length of 58m and a maximum average length of 950m. It has been assessed as being longer than the height of the stack for 8% of the year [JM1 para4.3.12]. Plume visibility has been assessed during both day and night periods. Plumes are statistically more likely to form at night due to combinations of low wind speed and temperature, and when the plume would not be visible or at least significantly less visible.
- 77) 17 representative viewpoints have been identified in the surrounding landscape as receptors. Those with a high sensitivity are: Nottingham railway station platform; Nottingham Castle; Newark Crescent, Sneinton; Trent Bridge; Ladybay Bridge; and the junction between Arkwright Walk and Meadows Way [JM1 Tbl JM2].
- 78) The proposal would not result in any structural change to the stack and therefore there would be no change to its ZVI. The proposed painting scheme may however reduce its prominence. The proposal would cause a slight increase in the dimensions of the plant which, in turn, would slightly increase the number of places from which the plant would be visible. The proposal would result in a slight reduction in the percentage of time that the plume would be visible from 42.9 to 42.5%. There would however be a small increase in both average visible plume length, from 58 to 68m, and in the percentage of time that the visible plume would be longer than the stack height, from 8 to 10% [JM1 para5.2.3]. There would thus be a small increase in the ZVI of the plume, but it would be visible for less of the time. It is unlikely therefore that the changes to the plume would be perceptible.
- 79) The visual assessment found that all the effects on visual receptors would be neutral or beneficial with magnitudes varying between less to substantial significance [JM2 AppJM2 Tbl 4.0]. None of the strategic or gateway views would be adversely affected by the proposal. Overall, the proposal would improve the image of the facility which is prominent from certain viewpoints.
- 80) In summary, as the proposed enhancements to the external fabric of the plant would lead to an improvement in its aesthetic appearance, this would have beneficial landscape and visual effects, particularly close to the facility. From a landscape and visual perspective therefore, regeneration efforts in the surrounding area would be assisted and not hindered by the proposal.

Regeneration

- 81) Nottingham suffers from significant and multiple deprivation. It is ranked amongst the most deprived places in the country in respect of Indices of Multiple Deprivation (IMD) and Super Output Areas (SOAs) [CD29 pg3].

However, its position has improved between 2004 and 2007 with several areas, including some within 1km of the appeal site, dropping out of the 10% and 20% most deprived wards in the country [CD29 Tbl 3].

- 82) Of the three wards around the appeal site, St Ann's is the most deprived when compared with the two other nearby wards, Dales and Bridge, and with Nottingham City, Nottinghamshire, the East Midlands and England. Other parts of the city are equally, or in some cases more, deprived and they are not in close proximity to the appeal site [AH4 para1.9]. Deprivation is multi faceted and cannot be attributed to any one factor. The Dales ward has a similar profile to Nottingham as a whole, and the Bridge ward, in which the appeal site is located, is generally slightly less deprived than the other wards or Nottingham as a whole. Overall, the three wards and Nottingham are more deprived on most measures than Nottinghamshire, the East Midlands and England [AH2 AppAH1 Figs4-9].
- 83) There are however several things which suggest that conditions may be improving. House price data can be taken as a proxy for overall attractiveness of an area, including social and physical aspects. It suggests that the area around the appeal site has seen proportionately larger increases in prices in recent years. Data has been provided by the Land Registry at postcode sector level, for example postcodes with the first four digits NG1 2###, for the areas around the site. Figures for the city of Nottingham and Nottinghamshire are included as a comparison to demonstrate changes to prices across a wider area.
- 84) Prices in the four sectors immediately around the site have increased at a rate that exceeds that of neighbouring areas. Between 2001 and 2007, prices in this area increased by 109.5%, exceeding the increases for the City of Nottingham and Nottinghamshire, which were 89.8 and 96.4% respectively, and second only to areas to the north of the city centre [AH2 AppAH1 Fig13]. NG2 3###, within which the site is located, has maintained a rate of average house price growth that out performs that of the other three sectors which surround it, as well as that of the area to the north and the city as a whole, since 2002. Indeed, between 2001 and 2007, prices rose by 116% [AH1 p4.25].
- 85) This suggests that the appeal facility has not had an ongoing impact on relative house price changes. Indeed, the area closest to the site has performed best. There has also been substantial investment in the area, with a large number of developments being brought forward over the last 15 years.
- 86) 50 schemes have been identified that have been brought forward [AH2 AppAH2 pg5]. This suggests that regeneration activity has not and continues not to be affected by the presence of the facility, development plan support for its expansion or the proposals themselves. Specifically, the WLP was adopted in 2002, the LP was adopted in 2005, and the first and current incinerator expansion applications were submitted in July 2005 and July 2007 respectively. Much of the regeneration activity on the identified schemes has therefore taken place in the knowledge of the planned expansion of the incinerator and that the operator had sought planning permission for its expansion which is supported by prevailing planning and waste management policies.

- 87) Whether the proposal would unacceptably constrain sustainable regeneration however must be a judgement based on the impact of the expansion of the incinerator, as the Council's WRIPG accepts that the existing incinerator will remain [CD51 para2.18]. It is entirely reasonable that regeneration policies should assume the incinerator will remain and that sustainable regeneration will take place around it, as this is what has been happening in recent years. The issue here therefore is the narrow issue of the impact on regeneration arising from the proposed expansion of the incinerator. The proposal would not increase the external footprint of the site or the life of the incinerator, and therefore would not use land that could otherwise contribute to regeneration.
- 88) A key factor in attracting investment into an area is its level of accessibility from other areas of housing, employment or facilities. The proposal would however have a negligible impact on surrounding highways and therefore would not affect accessibility in the three regeneration zones or regeneration itself.
- 89) The waste imported to feed the proposal would be residual waste following recycling. Evidence from the rest of Europe suggests that, when recycling increases, it is mainly at the expense of landfill and not incineration. The proposal therefore would not jeopardise opportunities for Nottingham to recycle its waste. Indeed, by moving Nottingham up the waste hierarchy with disposal of waste in landfill avoided, energy and recycling can play a larger role in sustainable waste management. Recovering energy from waste also creates value, or wealth, in a way that landfill does not.
- 90) The employment impacts of incineration should also be compared with landfill, as that is the alternative. The incinerator currently handles 150,000t of waste per year and employs 35 people [CD17]. In comparison, the appellant's landfill sites can handle between 150,000 and 250,000t of waste and only employ between 7 and 8 people [AH1 para5.28]. Moreover, the proposal will increase employment by approximately 7 jobs [AH1 para5.30].
- 91) The importance of high quality design to regeneration has been highlighted in a range of Government policies and guidance including the Report of the Urban Taskforce, The Office of the Deputy Prime Minister, 1999; the 2000 Urban White Paper, Better Public Building, The Commission for Architecture and the Built Environment (CABE), 2006; and the joint publication by CABE and The Department of Environment, Transport and the Regions, The Value of Good Design, 2002 [AH1 para5.32]. The Council's officers recognise that the existing plant is not visually attractive [CD para10.17].
- 92) The proposal would incorporate the redesign of the external fabric of the building. This would include: recladding the facility; shrouding the external process areas; cleaning the existing concrete facades; and painting the stack. The facility currently looks tired and is clearly showing signs of age. This is however purely aesthetic and is not a structural problem.
- 93) Design and visual impacts are very important to regeneration. At present, the facility is not attractive. The expansion of the plant would be accompanied by significant improvements to the appearance of the facility, and this would have a positive impact on regeneration.
- 94) There are few examples of the expansion of EfW facilities within an existing site and, as a consequence, there is no evidence on impacts. New facilities are

qualitatively different to the proposal as they result in an obvious physical presence such as large new buildings and stacks. New facilities would therefore be expected to have a greater impact than a mainly internal expansion of an existing facility.

- 95) Incinerators that have been consented and/or commenced operation in recent years include facilities at Sheffield, Huddersfield and Lewisham. These facilities are all in urban areas with a range of other land uses in close proximity. As such they share some characteristics with the appeal facility. In all three cases the areas around the facilities have not underperformed the wider urban areas in which they are situated [AH2 AppAH3]. This suggests that new facilities, where any change is most obvious, are not having an impact.
- 96) The proposal would result in changes that would be significantly less obvious than these new facilities. Potential investors would not be able to tell how much waste was being handled by the facility, and the only external signs would be a small increase in traffic and the size of the building. In addition, as part of the proposal, there would be a significant improvement to the appearance of the facility which itself would be likely to contribute positively to perceptions of the area. The proposed expansion therefore would not have a significant impact on investment in the area.
- 97) The reduction of carbon emissions is a major Government objective. The Energy White Paper, The Department of Trade and Industry 2007 [CD38], and the Climate Change Bill commit to a target of a 60% reduction by 2050 [AH1 para5.63]. The Merton Rule requires that 10% of energy consumption in new developments must come from on-site renewable energy, in order to reduce carbon dioxide emissions from the built environment. This has been endorsed by the Government in a Ministerial Statement of 8 June 2006. Planning authorities are now expected to include policies in their development plans that require a percentage of the energy in new developments to come from on-site renewables, where that is viable [AH1 para5.66].
- 98) The Council has addressed this matter, and any new residential development in the three regeneration zones will need to meet these standards [CD18]. The WRIPG suggests that the WRZ alone is expected to accommodate up to 4,000 new homes [CD51 para2.9]. The additional energy from the proposal could therefore help development in the three regeneration zones meet the necessary standards to obtain planning permission. This could be of benefit to a large number of homes and assist in achieving a reduction in carbon emissions.
- 99) The design of the proposal indicates that approximately 29MW of thermal energy would be produced, which would be some 215,000MWh per year if the plant is operating for 85% of the time. This is estimated to be equivalent to the space and water heating requirements of 11,000 average sized houses [PA1 para7.8].
- 100) To support the use of this energy, a Section 106 contribution is proposed towards the expansion of the CHP network [AH1 para5.72]. The proposal would therefore benefit regeneration by offering energy that would help new development in the regeneration zones to meet sustainability targets. The output would be sufficient to supply energy to all of the proposed new homes

in the 50 identified schemes, enabling them to meet the Merton Rule requirement for on-site renewable energy [AH1 para5.71]. Furthermore, the technology for delivering significant on-site renewable energy commercially is very limited and options such as ground water heating and cooling are less effective for residential developments than for offices [AH4 para7.5]. The expansion of Eastcroft offers the opportunity to extend a proven DHS which already has significant infrastructure in place. This is a far more reliable basis on which to plan housing developments that achieve the Government's renewable energy targets than to place faith in the emergence of new cost effective technologies.

- 101) In summary therefore, the proposed development would not unacceptably constrain the sustainable regeneration of the city by inhibiting the development of mixed communities in the SRZ, ERZ and WRZ.

Air Quality

- 102) Within the air quality assessment, the highest reasonable existing background pollutant concentration estimates have been used for the area in the vicinity of the appeal site. These estimates have been based on national monitoring stations and stations operated by the Council and Rushcliffe Borough Council (RBC) [SO1 Secn4]. These highest levels, when added to the predicted plant emissions, will give a conservative estimate of pollutant concentrations, as the two projected peaks will not necessarily occur at the same time or in the same place. These maximum ground level concentrations also occur in small areas and, in general, concentrations would be much lower [SO1 para12.1].
- 103) The traffic flows associated with the proposal would be very small in the context of local flows and would lead to an insignificant contribution to concentrations of Nitrogen Dioxide (NO₂) and particulate matter [SO1 para6.5]. No breaches of air quality objectives would therefore be expected due to traffic emissions.
- 104) The atmospheric dispersion model used in the air quality analysis is accepted by the EA for use in PPC predictions [SO3 para6.1]. The model conservatively assumes that the plant will operate at the WID emissions limits for an entire year [SO3 para6.2]. In practice this will not be the case, and actual emissions will be less than the limits [SO1 para12.1]. It also assumes that all of the NO_x are released as NO₂. In reality, at distances from the stack at which peaks occur, the atmospheric oxidation process will not be completed, so the actual NO₂ levels will be much lower than predicted [SO1 para7.20]. The analysis of grouped substances is then based on monitoring results from the existing plant. The model also takes account of local weather, terrain and building downwash.
- 105) As the flue gases from the proposed third line would be released through the same stack as the existing two lines and the adjoining clinical waste incinerator (CWI), a number of scenarios of incremental impact have been considered. The incremental impact of the CWI emissions are no more than 0.14% of any air quality objective or environmental assessment level [SO1 para7.16]. They therefore do not have a significant impact and have not been considered further.
- 106) The predicted short term combined emission contributions to ground level concentrations from the three waste incineration lines would be less than 10%

of the corresponding air quality objectives for all pollutants [SO1 secn3 & tbl13]. The EA's Technical Guide Note EPR-H1 Environmental Risk Assessment considers such a level of contributions to be negligible [SO1 para7.14]. Long term, the contributions would be less than 1%, which the note considers to be insignificant, with the principal exceptions of NO₂, volatile organic compounds (VOCs) and cadmium. The contribution to the annual average concentration of NO₂ is predicted to be 2.6% of the corresponding National Air Quality Standard (NAQS) objective. This however assumes that all the NO_x are released as NO₂. Again, when combined with the conservative and pessimistic background concentrations, no breaches of air quality objectives are predicted [SO1 para7.17, 7.31 & 7.36].

- 107) The contribution to the daily average concentration of VOCs is predicted to be 2.3% of the NAQS objective for 1,3-butadiene. However, VOCs are a mixture of organic compounds and 1,3-butadiene will only comprise a small fraction of the total VOCs [SO1 para7.31]. The contribution to the long term peak of cadmium is predicted to be 2.6% of the air quality guideline. This prediction assumes that the cadmium emissions are at half of the combined emission limit for a combination of cadmium and thallium, whereas recent emission monitoring shows that they are actually fifty times lower than this.
- 108) The incremental impact of the proposed line has also been assessed by comparing contributions from the three lines with the existing case. Here, the short term incremental impact is less than 2% of the limits for all substances, and the long term incremental impact is less than 1% for all substances except cadmium, which is 1.4% [SO2 Tbl 19 & para7.45]. The relationship between the plume dispersal pattern and areas of maximum self reported ill health in Nottingham from the 2001 census do not show any clear correlation [SO fig9]. Such areas of ill health have good correlation with areas of greatest social deprivation [SO4 fig10]
- 109) The Council and RBC have declared Air Quality Management Areas (AQMA) for NO₂ in the vicinity of the appeal site. The contribution of the emissions from the third line is predicted to be at or slightly below 0.1% of AQMA objective [SO1 para7.52]. This is an insignificant contribution.
- 110) Eleven Sites of Special Scientific Interest (SSSIs) lie within 10km of the appeal site, although none benefit from European Directive protection [SO1 para7.58]. The plant will make a ground level contribution of less than 1.7% of the NO₂ objective in these SSSIs and less than 0.6% for Sulphur Dioxide (SO₂) [SO1 para7.62]. The plant therefore will not have a significant impact on these SSSIs.
- 111) When the peak concentrations from traffic and stack emissions are combined with background levels, no breaches of air quality are predicted. This is an unduly pessimistic prediction as peak NO₂ levels are forecast to occur to the north east of the plant, whereas traffic peaks would be along the A6011, to the south and south west of the site [SO1 secn8].
- 112) Incidences of black smoke issuing from the stack have been suggested. Particulate emissions however are so low as not to be visual and any smoke effect is due to sunlight reflecting on steam in the flue gases. There is no evidence that the suggested odours in Colwick relate to the Eastcroft plant, and indeed other potential local sources have been identified.

- 113) The proposal would reduce global greenhouse gas emissions by around 24,060t of Carbon Dioxide (CO₂) equivalent per annum. This is based on the displacement of a mix of power stations, both gas and coal fired, and landfilling, with a high gas capture rate, of the waste which would be burnt [SO1 para10.18].
- 114) In summary therefore, the impact on either the local community or the general population from the atmospheric emissions of the extended plant is negligible. This conclusion is supported by the Council, who have not raised any concerns over air quality impacts from the proposal.

Background

- 115) The appellant operates over 100 waste management sites, including two EfW sites, the appeal facility and one at Allington in Kent which is in the final stages of commissioning [PA1 para2.10]. The appellant has a good regulatory performance record, and has held regular community liaison meetings at Eastcroft, although none have been held since June 2007 due to a lack of attendance by members of the public.
- 116) The appeal plant is well managed and has been the subject of a number of retrofits to bring it into line with increasingly complex environmental regulation since its commissioning in 1973 and particularly since 1995. No connection has been shown between the pre 1995 generation of plants and health effects. The programme of investment and maintenance continues and will proceed whatever the outcome of this appeal.
- 117) The plant will remain in operation until at least 2030, when the current contracts with the City and County Councils expire [PA1 para3.2]. There is no reason however as to why the plant might not continue beyond this date, as the appellant's lease on the site runs to 2072. The outcome of the appeal will not affect, or extend, the life of the existing plant, and the plant might physically be expected to last until 2072 [PA5 paraR1].
- 118) The regulatory performance at the appeal plant has been described as very good by the EA. The operations are over 99.9% compliant, whether based on time or the proportions of readings taken [PA1 para4.15]. This is comparable with the performance of the EfW sector in the UK as a whole.
- 119) The proposal, and the associated investment of £50m, represents the realisation of a vision long held and reflected in the planning policies of the City and County Councils.

Highways

- 120) On average, the appeal site generated 158 (in + out) trip movements for a typical working weekday at a capacity of 150,000t of waste per annum in 2003/04 [AB1 para4.2.4]. Weighbridge records for May 2008 show a daily operational traffic demand of 200 vehicles per day [AB1 para4.2.5]. The hourly demand profiles for both sets of 2003/04 and 2008 data are broadly similar. Traffic generated in the traditional morning and evening peak periods is limited, with the core periods for traffic to and from the site being mid morning and early afternoon.
- 121) No local waste transfer stations are currently served or are considered likely to provide opportunities for practical future rail access. Although the appeal site

lies in close proximity to a main rail line, it would be unlikely that waste delivery to the site would be by rail. Furthermore, a suitable railhead would require relocation of the rail maintenance yard and would be in close proximity to Nottingham station. Road transport is therefore likely to be the most efficient and practical method of serving the site.

- 122) The proposed plant would continue to operate on a 24 hour basis, but additional practical delivery hours are proposed. This is to provide for future operational flexibility at the site, particularly in relation to the handling of larger bulk waste transporters as it is being promoted as a merchant plant with its market substantially being waste from a larger number of smaller C&I waste producers and processors in the Greater Nottingham and East Midlands areas [PA5 paraR2]. The practical weekday delivery hours would be extended by four evening hours to cover the period from 07.00 to 20.00 hours Monday to Friday. Saturday delivery hours would be extended by two mid day hours to cover 07.00 to 13.00 hours. No waste would be delivered on Sundays or Bank Holidays [AB1 para3.1.4].
- 123) Trip generation from the proposal has been calculated in accordance with a methodology agreed with the Council. The Council did not require any Saturday assessments due to the low level of predicted traffic demand, which would generally be less than 15% of weekday levels [AB1 para4.1.2]. Future third line trip demand has been reasonably estimated on a pro-rata approach based on overall processing capacity. On the basis of the May 2008 traffic counts, the increase in weekday traffic demand both to and from the site would be 134 vehicles per day, resulting in a total demand of 334 Heavy goods vehicle (HGV) movements per day [AB1 para4.2.8].
- 124) The core traffic distribution and assignment is based on the existing HGV route choice at the junction between Incinerator Road and the A6011, and waste origin information. Two additional sensitivity tests have also been undertaken to reflect worst case scenarios where all additional traffic approaches from the east using the A6011 County Road and from the west using the A6011 Cattle Market Road. The impact assessment reflects the Department for Transport good practice guidance, and operational assessments have been carried out for the opening year of 2012 and a 10 year future design horizon of 2022.
- 125) In 2012, the 12 hour impact on both of the A6011 approach links would not be anticipated to be in excess of 1% [AB1 para4.4.19]. This would be well below minimum indicative guideline thresholds, of 10% or 5% where sensitivity or congestion exists, for additional impact assessment [CD41 para4.92]. In terms of 12 hour traffic volumes, the maximum two-way link flows associated with the proposal are generally anticipated to be low, with a maximum impact of less than 4% on Incinerator Road. The sensitivity tests show that the proposal would not be anticipated to generate traffic levels that would result in a material change in link flow conditions on key access routes.
- 126) In 2022 with the proposal in place, the junction between Incinerator Road and the A6011 is predicted to continue to deliver satisfactory performance with peak Ratios of Flow to Capacity of the order of 0.55 and negligible queuing levels [AB1 para4.4.23]. Furthermore, the predicted operational demand on the A6011 would only reach a maximum of 80% of its two way operational capacity [AB5 para2.1.12]. The predicted increase in HGVs on the A6011 approach corridor in 2022 would be less than 7% compared to the 2012

baseline demand [AB1 para4.5.5]. The sensitivity tests show that, under these extreme routing scenarios, HGV increases will only be of the order of 13 to 14%, well below the Institute of Environmental Assessment threshold of 30% for detailed analysis [AB1 para4.5.6] [CD42 para3.1.5]. Worst case HGV movements would represent one additional HGV every three minutes, and this could easily be accommodated on local highway links and junctions which already experience high levels of HGV trips [AB5 para2.1.6]. The proposal therefore would not result in any material traffic related environmental impact on the A6011 and other key approach link corridors. Indeed, nearby regeneration would be likely to result in a much greater increase in overall traffic demand on the local network than would result from the proposal.

- 127) The Highway Authority has not raised any objections to the proposal and considers that: the impact of the proposal on the strategic highway network would not be significant; the proposal should be supported by a package of local highway improvement measures including carriageway surfacing; and there is no evidence to substantiate the refusal of the proposal on highway grounds. The proposal includes contributions towards an improvement scheme at the junction between the A6011 Cattle Market Road and the A60 London Road and towards the re-surfacing of an immediate section of the A6011. Furthermore, no highway or transportation objections to the proposal were received from the surrounding District or County Councils.
- 128) In summary therefore, there is no evidence to suggest that the proposal would result in an unacceptable impact on highway safety.

Health

- 129) Incineration is considered acceptable in most countries and is an important component of the EU waste management strategy. The presence of any significant risk to the public depends on the nature of the chemicals and biological materials that are released from facilities, their levels and durations.
- 130) A number of incinerators that were in operation in the middle of the last century caused significant environmental pollution. There is limited evidence that some adverse effects may also have occurred to members of the local community. The emission levels of many of the chemicals of interest from these incinerators however were probably one thousand times higher than is the case with a modern facility.
- 131) The critical factor in respect of adverse effects is the actual nature and levels of chemicals to which members of the local population could be exposed. Published findings on modern incinerators indicate that they do not cause significant environmental contamination and are without any detectable adverse effects on the surrounding communities. This is confirmed in a recent Department for Environment, Food and Rural Affairs review (2004) [JB1 para8.3]. This considered possible effects including cancer, respiratory diseases and birth defects, but 'found no evidence of a link between the incidence of disease and the current generation of incinerators'.
- 132) To examine the validity of this conclusion, the dispersion of each chemical of possible concern from the proposed plant was modelled. The approach used errs strongly on the side of caution. The conservative ground level concentrations of each chemical have been compared against health based standards and guidelines. In each case, a substantial margin of safety is

evident. A safety factor of at least 10 is considered sufficient for protection against the acute effects of the chemicals of interest. It is evident that, even during the maximum ground level concentrations of the reported breaches, the margins of safety are considerably larger than this value. It may be concluded that the breaches due to short term failure of the bag house filters are most unlikely to have caused any adverse health consequences [JB3 para23].

- 133) The possibility that locally grown food could become contaminated as a result of the operation of the proposed plant has also been examined by the assessment of dioxins and metals. The estimated levels of such contamination are so low as to make an insignificant contribution to the probable existing levels of each chemical in that food. Thus, this route of potential exposure would not constitute a risk to health. The potential for an effect due to combinations of chemicals has also been assessed. The findings do not change the conclusion that the proposed plant is most unlikely to cause adverse effects in the health of the local population.
- 134) Possible health issues in relation to proposed incineration or EfW plants have been considered in great detail by expert committees in many countries and at a number of Public Inquiries over the past few years. The reports are reassuring, although each identifies that further research would be desirable. The Inquiry Inspectors' reports have consistently concluded that the risk to health is not significant.
- 135) In summary therefore, it is evident that the airborne emissions from the expansion of the plant would be unlikely to cause any significant risk to the health of the local population.

Planning Policy

- 136) The position of the Council on the first putative reason for refusal is unsustainable, as it is based on a test that the appellant should not have had to pass. The Council acknowledges that the proposal accords with the development plan. The development is explicitly supported in terms of need at a national, regional and local level, and would cause no environmental harm that would justify refusal. The Council however, without any evidence whatsoever, believes that the refusal is justified because the proposal might hinder regeneration or, more specifically, that the appellant has not proven that it would not. The concerns of the Council do not constitute a proper or sufficient material consideration that comes close to justifying that the appeal be determined other than in accordance with the development plan.
- 137) On the second reason for refusal, the Council appears to be running a prematurity argument. It would be entirely inappropriate, and contrary to planning policy and guidance, to delay a decision on the proposal until the preparation of new waste DPDs has been undertaken. Such an approach would be contrary to the recent decision of the Secretary of State to further save WLP Policy W6.1 [CD23], paragraph 5 of PPS10 [CD33] and paragraph 18 of The Planning System: General Principles (PS:GP). Worst case HGV movements would represent one additional HGV every three minutes, and this could easily be accommodated on local highway links and junctions. The proposal would not result in any material traffic related environmental impact on the A6011 and other key approach link corridors. There is thus no justification for determining this appeal other than in accordance with the

development plan. In fact, the proposals have also been found to strongly accord with, and be supported by, a range of other material factors, specifically planning policy and guidance, including WS2007 [CD39], PPS10, PPS1 Supplement [CD31], the EMRWS [CD45] and the emerging RSS [CD44A], which is material to the determination of the appeal.

- 138) Moreover, PPS10 and its companion guide make no presumption against major waste facilities in edge of centre locations. There are examples of EfW facilities in other towns and cities in the UK and elsewhere in Europe. In addition, PPS1 supports renewable and low carbon energy supply systems in locations which include town centres.
- 139) There is not even a published programme for the commencement of the new waste DPDs; some 4.5 years after the Council first published its Local Development Scheme. Thus, it is fair to conclude that there is no early prospect of the waste DPDs being submitted for examination.
- 140) The position of the Council in relation to the second reason is more confused in the light of its position when refusing the 2005 application. At that time, September 2006, there was at least a programme for a Waste DPD, but the Council's committee report [CD15] concludes that prematurity alone would carry insufficient weight to be a material factor in determining the application.
- 141) As the proposal is both a waste recovery facility and a development which supplies renewable or low carbon energy, the PPS1 Supplement states that there is no requirement for need to be justified. The Council however, in its committee report, explicitly accepts the need for the proposal, and evidence has demonstrated very strong support for the need for the proposal. Moreover, NCC supports the proposal [CD12] pointing to a major shortfall in waste management capacity in the area [NR4 Paras14&17].
- 142) In summary therefore, the proposal accords with the provisions of the development plan and specifically Policy W6.1 of the WLP, which supports the future expansion of the Eastcroft EfW facility. The Council supported the Eastcroft EfW facility and its expansion up to 2002 when the WLP was adopted. This decision post dates the production of the WRIPG in November 2001. Thus, the Council's change in attitude towards the facility is only a recent one and one that postdates its aspirations for regeneration in the WRZ. In addition, a comprehensive assessment of other material considerations has not revealed any justification for determining this appeal other than in accordance with the development plan. In fact, the proposal has also been found to strongly accord with, and be supported by, a range of planning policy and guidance which is material to the determination of the appeal. The other key material consideration in respect of the proposal is the need for a third line. A detailed and qualitative assessment of need has demonstrated very strong support for the third line at Eastcroft.

The Case for the Council

The material points are:

Regeneration

- 143) The appeal site lies within a predominantly industrial area that is undergoing transition. The physical and social context of Eastcroft has changed radically

since the plant was first built. This part of the city and its hinterland around the London Road area was characterised as an industrial and low value use area, parts of which were in economic decline and with poor environmental quality [SN1 para2.2]. Similarly at that time, nearby areas of Sneinton and the Meadows consisted mainly of Victorian terraced houses, many of which were in need of improvement or redevelopment [SN1 para 2.3].

- 144) Although the layout of the site is largely unchanged since its construction, there have been changes to its physical context and relationship to its neighbouring uses. Similarly, the context for decision making in relation to the proposal has radically altered. The planning framework and the development of policy at all levels have undergone fundamental change, and this strongly influences how proposals for expansion of the Eastcroft incinerator must be viewed. When planning permission was granted in 1971, the siting of an incinerator in a general industrial area may have been appropriate but, since then, the relationship of the incinerator and its evolving land use has changed radically. The proximity of the site to the city centre cannot now be overlooked in relation to the expanding role of the centre, its need for more space, and the Council's initiatives for this part of the city [SN1 para5.1].
- 145) The policies of the WLP [CD48] were adopted some time ago [SN1 para7.62]. In September 2007, the Secretary of State issued a direction in respect of policies in the plan. It contained an assessment as to whether saved policies should be continued and indicated that the extension of saved policies is intended to ensure continuity in the plan led system and a stable planning framework locally. Notwithstanding the Council's concerns that it no longer meets the approach to waste planning and management sought in WS2007 [CD39], the Secretary of State did not accept the Council's request to allow WLP Policy W6.1 to lapse. This was on the grounds that the policy supports waste management, including unimplemented site allocations. In their confirmation letter [CD23], the GOEM stated that "the extension of saved policies listed in the direction does not indicate that the Secretary of State would endorse these policies if presented to her as new policy". The letter also advised that, from 27 September, the extended policies should be read in context: "Where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions".
- 146) The WLP Monitoring Report [CD21], in September 2004, reviewed the key changes to legislation, policy guidance and waste management technology. It concluded that major legislative changes were beginning to overtake the current plan. It also advocated that such changes, whilst always material to development control decisions, are best considered in the context of an up to date local plan.
- 147) The WLP is thus of decreasing relevance as a framework for assessing proposals for new waste disposal facilities. Fundamental changes in relation to planning policy, technology and local circumstances require a review of this proposal as part of the review of waste planning policy through the preparation of new Waste DPDs.
- 148) The LP [CD47] was adopted in November 2005. The proposals map provides for an extended city centre compared with the 1997 plan which it superseded [SN1 para6.11]. It designates three regeneration zones on the edge of the

established core of the city centre. These are the SRZ, ERZ and WRZ. The LP includes all of the SRZ and most of the ERZ within the newly extended city centre boundary that the 2005 LP defines. It states that Waterside is intended to become a new strategic quarter for Nottingham [para4.26]. It also allocates part of the WRZ, the Eastcroft depot site which adjoins the appeal site, as an urban business location for mixed use development, in effect a further part of the city centre [NG1 para6.13].

- 149) The policies in the LP are more recent than those in the WLP, and the principles that underlie its regeneration policies have not been superseded by subsequent national policy as is the case with the WLP. There is a tension between WLP Policy W6.1 concerning proposals to expand the capacity of the incinerator and the kind of development envisaged in its immediate environs which is identified in LP Policy MU7.1. The development sought in this policy is described in paragraph 4.27 as “a new urban business location, including housing and leisure uses, centred around a new canal basin on the current Eastcroft depot”.
- 150) Planning guidance produced for each of the regeneration zones [CD51, CD52 & CD53] contains a set of major aims that include: reconnecting the Meadows, St Ann’s and Sneinton with the city centre, and the Waterside area with the city and adjoining communities in an inclusive manner; promoting and unlocking significant development opportunities in a strategic, phased and co-ordinated way; creating lively, safe and sustainable neighbourhoods; improving the gateway approaches to the city centre; maximising the potential of the canal and public realm; providing homes to attract people and families back to the city; and promoting sustainable forms of transport which integrate with other parts of the city. These aims are consistent with Government advice in PPS1 [CD30], which sets out a commitment to the development of strong, vibrant and sustainable communities. This means meeting the diverse needs of all people in existing and future communities.
- 151) Progress has been rapid in securing regeneration investment in line with LP policy in the two regeneration zones that lie within the extended city centre boundary [NG1 para5.13]. Progress at Waterside however has been slow. Just two of the sites promoted by the LP are proceeding, at Trent Basin and Park Yacht Club. These are some distance from, and not linked to, the city centre and have the benefit of a wide river frontage and an open aspect even on the other side of the river. Even so, the Trent Basin site is proceeding only with the benefit of very substantial public sector financial and land assembly support.
- 152) No planning applications have been submitted for the immediate vicinity of the incinerator and the Eastcroft depot [NG1 para5.17]. Even if applications were to be submitted, the great likelihood is that they would be out of step with the objectives of LP policy for the area. They would instead be likely to be for low density, land extensive uses which are normally more associated with out of centre sites.
- 153) Expanding the incinerator and refurbishing its exterior would confirm the signal to the market already given by the existence of the incinerator [NG1 para6.13]. This is that this edge of the city centre area, despite its canal, London Road frontage and easy connections with the rest of the city centre, will not become, as the LP envisages, a functioning part of the city centre. It

would also signal that low density, land extensive, uses are appropriate instead. Any planning consents for low density development of this ilk would only cement such a situation.

- 154) The incinerator, in its expanded form, would accommodate an additional 10 jobs over the present 35 [NG1 para6.13]. This equates, in terms of the efficiency with which this edge of city centre land is used, to just 22.5 jobs per ha on the 2ha site. In very great contrast, the Greater Island Site [AH2 AppAH2 pg54] (GIS) will create some 560 jobs per hectare in a high quality environment. This represents an efficiency rate that is reasonable to expect on what had been an edge of city centre site but is now to become a functioning part of the city centre.
- 155) If, by comparison, the Eastcroft depot site were also to be developable for the new urban business location sought by LP policy, it would, at a similarly efficient density to the GIS scheme, provide for some 5,600 jobs [NG1 para6.13 & NG4 para1.4]. If the appeal site were also added to the developable area, as it would be logical to extend the city centre into this area if it were not for the incinerator, the scope would exist to create, again in a mix and density like the GIS, some 7,600 jobs in total. This sort of density is what Government means by efficient use of city centre land, and aims to achieve in promoting the growth of town and city centres, in line with their function, for the mix of uses described as city centre uses. Furthermore, compared to recycling as a means of waste management, incineration generates very few jobs. These are probably no more than 10%, and possibly significantly fewer, than the number of jobs were the same tonnage recycled rather than incinerated.
- 156) The grant of planning consent for the expansion of the incinerator would be to set this approach, which is already out of step with policy, in stone [NG1 para6.14]. The effect would be to extend, in an inappropriate location, the operation of the incinerator for even longer than the anticipated 20 to 25 further years of the anticipated life of the plant in its current form. This current life is determined by a licence agreement made with the Council long ago. This was before the advances in waste technology and renewable energy generation could have been envisaged and before the changes now in place in waste management policy. It was also before the LP for the 2011 period, sagely and presciently, recognised the need to extend the city centre.
- 157) The proposal would deter investment and would result in a high proportion of sites and buildings continuing to stand vacant for long periods [SN1 para9.6]. Indeed, the Council has been advised that it should retain control of the depot site to maximise its potential as, without the incinerator, it would be a valuable addition to the city centre. Any resultant regeneration with the incinerator would be likely to involve lower quality forms of development with uses compatible with trading and B2 industrial estates. This would conflict with the LP and national guidance
- 158) The Eastcroft part of Waterside is of particular importance because of its connection with the city centre [SN1 para8.3]. In the Inquiry, the Council were of the opinion that development at Eastcroft would face north and west towards a proposed transport hub at the railway station. As a consequence, Eastcroft can be integrated with, and contribute as overspill to, the strategic role of the city centre. The proposal would therefore also result in the

inefficient use of sites of strategic importance at the edge of the city centre. This could jeopardise the financial viability of the provision of the canal basin which is already an ambitious proposal [NG2 App3 pg2]. The associated very limited contribution to job growth in the city, and the likely continuing deterrent to delivering the high quality mix of uses sought in the LP, would result in the loss to the city centre of a much needed area required for its expansion.

- 159) Cities are the drivers of the national economy, offering agglomeration advantages that benefit productivity and economic growth [NG1 Secn3]. These advantages are of greatest value to city centre uses, increase with the scale and density of a city and are at their most intense in city centres. National policy elevates cities for city centre uses and promotes their development to support the growth of the economy as well as to benefit environmental sustainability and social inclusion.
- 160) City centre uses do not include major waste to energy incinerators, and policy on locating them precludes sites within or on the edge of city centres [NG1 paras2.3, 2.32, 2.38 & 6.13 & NG4 para1.4]. Planning appeals on the siting of major waste to energy incinerators, even where these have been proposed in industrial areas, have been dismissed on various grounds [NG1 paras2.36 & 2.37]. Various appeal decisions have been provided [NG4]. These have included grounds that such incinerator locations are perceived as a risk to attracting the high quality and job creating investment sought by the relevant development plan for the areas at issue.
- 161) Nottingham's economy has performed less well over the last 10 years than it promised in the 1990s, and it has underperformed in relation to the centres of Birmingham, Manchester, Leeds and Reading. Many more jobs are needed to raise economic engagement rates and to increase value added per capita [NG1 para4.34]. The vast proportion of new jobs are expected in activities which fall within the PPS6 definition of city centre uses. Nottingham's ability to capture these jobs is dependent on providing suitable sites and operating conditions, most particularly in the city centre where national and local policy directs such uses, as opposed to peripheral business parks.
- 162) The GIS could provide 88% of the required office space for Nottingham by 2016 and 40% of the 2026 requirement [NG1 para5.22]. The forecast to 2026 is an extrapolation of the forecast to 2016 and is therefore less robust. The extrapolation simply continues the trends of manufacturing decline and service sector growth, particularly in business services [NG1 para4.40]. Thus, it is essential that the city centre continues to grow, both by increasing the efficiency with which land is used in the existing city centre and by extending its boundaries to colonise the adjoining areas. This is as sought by the LP.
- 163) The character of the economy of the city has radically changed since the original development of the incinerator. This has included a decline in manufacturing industry [SN1 para9.2]. Populations located in the older inner city residential areas, including St Ann's, the Meadows and Sneinton, traditionally relied upon jobs in the manufacturing sector. The decline of those industries meant that significant job losses affected these areas more than most. The consequence was a social decline and high levels of deprivation in these residential areas. This still remains, albeit to some extent mitigated by economic and social initiatives that took place from the 1980s onwards.

- 164) Regeneration zones are key to delivering the kind of urban transformation that will create communities that are safe, healthy with opportunities and a better quality of life for local people [SN1 para10.9]. The Council's aspirations and objectives, and those of the community, are identified in the Local Area Agreements, One Nottingham–One Plan and the Corporate Plan. The need to reflect these aspirations and priorities to improve the well being of communities through regeneration is integral to the Council's approach. The approach is consistent with that for delivering sustainable development identified in PPS1, where the need to respect the diverse requirements of communities and particular sectors is recognised. Bridge, Dales and St Ann's wards experience some of the highest levels of deprivation, both in the city and nationally. Development of the incinerator through expansion and further investment in the plant would conflict with these strategic aims for the type of place that the community and the Council seek to create for the future.
- 165) Community concerns and perceptions are fundamental to transforming neighbourhoods and creating sustainable communities. It is necessary to overcome feelings of low esteem and negative perceptions of 'place' in order to uplift and transform communities [SN1 para10.12]. From a community perspective, the extension of the incinerator inhibits and constrains the long term aspirations for the improvement and regeneration of this part of Nottingham. The consequence of fewer job opportunities of limited variety would perpetuate existing deprivation and perpetuate low confidence levels in the neighbouring wards of St Ann's, Dales, Sneinton and the Meadows. The regeneration of the city, and the transformation of its neighbourhoods through community partnership, lie at the heart of the various inter-connected layers of sub regional and local strategies for Nottingham.
- 166) The current use of the incinerator is unrestricted. Waste is incinerated 24 hours a day, except for periods of planned maintenance and unplanned downtime. If the character of the surrounding area is to change in accordance with the Council's objectives then unrestricted operations at the incinerator would sit as an inappropriate neighbour in the waterside, incompatible with the kind of place it is seeking to create.
- 167) Other forms of renewable energy can provide a more sustainable source of energy, with fewer carbon emissions, than incineration. Furthermore, any additional energy produced from an extended incinerator, to benefit redevelopment schemes in the regeneration zones, would incur significant costs [SN1 para10.13]. To realise such a benefit, it would be necessary to extend the existing DHS main.
- 168) The operator of the DHS, EnviroEnergy, is proposing extension of the network along Queen's Road to serve new development in the SRZ. This will incur a capital cost of £1.707m. In November 2007, the Council's Executive Board agreed to contribute £1.06m in the form of a loan to EnviroEnergy towards the cost of installing new district heating mains. The loan will only be forthcoming if developers provide a legal commitment and contribute financially to the scheme. EnviroEnergy's experience is that developers have not been prepared to make such a formal commitment until their developments have planning permission and they know that that the pipe will be in the ground. Consequently, a start on site has been deferred from 2008 to 2009.

- 169) In order to extend the district heating main into the GIS, the capital cost of providing a connection under London Road from the London Road heat station would be £600,000. The appellant claims that "the proposal is the best hope of facilitating in due course to the DHS currently served by the incinerator into the new development areas within the regeneration zones". It has however only offered nominal and conditional financial support of £100,000 towards DHS infrastructure expansion. This would not assist in unlocking the conflict between the need to provide the necessary infrastructure and the absence of a commitment from developers.

Prematurity

- 170) The WLP is now of decreasing relevance as a framework for assessing proposals for new waste disposal facilities. Fundamental changes in circumstances relating to planning policy, technology and local circumstances therefore require a review of this proposal as part of the review of waste planning policy through the preparation of new waste DPDs. Decisions on significant proposals for waste disposal, such as the expansion of the incinerator, should not be taken on an ad hoc basis. An objective review of waste planning policy through the preparation of new waste DPDs is considered to be the appropriate way forward. Work on the Nottingham and Nottinghamshire Waste CS and Development Control policies DPD (Nottingham and Nottinghamshire's Waste CS) is underway and is being prepared jointly with the County Council. Refusal of planning permission on grounds of prematurity is therefore justifiable, and the circumstances referred to in paragraph 17 of PS:GP are applicable.
- 171) The implications of this proposal are much wider and more significant than those concerning "the future use of the land in question", i.e. the appeal site, referred to in paragraph 18 of PS:GP [SN1 para10.15]. The relationship of the incinerator with its surroundings is unique, and it has implications not only for "the land in question" but the more important consideration of the future use of the land surrounding the incinerator. The consequence of expanding the incinerator would have serious implications through the blighting of that neighbouring land in the WRZ. Successful regeneration here is vital to the city's future prospects as a Core City, and is more important than the expansion of the incinerator in the context of the WLP that is increasingly becoming out of date.
- 172) The most appropriate way of securing the pattern of facilities required to serve the city and Nottinghamshire is through the DPD process [SN1 para10.16]. Until the review of waste planning policy has been undertaken, through the preparation of new waste DPDs, it would be inappropriate to foreclose on the opportunity for examining alternative options for the location of energy recovery facilities.
- 173) An additional Issues and Options consultation, that focuses on the location of key waste management facilities, was anticipated to take place as part of the DPD process in October and November 2008 [SN1 para10.17]. The consideration of locations for strategic waste management facilities, through the waste CS, should and will include potential options for key energy recovery facilities. This adds weight to the Council's concern that a decision on the expansion of the incinerator should not be taken in the interim. The identification of preferred options is likely to be April 2009 with an indicative

date for adoption being January 2010. The options will include the omission and inclusion of the expansion of the Eastcroft incinerator [SN1 para10.19].

- 174) Progress is also being made in permitting new recycling and composting facilities [SN1 para10.18]. A current planning application for an EfW incinerator, at Rufford near Rainworth, could provide 180,000t of municipal waste capacity per annum to assist in addressing some of the disposal shortfall. It could be commissioned and run in by October 2011. The site is not located next to a sensitive regeneration zone. The proposal could meet the same need as the appeal incinerator in a better location in a less harmful way.
- 175) The appeal site is constrained by tight boundaries, so any expansion of its capacity is likely to be restricted to incineration alone [SN1 para10.20]. At Eastcroft, the consolidation of waste disposal facilities would be at the expense of neighbouring land required to secure the city's regeneration and would severely impact on neighbouring future uses. It would be inappropriate to reinforce its presence by expanding incineration capacity in this location. In view of the physical constraints imposed by its limited site and the changing character of surrounding uses, it is unlikely that the incinerator could respond flexibly to changing waste management needs.
- 176) The appellant proposes a 35mile maximum catchment from which waste would be sourced [SN1 para10.21]. Whilst offering the appellant considerable flexibility in the conduct of its business, it does not reflect the incinerator's function as primarily a local facility as opposed to a regional one. The main justification for WLP Policy W6.1 was to enable more of Nottingham and Nottinghamshire's waste to be diverted from landfill and help to save existing landfill space. The WLP therefore envisages the incinerator's role as continuing to function primarily as a local facility, and the proposal would conflict with this aim.
- 177) Allowing the expansion of the incinerator would only compound the problems that have arisen for Waterside [NG1 para6.15]. The consequence would be to delay still further the ability of the Council to realise the ambitions of the LP for including this part of Waterside within the area of the city that functions as the city centre. The consequence in turn would be to deprive the city centre, for a very long time indeed, of the expansion land it needs to capture investment and jobs in city centre uses upon which its future economic growth and prosperity depends.

The Case for Nottingham Against Incineration and Landfill (NAIL)

The material points are:

- 178) NAIL was formed in 2002. The campaign by and support for NAIL increased in 2005 when the appellant announced plans to expand the incinerator. Over 2,500 individuals signed up to the campaign.
- 179) NAIL has also been an active member of the Eastcroft Liaison Group. It has spoken directly to the appellant about concerns and has suggested performance improvements and progress towards better waste management at the facility [N1 para1.5]. NAIL represents the public and truly believes in its cause. Thousands of hours have been volunteered for no financial gain.

- 180) NAIL is totally opposed to incineration because: the pollution emitted unnecessarily increases risks to human health; compared to recycling, the process unnecessarily contributes to climate change by the release of carbon into the atmosphere; it is a waste of a valuable resource; and it is unsustainable and undermines efforts towards a more sustainable environment [N1 para1.7]. Over 90% of municipal waste could and should be recycled. Maximising recycling would reduce the demand for raw materials and the energy required to transport and process these raw materials.
- 181) Tropical rain forests, which harbour half the world's species, are still being cut down to make paper and cardboard [N1 para1.8]. The proposal would burn paper and cardboard, thus fuelling the need to cut down more trees. Five percent of the world's oil is used in the manufacture of plastic. Oil prices are rocketing as we reach peak oil demand, yet the proposal would burn plastic used only once and would fuel the consumption of more oil to manufacture the replacement.
- 182) If the proposal was to proceed, this would have adverse effects on the local community in an already socially and economically deprived area [N1 para1.10]. The well being of the local community, in terms of social cohesion, inclusion and economic potential are already adversely affected by the presence of the incinerator and will be more so if the proposal proceeds. The cumulative effect of the incinerator on the public is very negative both socially and economically. The expansion of the incinerator will increase concerns in the local population in respect of health, and it will increase the drive for people to move out of the area.
- 183) A developer is of the opinion that the proposal will increase his risk and prevent him from investing in a regeneration area which is in desperate need of investment [N1 para1.13]. Local residents are extremely concerned for their health and that of their families, so much so that some have moved out of the area. Local general practitioners (GPs) have expressed concerns about a link between the incinerator and the very high rates of respiratory disease in the area [N1 para5.16]. The staff and governors at a local school believe that the incinerator continues to pose a significant health risk and does not provide an environmentally sensible or sustainable solution to the problem of waste disposal. One local resident has carried out studies and believes to have found a direct link to the incinerator pollution discharge and the self assessed ill health of surrounding residents. This has been done by comparing appellant's own evidence with information obtained from the last census [N1 App8]. The incinerator is a bad neighbour, and this is already having a negative social and economic effect on local residents and businesses. This is not in line with the Council's regeneration policy for this area.
- 184) Regardless of reassurances from the industry, people naturally link incineration and the associated pollution with an increased risk to their health [N1 para2.2]. Residents living close to the incinerator are constantly reminded of this threat due to the sheer size of the plant and its prominent position. In addition, the plant has a poor environmental compliance record, and residents are reminded of this by the regular negative publicity that the plant receives.
- 185) The EA's public register shows that the incinerator has very often failed to operate within the required emission limits. This demonstrates that it is a very bad neighbour, and should not be allowed to expand its operations in a

regeneration area. Indeed, WLP Policy W3.1 requires a balance to be struck between the need for and advantages of a proposal and the environmental disruption that may arise. Nottingham Friends of the Earth has commented that the quarterly reports placed on the register, for 2006 and 2007, demonstrate frequent downtime due to: failed boiler tubes; broken grate bars; particulate leakage; faulty thermocouples; a failed pump; and a damaged grate drive [N1 para2.5]. This suggests that the appellant has a cavalier attitude to preventative maintenance. In this, the appellant has demonstrated that it will be a very bad neighbour in a regeneration area, and that the local residents are right to be apprehensive about expanded operations at the site. Over the years, the incinerator has recorded frequent pollution breaches [N1 App1]. Many of these have been due to failed equipment, such as burst boiler tubes, and burning inappropriate waste.

- 186) Recently, the EA issued a detailed warning letter which found, amongst other things, a lack of sufficient resources to oversee the emissions monitoring programme [N1 App2]. The letter also makes reference to the need to replace the grates on both furnaces and to install a more modern combustion control system. The EA then had to issue an enforcement notice in May 2008, following the operation of a bag filter bypass, which was caused by a faulty temperature probe, on two separate occasions in April 2008 [N1 App3].
- 187) The enforcement notice required the appellant to undertake a comprehensive review of the preventative maintenance programme in place for the flue gas treatment system [N1 para2.10]. The review admitted that the pocket protecting the temperature probe which failed had not been included in any programme of preventative maintenance. This again shows that the surrounding population have good reason to fear that the appellant is not able to properly control emissions.
- 188) The appeal facility is known to have the worst record in the UK for breaching government requirements for safe guidelines related to dioxins released into the atmosphere [N1 para4.5]. In-depth qualitative research should be undertaken into the health demographics of the communities living in the vicinity of the incinerator in comparison with similar demographics of communities living without such a facility. This would need to demonstrate that there is no difference in the health and well being of the two samples. The EA have not been able to give an assurance that the incinerator is not impacting on the health of the residents or contributing to the general malaise and depression felt by many. The appellant's own modelling shows incinerator emissions clearly heading towards and into Sneinton [N1 App10]. There are several studies that link incineration to cancer and other types of bad health. The HIA done by Nottingham City PCT for this application talks about the poor perceptions local people suffer and makes clear that these will be worse if the proposal proceeds.
- 189) Housing in Sneinton and Bakersfield lies on a hill, and the prevailing wind places residents more at risk from pollutants being emitted from the appeal site. The Iona school on Sneinton Dale is also in a raised position and includes a two acre plot of land to the rear of the school used for outdoor education and play sessions, exposing pupils to the airborne pollutants [N1 para4.3]. Many parents of children at the school are against the proposal and have held more than one information session and fundraiser to support the campaign. Teachers at the school, together with the head teacher and governors at

William Booth School, are very concerned about the health of children in the area.

- 190) Local people feel powerless to protect children from breathing in polluted air from Eastcroft, like the 18 minutes of unabated, unfiltered fly ash that spewed over Nottingham less than five months ago [N1 App7].
- 191) The incinerator has breached emission levels by an astounding amount, and estate agents are of the opinion that house prices are already affected by their environs [N1 para5.12]. Nearby industry will affect saleability, and an increase in pollution blown towards the area can only affect this detrimentally. Unlike developers, local residents do not have the ability to build their houses elsewhere.
- 192) People have moved, from what is trying to become a thriving community, as a result of the presence of the incinerator [N1 para5.10]. Sneinton and Netherfield are areas of Nottingham that need business investment. They need local independent retailers to commit to the area and return profits back to the community.
- 193) A local environmental community group is working to reduce the impact of plastic bags on the environment [N1 para5.18]. Expanding incineration will not engender the cultural change required for waste reduction. If the public see waste disappearing in smoke, they assume that they do not need to take responsibility for reducing or recycling it. If businesses do not have to separate or account for the quantity of waste they produce, they will be less likely to reduce waste or reuse materials. There is currently a marked lack of public recycling facilities in Nottingham. The message the proposal will send is that, by continuing to burn and indeed escalating incineration in Nottingham, resources are not of value. Incinerating recyclable materials such as plastics is a travesty as we reach peak oil demand.
- 194) If the incinerator capacity is increased for more industrial type waste, this would be terrible. Industrial waste is less combustible and so will create more toxins, which would be of concern to the atmosphere. A local organic food business was halted by fears about the quality and safety of the soil [N1 para5.14].
- 195) The area around Colwick is subject to horrible smelling fumes which feel so close there is a taste to them. The air is filled with a bitter, thick smell which gets into cars and houses, and this occurs all year round, particularly on still days [N1 para5.4]. The stench is much commented on locally. This area has for years been very industrial, and has included a tannery; a pet food manufacturer who collects and uses raw materials in high temperature sterilisation; a major electricity generator station; and a large oil distribution point. It is also downwind of the incinerator which has a chemical waste site next door that uses the same stack.
- 196) This area also has several landfill sites nearby, and there are two waste treatment sites parallel to Colwick's main road [N1 para5.5]. Trains run regularly around Colwick and Netherfield, including freight. This used to be the largest railway sidings in Europe, and the route alongside it is known locally as the cinder path due to ash falling from coal trains passing from the local colliery. There are also two large sewage treatment works close by, plus several other sewage works between here and the River Trent. Residents in

this area feel assaulted on all sides, and the Eastcroft stack is a constant, and giant, reminder of the invisible pollutants around the area. It is felt that the stack represents something evil. Its presence causes anxiety, but also anger that it continues to be allowed to breach safe levels. At a site visit it was observed that minimum burning temperatures were not being met and that waste was not sorted or recycled on site before being incinerated. The appellant's staff have said that the sorting or recycling of materials prior to burning would not be financially viable.

- 197) The plant is very visible to a large population. The prominent stack is also a constant reminder to the local population of the existence of the plant and of the threat that this imposes on them. It is also a reminder that they are living in an unhealthy environment. Although increasing the burning capacity would not increase the overall size of the plant significantly, residents would be aware that emissions belching from the stack would almost double. The proposal includes improvements to the visual impact of the plant, but this would not address the almost doubling of emissions. An incinerator is an incinerator, no matter what colour it is painted [N1 App4].
- 198) Nottingham City Primary Healthcare Trust (PCT) health action team carried out an Health Impact Assessment (HIA) [CD25] for the proposal. This concluded that it would result in a negative impact on social, environmental and economic factors as people respond to perceptions which could in turn negatively affect health. The Director of Public Health has separately written to the Council to concur with this view, which is also supported by NAIL [N1 para2.16]. Witnesses for NAIL are deeply concerned about living so close to the incinerator.
- 199) Trent Park Developments have recently delivered the first phase of Nottingham's Riverside Regeneration at Park Yacht Club. This is a £50m eco-tech residential development known as River Crescent [N1 para3.2]. Trent Park Developments is interested in progressing further phases of the masterplan commissioned by the Council. Its Director of Development however is extremely concerned that the proposal would create an unacceptable risk for investment in a wide area around the installation.
- 200) The maximisation of development potential in the SRZ, ERZ and WRZ, as anticipated in LP Policies MU2-7, requires local authorities and decision makers to minimise the degree of risk for developers interested in speculatively investing in the regeneration of the area [N1 para3.4]. Prioritising principles of environmental health and sustainability are an increasingly crucial part of establishing successful regeneration developments and consequently the delivery of vibrant mixed use communities.
- 201) The proposal would be a clear disincentive for developers to invest in the regeneration of the area [N1 para3.4]. Indeed, in the Inquiry it was suggested that Nottingham lacks a 5 star hotel and that Trent Bridge would be an ideal location were it not for the incinerator. Factors noted by potential investors would be: increases in pollution levels; perceived health risks by potential residents or purchasers; and increased traffic and noise in the area. These factors cumulatively combine to make development investment in the area too risky. From a risk management point of view, the links between ill health and incineration need not be scientifically proven. If potential developers perceive there to be a risk, then developers will respond to this perception of risk.

- 202) The proposal would also detract from the image of Nottingham as the capital of the East Midlands, and also its identity and ambitions as a science city [N1 para4.8]. Nottingham has a bad reputation as a very deprived city. The incinerator is a highly visible example which demonstrates that, despite its wealth in other areas, it is the poorer more deprived areas of the city that are most vulnerable. Mortality rates in Sneinton are higher than in other wealthier places that do not have an incinerator upwind of their homes.
- 203) The transportation of waste into the city will not support its economic regeneration and inward investment plans. Waste should not be transported from other areas to be incinerated elsewhere, and these other areas should take responsibility for the waste themselves. The area around the appeal site is already heavily congested, and traffic includes many HGVs [N1 para4.11]. The highways do not have the capacity to carry the proposed waste vehicles. These would add to the congestion and conflict with the conurbation wide congestion strategy for the city.
- 204) The proposal would also increase the carbon footprint relating to waste brought into Nottingham. This would therefore impact on our CO₂ emissions per capita which would go against the Local Area Agreement indicators for the city and the county which are based on Local Sustainable Community Strategies [N1 para4.12]. The reality of climate change needs to be addressed positively and not through incineration at an old site with outdated equipment without considering more efficient and cleaner alternatives.
- 205) Paragraph 21(1) of PPS10 requires local authorities to consider the cumulative effect of previous waste disposal facilities on the well being of the local community when assessing proposals for waste management facilities. This should include any significant adverse impacts on environmental quality, social cohesion or economic potential. The proposal is directly contrary to each of the above principles in PPS10 [N1 para3.8].
- 206) Government objectives, set out in PPS10, are to drive waste up the management hierarchy and to dispose of waste in the nearest appropriate installation in accordance with articles 3(1) and 5 of the EU Waste Framework Directive (WFD). The waste management hierarchy shows that energy recovery is the second worst option after landfill and that disposal should be considered as the last option. The primary need in Greater Nottingham is not a further expansion of incineration, but increased provision of facilities for reuse, recycling, composting and anaerobic digestion [N1 para6.4]. The appellant has seriously overestimated the amount of MSW and C&I waste that will be available in the future for importing into Nottingham [N1 para6.3].
- 207) The appellant appears to assume that, once current targets for recycling, composting and waste reduction are achieved, there will be no scope for further reducing the residual waste in future [N1 para6.5]. The appellant seems content to take 50% of waste as residual to be disposed of through an incinerator, rather than looking at ways of progressively reducing residual waste [N1 para6.6].
- 208) It should be unacceptable to incinerate material such as aluminium, paper or plastics which could be separated for recycling. It is likely that, within the lifetime of the existing incinerator, such separation could become compulsory where it will reduce greenhouse gas emissions. Similarly, there is increasing

pressure to reduce food waste and to separate such wastes for clean anaerobic digestion or in vessel composting [N1 para6.7]. The appellant has failed to consider the potential for such developments to reduce the residual waste stream in the future.

- 209) The starting point for MSW is that each Waste Disposal Authority must plan to manage its own waste. All of the surrounding counties and unitary authorities are doing this [N1 para6.17]. Nottinghamshire has concluded a private finance initiative agreement with Veolia to manage its waste and is seeking to develop sites within the county. It therefore cannot now be assumed that this waste will be available for incineration at Eastcroft. Leicester City has a contract which includes energy recovery by burning combustible residues in a cement kiln and anaerobic digestion of organic residues. Both Lincolnshire and Leicestershire are pursuing PFI bids to manage their MSW within their respective counties. Derbyshire and Derby City are pursuing a joint waste management strategy. Although the appellant could win an MSW treatment and disposal contract, current negotiations assume that sites will be found within the two areas to manage this waste. The appellant's argument that substantial quantities of MSW could be found within a 35 mile radius is therefore seriously flawed [N1 para6.8].
- 210) The existing facility has a capacity of around 60% of Greater Nottingham's MSW. As recycling exceeds 40%, spare capacity will be available for suitable trade waste [N1 para6.19]. WS2007 estimates that EfW may account for 25% of MSW by 2020, including anaerobic digestion of separately collected food wastes [CD39 Exec Summ pxxiv]. Therefore, the need for incineration could reduce to less than half of the current capacity [N1 para6.20].
- 211) Most of the biodegradable waste in MSW is: green waste, which is collected separately for composting; paper and card, which is increasingly being collected separately for recycling; and food waste, which could and should be collected separately for anaerobic digestion or in vessel composting [N1 para6.21]. Once these waste streams are being collected separately, as well as other combustible materials such as plastic and timber, the amount available for incineration will be greatly reduced [N1 para6.22]. It therefore makes no sense to increase the capacity of MSW incineration in Greater Nottingham.
- 212) The RSS [CD43] currently allocates capacity to recover energy from 52,801t of C&I waste per annum for Nottingham and Nottinghamshire in 2015. Assuming that most of this could reasonably be anaerobic digestion of separately collected food waste, the capacity required in Greater Nottingham for incineration could be accommodated within the current incinerator capacity of 160,000t after allowing for a reduction in MSW, for which the current allocation in 2015 is 53,998t per annum, from Greater Nottingham as surrounding authorities all reach and exceed 50% for recycling and composting [N1 para6.23]. Indeed, the RSS [Policy 39, Fig3 & Technical Report Option 2 Tbl4.9] allocates less energy recovery from MSW and C&I waste than the current Eastcroft capacity.
- 213) The recently published changes to the RSS [CD44A] include Policy 37 which seeks to ensure that all waste planning authorities make provision for capacity equal to the amount of waste generated in their areas. Landfill diversion for MSW is shown as 162,000 and 214,000t per annum for 2019/20 and 2024/25

respectively. Apportionment data in Appendix 4 for Nottingham and Nottinghamshire indicates 716,000t of C&I waste per annum for landfill in 2025, but this is based on no improvement on the 42% recycling and composting figure to be achieved by 2009/10. Zero landfill diversion for C&I waste is shown. Clearly, further work is necessary to identify potential for progressive improvements in separate collection for reuse, recycling, composting and anaerobic digestion before examining the potential for diversion from landfill [N1 para6.24].

- 214) The appellant has identified WasteCycle and Biffa as the main transfer stations in Greater Nottingham managing C&I waste. WasteCycle currently has short term contracts to dispose of around 50,000t per annum residual C&I waste to the appellant's landfill sites, but it expects to be able to progressively reduce this amount. Contract details for Biffa are not available, but it is also working to reduce the amount of residual waste [N1 para6.25]. Any additional incineration capacity could take C&I waste directly, instead of just taking residual waste after sorting [N1 para6.26]. Any overprovision of incineration capacity would encourage price undercutting of other operators and could reduce recycling rates.
- 215) Diversion for incineration at the appeal site will only be possible for wastes with a calorific value in the range of 6.7 to 12 MJ/Kg [N1 para6.27]. Inappropriate incineration at the appeal incinerator has resulted in breaches of emissions limits. This indicates that there are problems with incinerating high calorific material such as paper, plastic or tyres and with incinerating wet waste. Reference has been made to problems at an incinerator in Sheffield [N1 para6.28]. It was found that accepting substantial amounts of trade waste introduced notable inefficiencies in the EfW process. The operator is now requesting permission to import MSW from surrounding areas. It is believed that the appellant will run into similar problems if the incinerator is allowed to expand to take inappropriate amounts of C&I waste [N1 para6.29]. Given the uncertainties on the potential for recycling and incinerating more C&I waste, this should be re-examined carefully through the forthcoming consultation on Waste DPDs.
- 216) In conclusion, the proposal is not consistent with policies for regeneration, and the need for the expansion of incineration capacity should be re-examined in the forthcoming consultation on waste DPDs.

Cases for the Other Parties

The material points are:

- 217) Mrs H Silvester made a statement on behalf of the Nottingham Civic Society. The area around the appeal site has greatly changed since the incinerator was built. Many of the old and industrial buildings have disappeared, while those that remain, such as the Hicking Pentecost works and the Low Level Station, have been converted for residential or leisure use.
- 218) The Society is concerned that the current siting and proposed expansion of the facility could be holding back proposed development in this area, which does seem to be taking a long time to get off the ground.
- 219) The proposal would not enhance the Midland Station and Sneinton Conservation Areas (CAs) and, in fact, may well detract from them. It is

planned that Nottingham railway station is to be restored and upgraded to bring it into line with the city's aspirations. Visitors to the city via Eurostar and St Pancras should not be greeted by an expanded industrial unit. Rather than the expansion of the facility, the ultimate aspiration should be its replacement by more appropriately sited plant based on more up to date technology.

- 220) The Society is, in principle, not opposed to incineration. It is preferable to landfill, and provides opportunities for benefits such as to the city's DHS. More effective incineration technologies are being developed, such as at Avonmouth, and in northern Italy, the Netherlands and Spain. Also, more time should be allowed to analyse the impact of initiatives in recycling and reductions in packaging before money is invested in current incineration methods. There may not be enough material to keep the plant viable. A more analytical and forward looking approach towards waste management should be used, rather than a rush to increase current capacity.
- 221) The main approaches to the city are congested, and new residential development and increased capacity in station parking may already have generated more traffic. The shipping in of additional waste would add to this congestion.
- 222) Ms R Rothera has lived in Nottingham for 8 years. Her main concerns were traffic and recycling rates. The proposal would generate additional traffic. Nottingham has few cycle paths and is aiming to become a greener city. Cycling therefore has to be accommodated on existing roads. Moreover, regeneration includes cycling.
- 223) Local sustainability events include the Rubbish Day Out, which aims to push waste to the top of the treatment hierarchy and get to a situation where children want to recycle. Another is Fresh From the Fields which is a Forest Fields community project. Large waste contracts can undercut or divert waste funding from the community, which can stifle such initiatives and reduce recycling rates. Forward thinking in terms of direct investment in recycling is required rather than large and outdated waste contracts.
- 224) Mr D Boulghassoul was concerned that a larger incinerator would make his asthma worse, as he believes that the incinerator is causing asthma. His school, the Iona School, lies on a hill in Sneinton Dale. Young people in the area do recycle waste to reduce global warming in Nottingham. Everybody should be made to recycle, as this would mean that there would be less waste to incinerate.
- 225) Ms S Huntingford has lived in Sneinton, within 1 mile of the incinerator, for 11 years. She has witnessed smoke from the incinerator stack lying over a local school, and smoke is particularly evident in the early mornings, leading to a suspicion that this is deliberate to avoid detection. The EA have stated that smoke from the stack should not be black and, if it is, then something is defective. She has complained a number of times and cannot understand why an incinerator, which breaches emissions limits, is in the middle of a busy residential area, depositing thick layers of black dust. Units on the Ladybay Retail Park have to close their doors on occasions to keep the stench out and, on damp and muggy winter days, the situation is worse. She was critical of the EA and those who monitor their performance, as the EA were not aware of the types of waste that are being incinerated.

- 226) Sneinton is undervalued and considered to be somewhat down and out but suitable for an incinerator. The social implications of the incinerator can only be understood by those who live near to one. Sneinton has high rates of respiratory disease and cancer. These are quantifiable, but a general malaise is not and more worrying. Ms Huntingford feels that she is a bad parent for living close to the incinerator. Vehicle fumes cannot be prevented, but incineration can be stopped. The EA have said that emissions are below legal limits and that any risks to health are low. The views of the professionals use terms such as negligible, possible and might be. There should be no room for doubt as health evidence is not an exact science.
- 227) There is a high incidence of children's croup in the area, which the incinerator would not have helped. The Iona and William Booth Schools both instil a green message to save the planet. The children perceive the incinerator as being a big cigarette as evidenced in a recent art collage project. Ms Huntingford is aggrieved that others can make a decision which should have such an effect on her and feels sure that more people would speak out if they understood the purpose of the plant and its repeated breaches of emissions limits.
- 228) Mr D Parker has lived for 9 years in the same home in Sneinton. He drew attention to the proximity of William Booth School to the incinerator and had been horrified to learn of the fumes and breaches. Many others were of the same opinion.
- 229) Mrs A Lee gave evidence on behalf of Iona School, and her main reason was for the sake of the children, bearing in mind the proximity of the school to the incinerator. As a midwife, she was shocked that refuse should be regarded as renewable energy. The use of terms such as negligible and insignificant did not allay people's fears. It was important that everybody took responsibility for the waste that we produce.
- 230) Mrs S Scargill is a resident of Sneinton with two young children. The term no significant risk is not the same as no risk. Therefore there must be some risk from the incinerator. People do not trust the authorities, if the incinerator is so safe, why does it need such a high stack and why is the plume more visible outside office hours. A local GP, who was not a scaremonger, has been concerned about adverse health effects, but could not separate the effects of traffic from the incinerator as research had not been done. Consumer choice cannot be allowed to continue. We cannot continue with such a linear process and must reuse and reduce consumption and then recycle. Medical incineration is however probably acceptable. The costs of oil to boost incineration and disposal of the toxic ash will escalate in 30 years, particularly with a plant of an expanded capacity. The fact that people have given freely of their time indicates the very high level of concern locally.
- 231) Mr G Fenoulhet Walker pointed out that the incinerator is very visible in the east of the city due to its size and style. The city has an opportunity to improve its waste strategy, and he respects the Council's decision in relation to regeneration. The east side of the city shows great unity within its communities, it is united in wanting action on a solution. It wants to recycle, reduce waste and treat green waste, but this has been denied by the Council until now. People want to work together, and he was concerned that energy produced would only be for a token few.

- 232) Cllr R Mallender is the Green Party Councillor for the Ladybay ward of RBC, although he was not officially representing RBC. His ward is the closest RBC ward to the incinerator. Local residents are confused as to how RBC can have the second highest recycling rate in the country, and aiming to be the highest, and yet have to face the prospect of an expanded incinerator. Sneinton residents express similar concerns, and he has been impressed by their community spirit and the fact that they have risen to the challenge of the expansion. The priority should be recycling and anaerobic digestion, but this requires newer technologies and a move away from incineration. Residents of his ward are also concerned about increased traffic on already congested roads affecting highway safety and permitted pollution levels already being exceeded.
- 233) Mrs M Dakin-Price is a local business owner and a mother. She opposes any expansion and has had concerns over the incinerator for a number of years.

Written Representations

- 234) Many representations were sent to the Council and the Planning Inspectorate by members of the public objecting to the proposal. These accompany this report and include similar points to those raised at the Inquiry.

Conditions and Obligation

- 235) A list of suggested planning conditions with accompanying reasons has been provided within the SoCG [CD17], should the Secretary of State wish to grant planning permission for the scheme. These have been agreed between the Council and the appellant with the exception of two conditions suggested by the Council. These aim to restrict the origin of incoming waste to within 35 miles of the facility, with no more than 50% from outside the Greater Nottingham area [Condition 2], and to regulate the timing of drainage, external treatment and lighting work [Condition 6]. NAIL referred to the WFD in relation to the Council's suggested conditions.
- 236) In the Inquiry, the Council suggested that the planning application for the appeal proposal [CD5] effectively restricted the origin of incoming waste to a distance of 35 miles. This was as a consequence of the other information submitted following the ES. In the other information submitted in connection with the ES, the appellant has used a catchment of 35 miles for a comparison between the proposed additional capacity at the facility and residual waste arisings [CD10 p6.6.1]. The appellant's findings show that all waste for the facility is available within a 35 mile catchment [CD10 p6.6.20], and it has also suggested that 35 miles is considered to be the maximum that waste might travel to a residual treatment facility [CD10 p6.6.4].
- 237) The proposed changes to the emerging RSS document [CD44A] suggest that, within the three cities sub-area of Derby, Leicester and Nottingham, a centralised pattern of larger facilities should be provided with the possibility of joint procurement [pg 95]. It also suggests that the cities themselves should provide the focus for waste management infrastructure [pg 94].
- 238) The WLP recognises the effect of an Eastcroft extension in its landfill space best case scenario projections [para10.16]. The officers' advice to the Council's committee [CD12 p10.11] acknowledged that the proposal would be available for the disposal of waste from a wider than local catchment, in line

with national and regional policy. It also acknowledged that the extended facility would provide flexibility to accommodate cross boundary flows and permit waste to be disposed of at the nearest appropriate facility.

- 239) The Council's suggested conditions 3 and 6 [CD17] require the installation of a floodlighting scheme.
- 240) The Council's suggested condition 6 requires external treatment and lighting to be carried out prior to the development being used. The appellant's suggested condition requires them to be completed prior to commissioning trials [WRG30].
- 241) It has been put to me in the Inquiry by NAIL that, to be considered as an energy recovery proposal, the proposed plant should meet a level of efficiency commensurate with the R1 Criterion of the WFD, and that such a level of performance should be required by a condition.
- 242) It has been suggested in the Inquiry by NAIL that a condition should be imposed to ensure that only residual waste is incinerated and that operating hours are restricted.
- 243) A Unilateral Planning Obligation dated 22 September 2008 was submitted by the leasehold owner of the appeal site [WRG31]. The obligation covers contributions towards local highway schemes and a project for the expansion of the Nottingham DHS. The highway schemes comprise the upgrading or pedestrian facilities and the traffic signal junction between Cattle Market Road and the A60 London Road, and the resurfacing of a section of the A6011 Cattle Market Road between the A60 London Road and Incinerator Way.

Conclusions

References in subscript refer to earlier paragraphs in the report.

- 244) The proposal would comprise an extension and new external treatment to an Energy from Waste (EfW) facility. The extension would create 100,000 tonnes per annum additional capacity for non-hazardous waste treatment, comprising: the extension of the existing building to house a new boiler and grate and a turbine hall and air condensers; an additional free-standing flue gas treatment plant; new architectural cladding treatment to the existing main building and colour treatment to the chimney stack; louvre and mesh screens around the existing flue gas treatment and residue storage facilities; a replacement gatehouse and weighbridge office; and new landscape planting.
- 245) The appeal site is situated close to the south east boundary of Nottingham city centre and within the Waterside Regeneration Zone (WRZ). It lies between the city centre and the River Trent, to the south of the Eastside Regeneration Zone (ERZ) and to the east of the Southside Regeneration Zone (SRZ). To the north east of the site are the residential areas of Sneinton and St Ann's, and to the west is the residential area of the Meadows₈.

Main Considerations

- 246) In my view, the main considerations in this appeal are:
- (i) the effect of the proposal on the regeneration of the Waterside, Southside and Eastside Regeneration Zones and the city as a whole; and
 - (ii) whether the proposal would be compatible with the aims of sustainable waste management, with particular reference to emerging policy and the principles of the waste hierarchy.

These are similar to the Council's putative reasons for refusal.

- 247) An Environmental Statement (ES) was produced in accordance with the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999. I have taken account of the information in the ES in arriving at my conclusions and recommendation, and I am satisfied that the requirements of the regulations have been met.

Planning Policy

- 248) The development plan includes the RSS, SP, LP and WLP₄₂. RSS Policy 38 sets out the principles for a waste management strategy and seeks to reduce landfill, and SP Policy 2/15 encourages renewable energy generation_{43 & 44}.
- 249) LP Policies MU2 and MU4 relate to the regeneration of the SRZ and ERZ respectively₄₈. Policies MU7.1, 7.2, 7.3 and 7.4 concern future development on the Eastcroft depot site and the areas around Trent Basin, Meadow Lane and Iremonger Road in the WRZ₄₇. Policy MU6 deals more generally with regeneration in the WRZ. Economic development is encouraged by Policies ST1 and ST3, and ST2 promotes the development of sites allocated in the LP₄₈. WLP Policy W6.1 specifically supports the expansion of capacity at the Eastcroft incinerator and was saved by the Secretary of State in September 2007_{43 & 53}.

- 250) I have also taken account of an emerging RSS, and in terms of Policy 20, I take the reference to Priority Areas for Regeneration to mean PUAs⁵⁴. As the proposed changes in relation to this strategy are at an advanced stage of the RSS process, I give this document significant weight.

Regeneration

Waterside Regeneration Zone

- 251) I will firstly consider the relationship between the existing incinerator and the main aims of the WRIPG. The LP confirms the status of the WRIPG as SPG⁴⁷. The WRIPG refers to a 20 year masterplan for the WRZ. It advises that it does not envisage the Eastcroft incinerator facility being removed or redeveloped within 20 to 25 years⁵⁰. The proposals in the WRIPG are therefore set in the context of the existing incinerator.
- 252) The WLP was adopted in January 2002, shortly after the WRIPG in November 2001⁵³. It offers the view that Nottingham is fortunate in having its own municipal incinerator at Eastcroft and identifies a range of planning considerations in relation to the siting of incinerators. It also looks favourably on an increase of capacity at the Eastcroft incinerator. The reasons given are that it would result in more of Nottinghamshire's waste being managed higher up the waste management hierarchy and would save landfill space which is in short supply, particularly in Greater Nottingham.
- 253) The existing incinerator, and its expansion, has therefore been clearly embedded in local policy. This position was last confirmed by the Council in late 2005, by the adoption of the LP, some 20 months before the submission of the planning application which is the subject of this appeal⁴⁶. I recognise that local policy has changed since the incinerator was built. The radical alteration in terms of social context, referred to by the Council, however took place prior to the Council confirming its support for incinerator expansion in the 2002 WLP¹⁴³. Indeed, the SP, which was adopted in February 2006, also refers to the WLP and, in effect, the expansion of the incinerator⁴². The saving of WLP Policy W6.1 has maintained the position of the incinerator in relation to the development plan and confirmed that the policy complies with national policy⁴³.
- 254) The regeneration aims of the WRIPG are as follows. The first aim is the reconnection of the waterside with the city and adjoining communities⁵¹. This does not involve any routes or transport links in close proximity to the incinerator. Indeed, the nearest route, which is along Meadow Lane, is further from the incinerator than the proposed development to provide a high quality environment on the GIS¹⁵⁴. The existing incinerator would therefore be unlikely to have a detrimental effect on the reconnection of the waterside with the city and adjoining communities.
- 255) The second aim of the WRIPG is to provide homes⁵¹. The majority of these would be further from the incinerator than the high quality residential development proposed alongside London Road. Furthermore, many of these would be in close proximity to the Notts County football ground. The WRIPG acknowledges that careful design will be required to allow business elements of development to form something of a buffer between the football ground and the WRZ homes. Many of the homes to be provided would be much closer to the football ground than to the incinerator, and the football ground would be

likely to be the controlling factor in relation to their development potential. The incinerator would therefore be unlikely to have a harmful effect on the development of these WRZ homes.

- 256) The WRIPG, at the start of its introduction, clearly differentiates between the Waterside or the WRZ as a whole and the waterside or River Trent waterside as an element of the WRZ₅₀. Within the waterside area, the WRIPG also emphasises the unique locations offered alongside the River Trent, and development is already taking place at the Park Yacht Club_{86, 151 & 199}. Here, the site exhibits a semi-rural atmosphere which is heavily influenced by the corridor and the open space on the opposite river bank. This, to me, epitomises the uniqueness of the location, as suggested in the WRIPG. Phase 1 of this residential development has been completed. Boundary treatment provides an effective barrier against low rise neighbouring industrial properties. The incinerator stack has no impact on this development at ground level, and I am of the opinion that it would only have a limited impact at upper levels of the seven storeys, from which I believe it would be seen against the city skyline. I have not seen anything to suggest that the presence of the stack has had an adverse effect on this development.
- 257) The Trent Basin development site also adjoins the river_{86 & 151}. It benefits from recent outline consent for residential, business and commercial development. The illustrative proposals show a high density of development with multi-storey buildings. The proposals have also had public involvement through an urban regeneration agency. At Trent Bridge, low rise and multi storey residential development has been completed in Quayside and Meadow Close₈₆. I have not seen any objections to the proposal from the developers of these schemes. I have taken into account all of the above developments and also the separation distance between the whole of the River Trent waterside and the incinerator. As a consequence, I am satisfied that the existing incinerator would not have a materially adverse impact on the residential potential of the unique River Trent waterside. Indeed there is some evidence that the vibrant mixed use riverside quarter is developing at the periphery of the WRZ. In view of all of the above points, I do not consider that the existing incinerator would generally have a harmful effect on the provision of homes in the WRZ as identified by the WRIPG or that it would conflict with the LP.
- 258) The third aim of the WRIPG includes the provision of access to new employment and leisure facilities₅₁. The vast majority of land for employment use in the WRIPG is further from the incinerator than is the GIS. Indeed, the Ladybay Retail Park, which adjoins the appeal site, is shown to remain outside the main development areas, and the buildings are shown as a continuing land use₅₀. In my view, the presence of this recently developed business park, which was allowed on appeal, is evidence that interest from developers has not been stifled by the presence of the incinerator. Moreover, The County Business Park, which also adjoins the incinerator, and other examples along Daleside Road are evidence that employment opportunities generally have not been stifled by the presence of the incinerator₈₆.
- 259) With the exception of the existing football ground, leisure facilities are concentrated along the waterfront. At ground level, nearby development would be likely to screen the incinerator buildings and possibly even the stack itself. Leisure facilities would also probably make use of the river corridor and would be likely to face it₅₁. Again, the WRIPG shows the riverside open space

to be generally further from the incinerator than the open space within the illustrative GIS proposals and in the SRZ. The incinerator would therefore be unlikely to have a harmful effect on the use of leisure facilities. In my view therefore, the existing incinerator would not generally prejudice the employment and leisure aims of the WRIPG.

- 260) In terms of its main regeneration aims, the WRIPG would therefore appear to be generally compatible with the presence of the existing incinerator.
- 261) I now turn to consider the relationship between the existing incinerator and development potential at the Eastcroft depot site identified in the LP and WRIPG. In the first five years of the life of the WRIPG, development in the WRZ was envisaged at London Road, Meadow Lane and Trent Lane⁵². Development at London Road is described as occupying part of the areas between London Road, the incinerator and the football ground. To me the identification of London Road in this manner suggests future development alongside London Road.
- 262) The WRIPG emphasises the unique locations offered on the Eastcroft depot site alongside the canal⁵². It describes the creation of an environment of an equivalent quality to the city centre and superior to other edge of centre office locations in Nottingham. The development is said to be located around the canal. To me, this suggests development in close proximity to the canal, and indeed this again could be in the form of an area of high quality commercial floorspace alongside London Road, depending on the layout of the canal basin. Such an area of development would be compatible with the illustrative layout of the canal basin shown as lying parallel with London Road in the WRIPG and also the southern city gateway aim for the SRZ in the LP and the WRIPG⁵¹. A basin such as this could in fact be surrounded by development which would be no closer to the incinerator than that proposed for the GIS.
- 263) Whilst I am aware that some master planning has been undertaken, I have not seen any future development layout plans^{50 & 199}. To restrict higher quality development to the western, or canal, end of the depot site would seem to me to be sensible to avoid the localised effect of the western incinerator hall ramp access. Indeed, in the Inquiry, the Council was of the view that development in this area would face to the west and north which would be away from the appeal site and the ramp, and this adds weight to my opinion¹⁵⁸.
- 264) These points lead me to the view that the WRIPG does not necessarily suggest that the Canal City Basin Business Quarter would extend from London Road to the appeal site over the whole of the depot site. It could be restricted to the environs of the canal and its basin, as these would provide a draw for development, as acknowledged in the WRIPG and LP. Such quality of development throughout the depot site however with the incinerator present would be unrealistic, due to the industrial nature of the incinerator complex and its corresponding local and adverse visual impact.
- 265) The LP identifies a key element of the masterplan for the WRZ as being a new urban business location centred around a new canal basin on the current Eastcroft depot⁴⁷. LP Policy MU7.1 suggests that planning permission for a mix of uses will be granted on the Eastcroft Depot site. If this were the case, the area around the appeal site could provide buffering development in a manner similar to the indicative proposals for the GIS and at a similar distance from

the incinerator. The canal basin would also provide the site with its own environment in a similar manner to the GIS. The LP is therefore supportive of my view on the development potential of the Eastcroft depot site.

- 266) I recognise that, without the incinerator, the entire depot site could be a valuable addition to the city centre, as suggested by the Council's regeneration witness¹⁵⁷. This however does not appear to be an option open to the Council. The Council suggests that, with the existing incinerator, the LP aims would be difficult to realise. I am not convinced that this would be the case as policy does not suggest that all of the depot site should form such an addition.
- 267) I now turn to consider whether there is any evidence that the absence of redevelopment on any of the Eastcroft depot site has been due to the presence of the existing incinerator. The Council acknowledges that future development of the depot site would result from an overspill effect from the railway station area and the extended city centre to the west of the depot site¹⁵⁸. The railway station area is intended to become a transport hub which would encourage development in close proximity to it.
- 268) Such overspill would however be required to cross the busy London Road, which is an arterial route into the city centre from the south. London Road creates a barrier of some significance in this area, a fact acknowledged by the Council's use of it to form a boundary to the city centre in its Local Plan extension to the city centre in 2005⁴⁶. Development of the Eastcroft Depot would therefore represent a major and ambitious step in the expansion of the city centre. Such a basin would also be a costly element of infrastructure and would place a significant financial burden and additional risk on the development of the depot site.
- 269) The WRZ also adjoins the city centre on its northern boundary⁷. Here, the WRZ includes the main Nottingham to Newark railway line and a railway maintenance depot. Both of these would have to be bridged if the city centre was to overspill to the south into the WRZ. As a consequence, this boundary is even more impermeable than that to the west of the WRZ. Indeed, LP Policy MU6 speaks of east west and not north south transport links⁴⁷. The Eastcroft Depot site would therefore be a somewhat awkward addition to the city centre, reliant on development to the west in the SRZ.
- 270) Added to this is my view that the canal basin development would not take place until the vast majority of opportunities on the GIS and in the SRZ have been taken up. It is effectively waiting for the London Road boundary to be broken, as has occurred at Canal Street. This point was acknowledged in the Inquiry by the Council in its witness' description of the canal basin as being city centre overspill, which recognises that the city centre would have to be generally full for it to take place¹⁵⁸.
- 271) In view of the circumstances surrounding the future development of the WRZ around the proposed canal basin, it is likely that to realise any development potential would require significant demand for canal basin sites. This would only be likely to be achieved after the substantial completion of development on the GIS and then in the SRZ. This follows on from the agglomeration effect described by the Council¹⁵⁹.
- 272) This completion has not been achieved and shows little sign of occurring in the near future. I am therefore not surprised that the five year aims of the WRIPG

have not been achieved. Indeed, the Arkwright Street triangle within the SRZ is acknowledged as a priority for city centre expansion⁸⁶. I thus cannot see any proven link between the absence of redevelopment of the Eastcroft depot site and the presence of the existing incinerator. Furthermore, the Council suggests that the appeal site lies in an area undergoing transition¹⁴³. This transition in the WRZ will not occur until overspill takes place.

- 273) I have thus not found any compelling evidence that the absence of redevelopment on any of the Eastcroft depot site has been due to the presence of the existing incinerator.
- 274) I recognise that both Meadow Lane and Iremonger Road have not been the subject of development proposals as sought by LP Policies MU7.3 and 7.4⁴⁷. They are however relatively isolated within the existing industrial area and are in close proximity to the Notts County football ground. Indeed the WRIPG acknowledges the difficulty with the football ground, whereas it does not with the incinerator⁵². The absence of development in Meadow Lane and Iremonger Road therefore does not weigh against the appeal.
- 275) The Nottingham Fruit and Vegetable Market also adjoins the appeal site⁸⁶. It was relocated from its former site in the ERZ, prior to the publication of the WRIPG⁷. The WRIPG is silent on the future of the market. The relocation of the Nottingham Fruit and Vegetable Market into this area from the ERZ is evidence of the differing priority given to the ERZ and WRZ by the Council. In support of its case, the Council has referred to a number of appeals that were dismissed where incinerators were proposed near to food processing plants¹⁶⁰. This is somewhat surprising given the Council's support of the relocation of the market to a site adjoining the incinerator in 1994, and the presence of the market supports my views on the acceptability of the incinerator.
- 276) In view of all of the above points, I therefore do not consider that the existing incinerator is incompatible with the aims of the development plan, or that it has materially impeded development in the WRZ.
- 277) I now turn to consider the impact of the appeal proposal on the WRZ.
- 278) The existing facility is looking very tired⁶³. The proposal would include the repainting of the chimney⁴⁰. This would remove the black band at the top of the chimney and would better reflect sky colour tones⁶⁴. This element of the proposal would improve its appearance⁷⁸. Various items of plant attached to the northern side of the main incinerator building would also be enclosed⁶⁹. This would mask the fact that the building houses an industrial process and would thus soften the impact of the building in views from the north. There are few items of plant on the main part of the south elevation of the building. The proposed re-cladding would be undertaken with materials better suited to reduce the impact of the building, and the consistency of the new cladding would represent an improvement over the existing somewhat patched façade⁶⁴.
- 279) The external works would improve the appearance of the complex with the re-cladding having a positive impact in the area around the incinerator and the re-painting of the stack having a benefit over a wider area^{74 & 78}. The benefits would be apparent from all directions. All of these elements would reduce any negative perceptions resulting from the presence of the incinerator. Moreover,

the proposal has received positive feedback from the East Midlands Design Review Panel⁷⁰.

- 280) The proposed third line itself would generally be enclosed on three sides by other parts of the building and would add very little to the overall bulk and impact of the building⁷³. The flue gas treatment plant would also be housed within the plant enclosure on the north elevation of the building⁶⁹. The proposal would increase the apparent volume of the complex by a minimal amount and this would have a negligible impact on the surrounding area. Overall, the physical effect of the proposal on the facility would be positive. I believe that it would give the impression of a more modern facility and that the obvious investment would suggest improved plant performance. As the incinerator already exists, the proposal would therefore accord with LP Policy MU6.
- 281) The proposal would increase use of the access ramps. High density buffer development such as parking could however screen ramp activity, as is proposed for the GIS, and indeed some direct ramp screening may also be possible⁸⁶. The additional use of the access ramps would have a slight and adverse impact in views from the immediate area around the incinerator. This would however be outweighed by improvements to the appearance of the plant and stack.
- 282) In terms of waste vehicle routes, Cattle Market Road would lie to the south of the canal basin development and away from any WRIPG connecting routes⁵¹. Beyond Cattle Market Road, any increased intensity of traffic would be diluted due to the divergence of routes^{125 & 126}. Adjoining development to the south of the canal basin development would be likely to be of lower quality in any event. I have not seen any evidence that specific cycle routes would be adversely affected by the proposal²²². The Council, as Highway Authority, has acknowledged that the increased traffic associated with the proposal would not have any material effect on highways or the environment¹²⁷. I can see no reason to disagree.
- 283) Overall, there would be no materially adverse impact, and the site would be suitable for the proposal in relation to the existing and proposed neighbouring land uses, taking into account the potential development that I have described. The proposal would therefore not conflict with LP Policy MU7.
- 284) The WRZ is very different to the SRZ and the ERZ in terms of its location and regeneration opportunities, even without the influence of the incinerator. On the riverside, development appears to be closing in from either end to the east and west⁸⁶. Should the appeal be allowed with the improvements to the appearance of the incinerator, I can see no reason as to why this closure could not complete. This would leave a totally redeveloped river frontage, particularly as, at its closest, it would be no closer to the incinerator than the GIS.
- 285) The facility operator has a contract with the Council for the incineration of waste until 2030 and a lease on the site which runs until 2072¹¹⁷. The plant is of a type which would undergo the replacement of many of its elements throughout its operating life¹¹⁶. The proposal would therefore not represent an extension to the life of the facility or reduce the likelihood of relocation or its replacement with new technologies.

- 286) It has also been suggested that the statement made by the proposed £50m investment into the incinerator would in some way anchor the site and give it more permanence as it currently has the appearance of being at the end of its life¹⁵⁶. Whilst I acknowledge that this may be a view held locally, I am not convinced that it would feature significantly in any financial appraisal for future development. A view on the presence of the incinerator would be more likely to be based on its contracted life, until 2030; the operator's control of the land on which it is located, until 2072; and its planning status¹¹⁷. It is also specifically identified in the WRIPG and the saved WLP, and all of these factors are widely known^{50 & 53}. Furthermore, the proposed investment of some £50m is also far less than the £1bn plus suggested in the WRIPG^{50 & 119}. I therefore do not consider that the proposal would anchor the presence of the incinerator in the WRZ. Indeed, the proposal would accord with the aims of LP Policy ST2⁴⁸.
- 287) The Council is of the opinion that the existing incinerator has an adverse effect on development potential in its immediate environment¹⁶⁶. Its regeneration witness also advised that the Council should retain control of its depot site in order to maximise its development potential at some point in the future¹⁵⁷. Similar views were expressed by the developer who appeared on behalf of NAIL²⁰¹. Whilst I agree with these statements in terms of the area immediately around the boundary of the incinerator site, I do not believe that it covers a significant part of the depot site.
- 288) In terms of locational criteria, the proposal responds to any adverse visual impact by its improved appearance and also traffic and access by the proposed highway improvements. There is therefore no unacceptable adverse cumulative effect and no significant adverse effect on environmental quality or economic potential.
- 289) I recognise that the proposal would create employment at a lower density than would be envisaged for an employment site in an urban regeneration area¹⁵⁵. The employment creation would however take place within an existing operational complex, and on land which could not accommodate higher density employment without removal of the incinerator, which is not under consideration. Moreover, the WRIPG, whilst suggesting a total number of jobs that could be created, does not suggest minimum employment densities, and does not include the appeal site as an employment land use⁵⁰. I thus can see no conflict with the WRIPG in this regard.
- 290) The appeal site is allocated for waste management use. The area around the site is identified in the WRIPG as for employment or commercial purposes⁵⁰. It sits between the proposed canal basin and lower density commercial development to the east. It is not cheek by jowl with the city centre as suggested by the Council. Indeed, the description for the Eastpoint Business Park includes industrial uses, and the Virgin Media site is low density⁸⁶. Also, Trent Lane East is shown as industrial and commercial, and the supporting text refers to the continuation of industrial development, including relocations⁵⁰. The WRZ as a whole therefore does not appear to be expected to be an extension of the city centre or to accommodate high density and high technology employment uses.
- 291) I therefore consider that the proposal would not have a harmful effect on the regeneration of the WRZ. I further consider that it would thus not conflict with

LP Policies MU6, MU7.1 to 7.4 and ST2, WLP Policy W6.1 and the Council's WRIPG.

Southside Regeneration Zone

- 292) Intensive high density development is planned, taking place and has been completed alongside the canal within the SRZ₈₆. Some of the residential units in this development will have high level views towards the incinerator. This area provides a natural extension to the city centre with a high degree of permeability. Moreover, at the railway station, the proposed transport hub would further improve permeability.
- 293) Construction of Phase 1 at Southreef, which is one of the 50 schemes referred to by the appellant, appears to be continuing, despite the downturn in the housing market₈₆. The upper floors of this development would include views over the incinerator in a similar manner to the hotels around the London Road Bridge over the railway line. Southreef Phase 2 is the subject of a planning application which has yet to be determined₈₆. The submission of this application would however have already incurred costs, and it can thus be seen as some commitment to the development of the site. Phase 2 of this development is also intended to be connected to the DHS.
- 294) Recent development in the southern part of the SRZ generally faces northwards towards the railway station, which has been described as a future transportation hub₁₅₈, and the main part of the city centre. Development has made no attempt to cross London Road, and there is no evidence yet of the overspill into the WRZ which is an aspiration of the Council.
- 295) Phase 1 of development at the Hicking Pentecost site on Queen's Road₈₆, again one of the 50 schemes, has been completed. I have heard anecdotal evidence as to the level of occupation of residential units on the site, but they do appear to have been completed. The development includes commercial units, which I understand have not generally been occupied. The take up of such units however often lags behind the completion of nearby residential development due to commercial uncertainty, and I am not surprised that they have not been occupied here.
- 296) I understand that Phase 2 of this development now has the benefit of planning permission₈₆. Whilst this does not represent a firm commitment to development, it does represent an investment by the applicant, which in cases such as this can be substantial. It is recognised by the main parties that development of this nature generally extends outwards from the city centre. In the SRZ, residential units are under construction on sites closer to the centre, such as at Phase 1 of Southreef on Canal Street which is also in a more attractive canal side location. I am therefore not surprised that the construction of the Hicking Pentecost Phase 2 new build development, unlike Phase 1 which utilised an existing building, has not started on site. The presence of the incinerator, and indeed the proposals for its expansion, therefore do not appear to have inhibited development in the central parts of the SRZ, a view shared by the main parties.
- 297) Development proposals along London Road, referred to in the 50 schemes, are of a high density city centre type₈₆. Their intention at ground level appears to be to face west, away from the London Road corridor. This would reinforce the perception of London Road as a barrier to development and make development

around the canal basin on the opposite side of the road less commercially attractive. They also indicate that there appears to be little enthusiasm for development along the London Road corridor as a southern gateway to the city. Notwithstanding this apparent lack of enthusiasm however, I have not seen any objections from developers involved in the SRZ or evidence of the negative factors in relation to incineration as suggested by NAIL²⁰¹.

- 298) Notwithstanding the general orientation of this development at ground level however, the proposal for Nos 66 and 68 London Road, again within the 50 schemes, comprises commercial and residential development over ground floor retail units⁸⁶. The upper floors would have views over the incinerator.
- 299) In relation to policy, the incinerator has sat alongside regeneration policy for the SRZ for a number of years⁴⁹. The incinerator stack is readily visible from the eastern edge of the SRZ which adjoins the London Road corridor together with part of the complex⁷⁶. They already have a slight and adverse visual impact on this part of the SRZ. This is however minimal in the context of the generally industrial nature of development to the east of London Road, and does not appear to have stifled development along London Road, as some proposals would overlook the stack and complex. This opinion is shared by the main parties. Moreover, the stack for the London Road CHP facility, which lies within the SRZ, is situated in close proximity to the Southreef development⁸⁶.
- 300) The proposal would improve the appearance of the stack and the complex. The adverse impact would therefore be reduced, and the proposal would have a beneficial effect in this regard. I am not convinced that the eastern access ramp has an adverse impact on this part of the SRZ. The proposed additional use of this ramp would therefore not have a negative effect on the eastern edge of the SRZ. I am also satisfied that any increase in traffic would not have an adverse impact on the SRZ and, overall, the proposal would have a beneficial effect on the eastern edge of the SRZ.
- 301) The incinerator stack is visible from some more central parts of the SRZ, but the complex is generally screened by buildings within the SRZ⁷⁶. The incinerator therefore has a very limited adverse visual impact on this area. As a result of the stack improvements, the proposal would have a limited and beneficial effect on the more central parts of the SRZ. The proposal would therefore accord with LP Policy MU2⁴⁸.
- 302) I therefore consider that the proposal would not have a harmful effect on the regeneration of the SRZ. I further consider that it would thus not conflict with LP Policy MU2 and the Council's SRIPG.

Eastside Regeneration Zone

- 303) The ERZ contains individual developments resulting from the expansion of the city centre. The main proposal, as yet to be implemented, is the GIS⁸⁶. This proposal would be of a sufficient area to create its own environment and would satisfy much of the city centre's office space requirement in future years. The development as a whole would look to the north and west towards the main part of the city centre.
- 304) The illustrative plans for the GIS show closely spaced multi-storey buildings in some parts of the site⁸⁶. These would severely restrict views of the incinerator, although the stack would still be visible above them⁷⁶. The

illustrative proposals for this site appear to progress right up to its southern boundary which is nearest to the appeal site⁸⁶. The illustrative plans show car parks of some 10 storeys in height along this boundary. Whilst these would provide some lower and mid level screening, various high landmark buildings have also been suggested, and these would provide views over the incinerator. Outline planning permission was granted in April 2008 for the GIS which includes the former Manvers Street goods yard, which has already been reclaimed, and the site to the east of Great Northern Close.

- 305) The costs incurred in progressing the GIS scheme to this point, including an Environmental Assessment, show a commitment for, and a likelihood of, development in the not too distant future⁸⁶. Even if the preparatory work has been carried out in advance of the sale of the site, such a sale would still signify some interest in future development. Whilst I have not seen any evidence of funding arrangements for development, this does not outweigh the commitment that has been shown, as I would not expect such information to be in the public domain at outline planning stage. Evidence of part funding has however been provided in respect of a future connection to the DHS, which has been costed and could assist in achieving the Council's 10% requirement for renewable energy on the site, although I recognise that micro generation could be an alternative.
- 306) Development, although opportunistic, has already taken place to either side of the GIS⁸⁶. To the west are developments containing the Great Northern Plaza which includes a Jury's Inn hotel; a Premier Travel Inn hotel; offices for BBC East Midlands, NHS Direct and The East Midlands Development Agency; and a Virgin Active Fitness Centre. These are in close proximity to the stack for the London Road CHP facility. To the north is Biocity, which contains biomedical office and laboratory accommodation. The GIS site is thus nestled into a variety of public and private sector uses and has good permeability to the city centre. Its other boundaries are well defined by Manvers Street and the railway line. The area is therefore well connected and clearly identifiable as a natural extension to the city centre, a point acknowledged by the Council in 2005 when the area was brought within the city centre boundary.
- 307) In relation to policy, the incinerator has sat alongside regeneration policy in the ERZ for a number of years⁴⁹. Progress on the GIS scheme, in line with LP Policy MU4, has taken place both in the context of the existing incinerator and its expansion⁸⁶. This is not surprising, as the screening of north facing plant would be of considerable benefit to south facing development on the GIS, as would the chimney improvements to a lesser extent⁶⁹. Moreover, the Council acknowledges that the incinerator has not inhibited the redevelopment of this area as it creates its own environment, and I have not seen any objection to the proposal from developers connected with the scheme¹⁵¹. The GIS occupies the nearest part of the ERZ to the appeal site, and I am therefore satisfied that the existing incinerator and the appeal proposal have not and would not have an adverse effect on regeneration of the ERZ.
- 308) The DHS has the potential to assist regeneration in the ERZ and the GIS and also to serve the area around Queen's Road in the SRZ. I recognise that there is a funding gap and that there are constraints on the offer of funding received to date^{168 & 169}. The potential for DHS expansion however still supports the appeal proposal and adds weight to its acceptability. I have not seen any evidence of spare capacity and can understand a reluctance to invest in

connections at this stage in the development process. Whilst other forms of renewable energy may be available within developments themselves, this should not weigh against the use of the DHS as this is also a form of renewable or low carbon energy.

- 309) I therefore consider that the proposal would not have a harmful effect on the regeneration of the ERZ. I further consider that it would thus not conflict with LP Policy MU4 and the Council's ERAIPG.

Other Areas of the City

- 310) The GIS could provide 88% of the required office space for Nottingham by 2016 and 40% of the 2026 requirement¹⁶². The Council's evidence however stresses that the 2026 figures are simply an extrapolation and continuation of earlier trends. The Council's evidence suggests that previous growth has been somewhat cyclical and dependent on the level of competition from peripheral business parks and the health of the national economy. In view of the lack of study into these latter year figures and the difficulties in forecasting well into the future, I give the 2026 office requirement figures limited weight.
- 311) From what I have seen and heard however, I am satisfied that demand for office floorspace in central Nottingham could generally increase in the next 10 to 15 years but the quantum in the latter years is uncertain. I also agree with the importance of ensuring that there is an adequate supply of land for office development. The GIS alone could provide a substantial proportion of the required office space in the short and medium term. When coupled with the remaining development potential in the SRZ, I am not convinced that there would be sufficient medium term demand to fill the city centre to a level that would overflow into the WRZ and specifically the Eastcroft Depot site. The proposal therefore would thus not conflict with emerging RSS Policies 19 and 20⁵⁴. Notwithstanding the life of the proposal if the appeal was allowed, I thus do not believe that future demand for office development in central Nottingham would be sufficient reason to dismiss the appeal.
- 312) The appeal site is located within the Three Cities Growth Area and in one of the PUAs identified within the RSS. I have not seen anything to suggest that there has been a change in the importance of these areas between RSS8 and the emerging RSS⁵⁴. Both these designations form part of a stable regional regeneration policy.
- 313) I acknowledge that the function of city centres is important in relation to the economic performance of the UK as a whole¹⁵⁹. A realistic view however has to be taken on the status and prospects of each city so that they can all contribute in an appropriate manner and commensurate with their individual attributes. It has been put to me that Nottingham city centre has underperformed in relation to the centres of Birmingham, Manchester and Leeds¹⁶¹. These cities however would appear to have more of a role as regional centres. This is exemplified by the fact that Nottingham is placed within the three cities growth area in the RSS, effectively alongside the cities of Derby and Leicester. It is therefore somewhat understandable that Nottingham appears to under perform what could be classed as single regional centres. I also do not believe that growth in Nottingham can be reasonably compared to that in Reading due to its proximity to London. I understand that Nottingham has been designated as a Core City¹⁷¹. I have not however seen

anything to suggest that this puts Nottingham on a par with regional centres. I consider that this supports the limited weight that I have given the 2026 office requirement figures.

- 314) I have not seen any evidence that the proposal would have an adverse impact on future development in the city centre, and indeed this was the Council's position at the Inquiry. Moreover, the area around the incinerator was not included within the city centre when it was last extended in 2005. In my opinion therefore, the proposal would not conflict with LP Policies ST1 and ST3₄₈.
- 315) It has been suggested to me that central Nottingham lacks a five star hotel, that Trent Bridge would be an ideal location, but that the impact of the incinerator was preventing such a development₂₀. I have already found that only the stack of the incinerator is visible from the periphery of the WRZ and that it has a very limited adverse impact on regeneration. This is the case at Trent Bridge where from high level views the stack would be likely to be seen against the backdrop of taller city centre buildings and the rising ground behind. Moreover, the presence of the stack does not appear to have inhibited hotel development to the west of the GIS, which is far closer to it than the situation at Trent Bridge₈₆. In any event, the proposed changes to the stack would render it less prominent and would improve the situation in relation to any hotel proposal.
- 316) I have not seen anything to suggest that the proposal would result in any lowering of density or curtailment of development on residential sites. The proposal therefore would not conflict with LP Policy H2₄₈.
- 317) The Council has referred me to a number of other appeals where incinerator proposals have been dismissed, and I will now consider these in turn₁₆₀. At Foster Street, appeal Ref. APP/V2004/A/02/1082545, the proposal was different to this appeal as here there are no viewpoints or townscape features, existing or proposed, which would be sensitive to change from the proposal. Moreover this appeal does not involve a new facility; consideration has been given to improving its appearance; and the improvements have been adequately addressed in the application and in the Inquiry. As there is no harm to the townscape as a consequence of the proposal, it has not been necessary to weigh the proposal against any regeneration benefits. Furthermore, the appeal proposal has specific policy support. In relation to the appeal proposal, there has not been impact identified on any listed buildings and no evidence from the Council of direct harm to the townscape as a consequence of the proposal. In fact there would be an improvement in many regards.
- 318) At Stourport Road, appeal Ref. APP/E1855/A/01/1070998, the situation was different to the appeal proposal as there were significant and harmful changes to views, especially on the skyline. Moreover, there was little screening, as would be provided by the GIS, and no specific policy support.
- 319) At Nun Mills Road, appeal Ref. T/APP/V2825/A/98/290479/P5, 297151/P5 & 300168/P5, the situation was different to the appeal proposal where there is no evidence of plume grounding, either currently or as a consequence of the proposal, and no significant change to the existing energy from waste facility. Moreover, at Nun Mills, one of the Inspector's primary concerns was the effect

of the chicken litter feedstock, which is very different to the feedstock proposed under this appeal. I acknowledge the similarity of the urban locations and the fact that both proposals do not accord with the Councils' aspirations. The appeal proposal however has specific policy support, and I have not found any material considerations sufficient to set this aside. Furthermore, the Council's WRIPG acceptance of the presence of the incinerator was some 20 months ago, somewhat less than the time between the Council's positive decision at Nun Mills Road and the subsequent refusal of the planning application which led to that appeal.

- 320) The Gaerwen situation, appeal Ref. PP145-98-001, is also different to this appeal in that, with this appeal, there is no evidence, from those involved in development, of widely held fears over the impact of the proposal on future development. Moreover, I have not seen any objection from public agencies concerned with development. Indeed, development is progressing at Park Yacht Club and Trent Basin to the east, the GIS to the north, and alongside London Road to the west. Moreover, the Council was involved in the relocation of the fruit and vegetable market to a site adjoining the incinerator.
- 321) In respect of Tyneside, appeal Ref. APP/K9530/A/89/145489, I have insufficient detail in terms of the proposal, regeneration aims, the UDA designation and the nearby resident population to determine whether the appeal was relevant to this case. Furthermore, the appeal dates from 1992, prior to the tightening of incinerator regulations in 1996.
- 322) At Teesside, appeal Ref. APP/X9520/A/90/157387, the appeal sought to reintroduce an incompatible land use and included experimental techniques. It therefore is not relevant to the Eastcroft case.
- 323) The Doncaster appeal, Ref. APP/F4410/A/89/126733, was close to food processors and involved a chemical waste incinerator. It also pre-dated the advice in WS2007. Again therefore, it is not relevant to the Eastcroft case.
- 324) I therefore do not consider that any of the suggested appeals support the dismissal of this appeal.
- 325) I acknowledge that the proposal would be sited on previously developed land, but such land predominates in this urban area and I have not seen any direct evidence to suggest that to dismiss the appeal would save previously undeveloped land.
- 326) Sneinton is part of the Dales ward. Within Sneinton, recent development includes higher density infilling, new housing on Sneinton Hermitage in the part of Sneinton nearest the incinerator, and environmental improvements. The incinerator stack is very visible on routes through Sneinton towards the city centre, and it is prominent within the main views along these routes¹⁹⁷. The adverse impact of the stack would however be reduced by the improvement in its colour scheme, and the proposal would be beneficial in this regard⁴⁰. I have not seen any evidence of a material increase in visibility of the plume and, in any event, any minor increase would be outweighed by the improvement to the colour of the stack⁷⁸.
- 327) Notwithstanding the visibility of the stack and to a lesser extent the incinerator complex, housing development in the area however appears to be continuing to take place. Indeed, the recently developed housing estate on Sneinton

Hermitage, which I saw at my site visit, includes private gardens. The housing, which represents a substantial investment, seems to be geared towards family accommodation and appeared to be fully occupied. This seems to contradict the evidence given in the Inquiry in relation to a perceived tension between the presence of the incinerator and family accommodation referred to by Mrs Huntingford²²⁶. Evidence submitted in relation to population movement, property values and business failures was limited, somewhat anecdotal and not sufficient to support the dismissal of the appeal^{192 & 194}. The incinerator complex is not visible from the majority of Sneinton. In terms of visibility therefore, the proposal would not have an adverse impact on Sneinton.

- 328) The main aspect in views from the St Ann's area lies away from the incinerator. The existing incinerator and the proposal does not and would not therefore have a material visual impact on this area. The Meadows forms part of the Bridge ward. It is some distance from the incinerator. Again, the existing incinerator and the proposal does not and would not therefore have a material visual impact on this area.
- 329) IMD are a recognised and relevant indicator for socio-economic and community regeneration, and various areas around the appeal site feature highly in the Government's IMD between 2004 and 2007^{81 & 165}. Between 2004 and 2007 IMD have shown a general improvement in the Sneinton and Meadows areas. I recognise however that one SOA in St Ann's has shown some deterioration, but a general improvement in these areas is evident, and the deterioration in this one area, which has little direct linkage with the incinerator, would not support dismissal of the appeal on this basis. Whilst I acknowledge that these areas are still relatively deprived, the figures do not support the anecdotal evidence of lowered community aspiration which has been provided to the Inquiry²²⁶. Figures for the St Ann's area show less improvement, but this area is less related to the site of the incinerator.
- 330) The Council has suggested that the employment density which would result from the proposal would be too low¹⁵⁵. The appeal site lies in close proximity to deprived wards⁸. In a dense urban area such as this however, the population has a high level of accessibility. The low density of jobs that would be created therefore would not necessarily impact on employment prospects for the area around the appeal site.
- 331) Many concerns have been raised in respect of the impact of both the existing incinerator and the proposal on the health of the local population, with particular reference to schoolchildren. I saw many of the schools in the surrounding area on my unaccompanied site visits.
- 332) The appellant's evidence shows that significant safety margins would exist between the impact of the proposal on the surrounding area and recognised thresholds where health could be affected¹¹⁴. The appellant's modelling has included the effects of terrain, a matter raised in opponents' evidence^{104 & 189}. It has also addressed a link between the plume and self reported ill health which was suggested by a local resident^{108 & 183}. It has not been suggested that further work should be undertaken to study emissions. I am satisfied that the studies have been sufficiently thorough to adequately assess the impact of the proposal on the surrounding area. I acknowledge that the evidence, in respect of the science, uses terms that could imply some risk²²⁶. This is

however usual in work of this kind, and requires a realistic interpretation in relation to other risks that are present in society generally.

- 333) Notwithstanding the views of local GPs, the PCT HIA concludes that a perception of rather than actual risk could occur in the local community^{188 & 198}. In this case, I have not seen anything to convince me that the appeal should be dismissed on this basis. Moreover, WS2007 advises that research shows there to be no credible evidence of adverse health outcomes for those living near incinerators. In view of all of these points, I consider that the proposal would not present any material risk to the health of the local population.
- 334) Colwick lies some distance from the appeal site and outside the principal plume dispersion area. A number of potential sources of pollution have been brought to my attention in and around Colwick^{195 & 196}. As a consequence of these factors, I am not convinced that the proposal would add to the problems that I understand are currently experienced by residents of Colwick. From the evidence presented, I also do not believe that any SSSIs would be adversely affected as a consequence of the proposal.
- 335) The EA is of the view that the regulatory performance of the existing incinerator is very good¹¹⁸. I recognise that the compliance record does not reach 100%, but it is very close to this figure, and I have not seen anything to suggest that it is the worst performer in the UK¹⁸⁸. Many of the reported breaches appear to have been avoidable, but they are in the public domain and have been openly debated¹⁸⁵. I am satisfied that the circumstances surrounding them have been addressed and that, on balance, they do not represent sufficient reason to dismiss the appeal. Moreover, there were no objections to the proposal from the statutory authorities in this regard, and this adds weight to my opinion.
- 336) Many factors influence house price data. I am concerned over the robustness of the relationship between this analysis and regeneration, as it requires a stable catchment in terms of property types and sales volume to attempt to eliminate factors that are not connected with the prosperity of an area^{83 & 84}. I am not entirely convinced that it represents a suitable proxy for the effect of the incinerator on regeneration confidence. My concerns in this regard however do not change my opinions in relation to the proposal.
- 337) The proximity of the Sneinton and Midland Station CAs have been brought to my attention²¹⁹. The incinerator is not generally visible from the Sneinton CA due to topography and buildings in the vicinity of the CA. Where it is visible however, the proposed external refurbishment would have a positive effect in terms of its appearance⁷⁸. I therefore consider that it would preserve the character of the CA.
- 338) The incinerator is also not generally visible from the Midland Station CA due to buildings within the CA. It is however visible along the eastern edge of the CA. The increase in the size of the incinerator would however be minimal and barely noticeable in the industrial landscape. Moreover, the improvements to the exterior of the incinerator would have a positive effect and future buildings in the WRZ may offer some screening⁷⁸. I therefore consider that the proposal would preserve the character of the CA.

- 339) I therefore consider that the proposal would not have a harmful effect on the regeneration of the city as a whole. I further consider that it would thus not conflict with LP Policies ST1, ST3 and H2.

Sustainable Waste Management

- 340) I will firstly consider emerging local policy in relation to prematurity. Waste DPDs are being prepared by the Council. They are however at a very early stage in their preparation, and have been subject to delay¹³⁹. Indeed, in September 2006, on the previous planning application for an expansion at the incinerator, the Council's committee report suggested that prematurity did not have sufficient weight for it to be a material factor in the consideration of the application¹².
- 341) Since that time, delays have continued and in fact the lead in time to formal documents is now greater than it was in 2006¹⁴⁰. In such circumstances, to delay consideration of the proposal until emerging policy was clearer would amount to something of a policy vacuum. Slippage on the DPD programme should not lead to a moratorium on waste management infrastructure which would be contrary to national guidance. Indeed PS:GP suggests that, even at consultation stage on a DPD where there is no early prospect of submission for examination, refusal on grounds of prematurity would seldom be justified. In this case, with consultation only at an issues and options stage, it would be inappropriate to dismiss the appeal on grounds of prematurity.
- 342) I now turn to consider the waste hierarchy. The key planning objectives in PPS10 require planning authorities to drive waste management up the waste hierarchy, address waste as a resource and look to disposal as the last option. The waste hierarchy in PPS10 places energy recovery above disposal. The proposal reflects this approach in that energy recovery will be available and that the waste to be incinerated will arise from treated sources.
- 343) WS2007 clearly supports recovering energy from waste which cannot be sensibly reused or recycled and describes it as an essential component of a well balanced energy policy⁶¹. The proposal would follow this aim. It would also accord with SP Policy 2/15 which seeks to encourage the generation of renewable energy⁴⁵. NAIL has however expressed concern that the easier and possibly less costly option of incineration may attract untreated waste. Experience throughout the EU has shown however that high incineration and recycling rates go hand in hand⁶¹. Moreover, NCC supports the proposal pointing to a major shortfall in waste management capacity in the area¹⁴¹. The shortage of landfill capacity together with EU experience leads me to the view that the proposal would not be likely to undermine current or future waste management options further up the hierarchy. I am satisfied that the proposal relates to measures to deal with residual waste by moving it up the hierarchy resulting in landfill diversion. It also encompasses managing waste where it arises, bearing in mind that the co-location of waste management facilities is not possible on this constrained site.
- 344) The glossary for Climate Change Supplement to PPS1 identifies EfW as a renewable and/or low carbon energy supply⁶². It suggests that planning authorities should not require applicants to demonstrate either overall need for renewable or low carbon energy development, or the energy justification for its siting. Whilst the parties have considered the need argument in some detail, I

thus do not consider it to be relevant to this appeal. It is also not primarily a developer's responsibility to consider the potential for waste treatment higher in the waste management hierarchy. PPS10 clearly places this duty on regional planning bodies and planning authorities in terms of planning strategies. In this case, these support the proposal. The Supplement to PPS1 is also supportive of the proposal in terms of its potential for use of the energy generated via the DHS.

- 345) Policy 37 of the emerging RSS reflects PPS10 in terms of the waste hierarchy and suggests that a centralised pattern of large waste management facilities should be developed to serve the Three Cities sub area⁴⁴. The RSS also suggests that the cities themselves should provide the focus for future waste management infrastructure, to draw on the advantages of the close proximity of waste arisings. It supports increases in the capacity of existing sites where they would not significantly and adversely affect the environment and local communities. The proposal is compliant with these aspects of the emerging RSS. Furthermore, I have not seen any policy advice that would preclude the siting of a major EfW facility on the edge of a city centre¹⁶⁰.
- 346) The proposal would provide additional waste management facilities close to a significant source of arisings and on a site already allocated and in use for waste treatment. I have already found that it would not have a harmful effect on nearby regeneration and would result in the efficient use of land. The inclusion of visual improvements in the proposal would provide some benefit to the appearance of the surrounding area. I therefore consider that the proposal would accord with the aims of LP Policy ST1.
- 347) In terms of the existing RSS it is less specific than the emerging RSS, but Policy 38 also seeks to reduce the amount of waste sent to landfill. From all of the above points it can be seen that the proposal is compatible with the waste hierarchy as reflected in the various limbs of policy.
- 348) The appeal site is allocated for incineration in the WLP, and the proposal would result in the more efficient use of this land for its allocated purpose. I therefore can see no conflict with LP Policy ST2.
- 349) I therefore conclude that the proposal would be compatible with the aims of sustainable waste management. I further conclude that it would not conflict with local, regional and national policy in this regard.

Conditions and Obligation

- 350) A list of suggested planning conditions with accompanying reasons has been provided within the SoCG [CD17], should the Secretary of State wish to grant planning permission for the scheme. These have been agreed between the Council and the appellant with the exception of two conditions suggested by the Council. These aim to restrict the origin of incoming waste to within 35 miles of the facility, with no more than 50% from outside the Greater Nottingham area [Condition 2], and to regulate the timing of drainage, external treatment and lighting work [Condition 6].
- 351) The statements made by the appellant in relation to the 35 mile limit do not represent an acceptance by the appellant of a corresponding restriction on the scope of the application²³⁶. Indeed, to adopt such an approach would conflict with advice in PPS10 Companion Guide [para 6.46], which suggests that waste

planning authorities should not arbitrarily restrict the movement of waste across borders. This could be the case where material from outside any catchment area passes through a waste transfer station just inside the catchment. Such an approach would also conflict with one of the key planning objectives in PPS10 [para 3], that the delivery of planning strategies should encourage competitiveness. The EMRWS [CD45 pg 41 issue B] also recognises that flexibility is required to accommodate cross boundary flows. It does not support the suggested maximum of 50% from outside Greater Nottingham.

- 352) Article 5 of the WFD requires waste to be disposed of in one of the nearest appropriate installations. I am not convinced that this requirement supports the Council's suggested condition 2, as it does not apply to recovery, and disposal and recovery are identified individually in Article 4 and Annexes IIA and IIB. In my view, the proposal is recovery under Annex IIB, as the waste is principally used as a fuel and all gases pass through a boiler²⁵, notwithstanding the efficiency of the operation. Furthermore, PPS10 clearly distinguishes between energy recovery and disposal without referring to plant efficiency.
- 353) The restriction of a proportion of incoming waste to that from the Greater Nottingham area would conflict with the approach in the emerging RSS concerning the centralisation of larger facilities²³⁷. It would also conflict with the aim to focus waste management infrastructure on cities. The emerging RSS does not therefore support the Council's suggested condition.
- 354) I have not found any material harm that would result from the proposal. The Council's argument in the Inquiry that the facility should operate on a local and not regional basis due to its location does not therefore appear to be founded on any reasonable planning grounds. I have also not seen anything to suggest that the operation of the proposed facility as a merchant plant would harmfully change the character of the proposal. Moreover, I understand that no such restriction has been imposed on the existing facility.
- 355) The proposal would result in more of Nottinghamshire's waste being managed higher up the hierarchy and reduce pressure on landfill space which is in short supply within the county. There is nothing in the WLP however to suggest the degree by which an extended facility should contribute towards this aim, or indeed mention of any restriction on waste origin in relation to incineration at Eastcroft.
- 356) The existence of the WLP projections is not sufficient to outweigh the national guidance to which I have already referred²³⁸. The WLP therefore does not support the imposition of the Council's suggested condition and neither does the officers' advice to the Council's committee.
- 357) I cannot see how, bearing in mind current regulations, the suggested condition to restrict the origin of incoming waste would provide any necessary control over the movement of waste or prevent any harm arising from the proposal. The fact that the condition may not turn out to be a restriction on any proposed activities does not support its imposition. I also have concerns in relation to its enforceability where waste treatment has blended material from more than one source. In view of all of the above points, I do not consider that suggested condition 2 would be necessary or enforceable.

- 358) I cannot see any necessity for a floodlighting scheme, and therefore do not recommend that this part of the Council's suggested conditions 3 and 6 be imposed²³⁹.
- 359) The external treatment and lighting elements of the proposal are aesthetic, and I can see no reason to require them to be completed prior to commissioning trials²⁴⁰. I therefore recommend that the appellant's suggested condition be imposed.
- 360) I shall recommend the list of agreed conditions, taking into account the above comments and having regard to the advice in Circular 11/95. I have also amended the wording of some of the conditions in the interests of precision and enforceability. My recommended conditions are given in Appendix A.
- 361) I have already concluded that the plant should be considered as a recovery operation, notwithstanding the efficiency of its operation, and I can therefore see no necessity for a condition to require the proposed plant to meet a specific level of efficiency²⁴¹.
- 362) I am satisfied that the waste type which can be accepted by the proposal can be controlled by the Environmental Permit²⁴². Circular 11/95: The Use of Conditions in Planning Permissions also warns that a condition which duplicates the effect of other controls will normally be unnecessary. I can therefore see no necessity for a condition to ensure that only residual waste is incinerated.
- 363) I have seen no evidence that any additional hours over that operated by the current facility, in terms of on or offsite activities, would have a harmful effect on any interests of acknowledged importance²⁴². I therefore consider that a condition to restrict operating hours would be unnecessary.
- 364) There was no disagreement between the appellant and the Council at the Inquiry that the provisions of the submitted Unilateral Planning Obligation are in line with the requirements of policy²⁴³. Furthermore, no issues were raised in relation to the party that had provided the obligation. It seems to me that the obligation meets the tests of Circular 5/05, in that its provisions are necessary to enable the development to proceed and that they are reasonable in relation to the development both in nature and scale.

Summary and Recommendation

- 365) I therefore conclude that the proposal would not have a harmful effect on the regeneration of the Southside, Eastside and Waterside Regeneration Areas and the city as a whole. I further conclude that it would thus not conflict with the LP and other local guidance to which I have been referred.
- 366) I also conclude that the proposal would be compatible with the aims of sustainable waste management. I further conclude that it would thus not conflict with the development plan and emerging planning policies to which I have been referred together with relevant national guidance.

367) I have taken into account all other matters raised, but none carry sufficient weight to alter my conclusions. I therefore recommend that the appeal should be allowed and planning permission granted subject to the conditions listed in Appendix A.

Stephen Roscoe

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Price-Lewis	QC, instructed by Addleshaw Goddard LLP
Mr S Morgan	Of Counsel, instructed by Addleshaw Goddard LLP
He called	
Mr P Andrews BEng(Hons) MIOd	Waste Recycling Group Ltd, Ground Floor West, 900 Pavilion Drive, Northampton Business Park, Northampton NN4 7RG
Mr A Bell BA(Hons) MSc	Technical Director, Axis, Camellia House, 76 Water Lane, Wilmslow, Cheshire SK9 5BB
Mr S Othen MEng(Hons) CEng MChemE	Technical Director, Fitchner Consulting Engineers Ltd, Kingsgate (Floor 3), Wellington Road North, Stockport, Cheshire SK4 1LW
Mr J Mason BSc(Hons) GDip(LandArch) CMLI	Technical Director, Chester Enterprise Centre, Hoole Bridge, Chester, Cheshire CH2 3NE
Prof J Bridges	Emeritus Professor of Toxicology and Environmental Health, University of Surrey, Research for Sustainability, Liddington Lodge, Liddington Hall Drive, Guildford GU3 3AE
Mr G McMorran BA(Hons) PgDip(Arch) CArch RIBA	Technical Director, RPS Newark, Sherwood House, Sherwood Avenue, Newark, Nottinghamshire NG24 1QQ
Mr A Hunt BSc MEcon FRSA	Director, Hunt Dobson Stringer, 9 Marshalsea Road, London SE1 1EP
Mr N Roberts BA(Hons) CMLI	Director, Axis, Camellia House, 76 Water Lane, Wilmslow, Cheshire SK9 5BB

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Hobson	QC, instructed by Mr M Townroe, Solicitor for the Council, Nottingham City Council
He called	
Mr S Neville BA(Hons)	Head of Planning Services, Nottingham City Council, Exchange Buildings, Smithy Row, Nottingham NG1 2BS
Ms N Galley BA MA MPhil MRTPI	Partner, Roger Tym and Partners, 3 Museum Square, Leicester LE1 1LB

FOR NOTTINGHAM AGAINST INCINERATION AND LANDFILL:

Mr N Lee 74 Ash View, Nottingham NG7 3BY
Mr J Beresford 69 Hobsic Close, Brinsley, Nottinghamshire NG16
5AX

Who gave evidence themselves and called

Mr J Rhodes Development Director, Trent Park Developments
Ltd, Rufford Hall, Waterside Way, Trent Park,
Nottingham NG2 4DS
Mrs C Boulghassoul 1 Shelford Rise, Sneinton, Nottingham NG3 7DS
Mrs K Brennan 33 Balmoral Road, Colwick NG42 2GF

INTERESTED PERSONS:

Mrs H Silvester BA FRSA Nottingham Civic Society, 22 Wheatfields Road,
Thorneywood, Nottingham NG3 2PQ
Ms R Rothera 83 Birrell Road, Forest Fields, Nottingham
Mr D Boulghassoul 1 Shelford Rise, Sneinton, Nottingham NG3 7DS
Ms S Huntingford 25 Lichfield Road, Sneinton, Nottingham
Mr D Parker 25 Lichfield Road, Sneinton, Nottingham
Mrs A Lee 2 Douglas Crescent, Nottingham NG4 1AN
Mrs S Scargill 29 Lichfield Road, Sneinton, Nottingham
NG2 4GF
Mr G Fenoulhet Walker 10 Campbell Grove, Nottingham NG3 1HA
Cllr R Mallender 135 Trent Boulevard, West Bridgford,
Nottingham NG2 5BN
Mrs M Dakin-Price 37 Chaworth Road, West Bridgford, Nottingham

DOCUMENTS

General

- G1 Lists of persons attending the Inquiry
- G2 Letter of notification of the Inquiry
- G3 Letters from interested persons

Core Documents

Documents Relating to the Current Application on Appeal

- CD1 Application for planning permission submitted to Nottingham City Council on 6 August 2007
- CD2 Bundle of Application Plans Including Amended Plans
- CD3 Design and Access Statement
- CD4 Supplemental Design and Access Statement
- CD5 Planning Supporting Statement
- CD6 Planning Application Appendices
- CD7 Environmental Statement Volume 1
- CD8 Environmental Statement Volume 2: Technical Appendices
- CD9 Environmental Statement Volume 3: Non-Technical Summary
- CD10 Environmental Statement: Other Information Submitted on 23 June 2008
- CD11 Appeal Submitted by Waste Recycling Group Limited on 17 December 2007
- CD12 Report of the Director, Planning and Transport Strategy to the Development Control Committee on the Eastcroft Energy from Waste Facility for the 20 February 2008 Committee Meeting
- CD13 Nottingham City Council Development Control Committee Report Addendum dated 20 February
- CD14 Local Authority Consultation Responses Comprising:
 - Nottingham City Council Highways Department dated 16 August 2007
 - Severn Trent Water dated 23 August 2007
 - East Midlands Regional Assembly dated 30 August 2007
 - English heritage (East Midlands Region) dated 11 September 2007
 - Newark and Sherwood District Council dated 13 September 2007
 - Gedling Borough Council dated 13 September 2007
 - Nottingham Against Incineration and Landfill (NAIL) dated 13 September 2007
 - Nottingham Friends of the Earth dated 14 September 2007
 - Nottingham County Council dated 5 October 2007
 - Environment Agency dated 11 October 2007
 - Nottingham Regeneration dated 15 October 2007
 - Derbyshire County Council dated 15 November 2007
 - Northamptonshire County Council dated 15 November 2007

Document Relating to the Withdrawn Application

- CD15 Report of the Services Director, Planning, Transport and Highways to the Development Control Committee on the Proposal for the Extension of the Eastcroft Energy from Waste Facility dated 20 September 2006

General Documents

- CD16 Rule 6 Statements from:
Waste Recycling Group Limited
Nottingham City Council
NAIL
Representations from Other Parties (who are not Rule 6 Parties)
- CD17 Statement of Common Ground
- CD18 Nottingham City Council Resolution on Climate Change dated 22 May 2007
- CD18A Nottingham City Council Executive Board dated 20 November 2007 Concerning a Loan for the District Heating Scheme
- CD19 Nottingham City Council letter dated 11 December Advising of Delays in the preparation of the Waste Core Strategy
- CD19A Report to the Joint Committee on Strategic Planning and Transport dated 14 March 2008
- CD20 Nottingham City Council letter dated 2 July Advising of Delays in the preparation of the Waste Core Strategy
- CD21 Waste Local Plan Monitoring Report 2004
- CD22 Waste Development Framework Annual Monitoring Report (AMR) December 2007
- CD23 Government Office of the East Midlands letter dated 21 September 2007 Saving Policy W6.1 in the Nottingham and Nottinghamshire Waste Local Plan
- CD24 PPC Permit No. EP3034SN for the Eastcroft Facility
- CD25 Report of the Health Impact Assessment of the Proposed expansion to the Incinerator at Eastcroft by the Nottingham Health Action Team dated March 2006
- CD26 One Nottingham One Plan – The Community Plan 2006-2009
- CD27 Nottingham City Council Corporate Plan 2006-2011
- CD28 Nottingham City Council Corporate Plan Addendum
- CD29 The Indices of Deprivation 2007, Compendium of Results for Nottingham City

Policy Documents

National Policy Documents

- CD30 Planning Policy Statement 1: Delivering Sustainable Development
- CD31 Planning Policy Statement 1: Planning and Climate Change Supplement to Planning Policy Statement 1 (December 2007)
- CD32 Draft Planning Policy Statement 4: Planning for Sustainable Economic Development
- CD33 Planning Policy Statement 10: Planning for Sustainable Waste Management (July 2005)
- CD34 Planning Policy Statement 10: Companion Guide
- CD35 Planning Policy Guidance Note 13: Transport
- CD36 Planning Policy Statement 22: Renewable Energy (2004)
- CD37 Planning Policy Statement 23: Planning and Pollution Control
- CD38 Energy White Paper: Meeting the Energy Challenge (May 2007)
- CD39 Waste Strategy for England 2007
- CD40 Guidelines for Traffic Impact Assessment: The Institution of Highways & Transportation (IHT) September 1994
- CD41 Guidance on Transport Assessment: Department for Transport (DfT) March 2007
- CD42 Guidelines for the Environmental Assessment of Road Traffic: Institute of Environmental Assessment (IEA) 1993

Regional Policy Documents

- CD43 Regional Spatial Strategy 8 for the East Midlands
- CD44 Draft East Midlands Regional Plan: Consultation Draft and the Report of the Panel Following the Examination in Public of the Draft Regional Spatial Strategy for the East Midlands (November 2007)
- CD44A East Midlands Regional Plan: Proposed Changes (July 2008)
- CD45 East Midlands Regional Waste Management Strategy (January 2006)
- CD46 Waste Planning Guidance for the East Midlands Regional Assembly (SLR Consultants, August 2006)

Local Planning Documents

- CD47 Nottingham Local Plan (November 2005)
- CD48 Nottingham and Nottinghamshire Waste Local Plan (Adopted January 2002)
- CD49 Nottingham and Nottinghamshire Structure Plan (February 2006)
- CD50 Nottinghamshire and Nottingham Waste Core Strategy and Development Control Policies: Issues and Options
- CD51 Waterside Regeneration Interim Planning Guidance (November 2001)
- CD52 Southside Regeneration Interim Planning Guidance (July 2003)
- CD53 Eastside Regeneration Area Interim Planning Guidance (June 2004)

Other Policy Documents

- CD54 UK Renewable Energy Strategy: Consultation, Department for Business, Enterprise and Regulatory Reform (June 2008)
- CD55 Development of a Regional Waste Strategy for the East Midlands: Final Technical Report (as referred to in RSS8), Land Use Consultants & SLR Consulting Limited (January 2003)
- CD56 Air Quality Action Plan for Rushcliffe, Rushcliffe Borough Council (May 2007)
- CD57 Local Air Quality Management: Detailed Assessment, Consultation Document, Nottingham City Council (May 2008)
- CD58 Protocol for handling proposals to save adopted Local Plan, Unitary Development Plan and Structure Plan policies beyond the three year saved period: Department for Communities and Local Government: August 2006

Documents Submitted by the Appellant

- PA1 Proof of Evidence of Mr P Andrews
- PA2 Appendix 1 of Mr P Andrews
- PA3 Appendix 2 of Mr P Andrews
- PA4 Summary of Proof of Mr P Andrews
- PA5 Errata, Rebuttal and Supplementary Evidence of Mr P Andrews

- AB1 Proof of Evidence of Mr A Bell
- AB2 Appendices to Proof of Evidence of Mr A Bell
- AB3 Figures of Mr A Bell
- AB4 Summary of Proof of Mr A Bell
- AB5 Rebuttal Evidence of Mr A Bell

- SO1 Proof of Evidence of Mr S Othen
- SO2 Appendices to Proof of Evidence of Mr S Othen
- SO3 Summary of Proof of Mr S Othen
- SO4 Rebuttal Proof of Evidence of Mr S Othen

- JB1 Proof of Evidence of Prof J Bridges
- JB2 Summary of Proof of Prof J Bridges
- JB3 Rebuttal Evidence of Prof J Bridges
- JB4 Appendices to Proof of Evidence of Prof J Bridges

- GM1 Proof of Evidence of Mr G McMorran
- GM2 Appendices to Proof of Evidence of Mr G McMorran
- GM3 Summary of Proof of Mr G McMorran

- JM1 Proof of Evidence of Mr J Mason
- JM2 Appendices to Proof of Evidence of Mr J Mason

AH1	Proof of Evidence of Mr A Hunt
AH2	Appendices to Proof of Evidence of Mr A Hunt
AH3	Summary of Proof of Mr A Hunt
AH4	Supplementary and Rebuttal Proof of Evidence of Mr A Hunt
NR1	Summary and Full Proof of Evidence of Mr N Roberts
NR2	Appendices 1-3 to Proof of Evidence of Mr N Roberts
NR3	Appendices 4-7 to Proof of Evidence of Mr N Roberts
NR4	Supplementary and Rebuttal Proof of Evidence of Mr N Roberts
WRG1	Appearances List
WRG2	Opening Submissions
WRG3	Mr A Hunt's Note on NAIL rebuttal
WRG4	Mr P Andrews' Note on Arlington
WRG5	Eastcroft Community Liaison Group Note
WRG6	Mr P Andrews' Errata to Evidence in Chief
WRG7	Mr S Othen's Additional Information on Air Quality Impacts
WRG8	Mr A Bell's Errata to Evidence
WRG9	Mr S Othen's Errata to Evidence
WRG10	Mr S Othen's Further Information
WRG11	Prof J Bridges' Note on NAIL Concerns
WRG12	Mr A Hunt's Note on NCC/02
WRG13	Mr A Hunt's Errata to Evidence
WRG14	Mr N Roberts' 30 July 2008 letter to Mr M Senior at Nottingham City Council
WRG15	Mr N Roberts' Note on Matters Raised in First Week of Inquiry
WRG16	Mr G McMorrans' Errata to Evidence
WRG17	Mr N Roberts' Errata to Evidence
WRG18	WRG Note on Downtime, Bottom Ash and Duct Cleaning
WRG19	Mr A Hunt's Note on House Price Data
WRG20	Consultants' Address List
WRG21	Mr A Hunt's Note on SELCHP
WRG22	Mr A Hunt's Note on Index of Multiple Deprivation
WRG23	Agreed Note on House Price Data
WRG24	WRG Response to NAIL/04
WRG25	Response to Derby and South Derbyshire Friends of the Earth
WRG26	Liaison Group Additional Condition
WRG27	Nottingham Civic Society Website Extract
WRG28	Response to Derby and South Derbyshire Friends of the Earth Closing
WRG29	NCC and NAIL Conditions
WRG30	Proposed Amended Condition 6
WRG31	Unilateral Planning Obligation given by WasteNotts (Reclamation) Limited to Nottingham City Council dated 22 September 2008
WRG32	Closing submissions on behalf of the appellant

Documents Submitted by the Council

SN1	Proof of Evidence of Mr S Neville
NG1	Proof of Evidence of Ms N Galley
NG2	Appendices to Proof of Evidence of Ms N Galley
NG3	Decisions Notices of Ms N Galley
NG4	Summary of Proof of Ms N Galley
NCC1	Nottinghamshire County Council 3 September 2008 Letter to Nottingham City Council
NCC2	Ms N Galley Note on House Prices in Postcodes Around the Incinerator
NCC3	Ms N Galley Note on the Use of the Index of Multiple Deprivation
NCC4	Note on 68 London Road Proposal
NCC5	Ms N Galley Note on Other Incinerators Cited as in or Near Other Town/City Centres
NCC6	Council's Witness List
NCC7	Council's Opening Statement
NCC8	Extended Island Site Note
NCC9	Eastcroft Depot and City Centre Relationship Note
NCC10	Council's "The Big Track" Leaflet
NCC11	Former Fruit and Vegetable Market Location Extract from Local Plan
NCC12	Closing submissions on behalf of the Council

Documents Submitted by NAIL

N1	Case Against Expansion of Eastcroft Incinerator
N01	Professor Bridges' Evidence Supplementary Note
N02	Paul Andrews' Evidence Supplementary Note
N03	Stephen Othen's Additional Information Climate Change Emissions Supplementary Note
N04	Mr J Beresford's Additional Statement
N05	Mrs K Brennan Additional Statement
N06	Mrs C Boulghassoul Supplementary Note
N07	Mr J Rhodes Supplementary Note
N08	Closing Statement

Other Documents

O1	Derby and South Derbyshire Friends of the Earth Statement
O2	Derby and South Derbyshire Friends of the Earth Additional Statement
O3	Nottingham Civic Society Statement
O4	Derby and South Derbyshire Friends of the Earth Closing Statement
O5	Mrs M Dakin-Price Statement

APPENDIX A

LIST OF RECOMMENDED PLANNING CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) No development shall take place until details of the following, to be provided as part of the development hereby permitted, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
 - a) Colours and materials of the proposed cladding, and the external treatment and enclosure of existing and proposed buildings and structures.
 - b) External lighting.
 - c) Surface and foul water drainage.
 - d) Construction techniques or methodology, including management control measures, to minimise noise and dust emissions during the construction period and to ensure that there will be no adverse effect on breeding birds.
 - e) A soft landscaping scheme, including planting plans and schedules of plants noting species, plant sizes and numbers or densities.
- 3) The development hereby permitted shall not be used until the approved surface and foul water drainage works have been completed. The development hereby permitted shall not be used, other than for the purpose of commissioning trials, until the following have been completed.
 - a) The approved proposed cladding, and the external treatment and enclosure of existing and proposed buildings and structures.
 - b) External lighting.
- 4) No development shall take place until details of the following, to be provided as part of the development hereby permitted, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
 - a) Parking arrangements for construction staff, to be retained throughout the construction period.
 - b) A travel plan: for the management and use of construction and staff vehicles travelling to and from the site, in order to minimise car use for travel to and from work; to encourage construction staff working within the development to use alternative transport modes to the private car; and to avoid queuing vehicles and associated congestion from vehicles entering and leaving the site.
- 5) The soft landscaping scheme shall be carried out during the first planting and seeding season following the completion of the development. Any trees which die, are removed or become seriously damaged or diseased within five years shall be replaced in the next planting season with others of a similar size, unless the local planning authority agrees in writing to any variation.

- 6) Energy shall be recovered from the incineration of waste in the development hereby permitted.
- 7) No development shall take place until a local liaison panel has been established in accordance with details to be submitted to, and approved in writing by, the local planning authority. The details shall include terms of reference and frequency of meetings of the panel. The panel shall meet in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASONS FOR CONDITIONS

- 1 To comply with the requirements of Section 91(1)(a) of the 1990 Town and Country Planning Act.
- 2 To protect the character and appearance of the surrounding area, the living conditions of nearby residents, the natural environment and the area from flooding.
- 3 To protect the character and appearance of the surrounding area and the area from flooding.
- 4 In the interests of sustainable development and highway safety.
- 5 To protect the character and appearance of the surrounding area.
- 6 In the interests of sustainable development.
- 7 To protect the living conditions of nearby residents.