

V/11.4

Steven Kosky BA (Hons) Dip TP MRTPI

PLANNING

**SUPPLEMENTARY PROOF OF EVIDENCE  
(INCLUDING REBUTTALS)**

Application by **VEOLIA ES HERTFORDSHIRE LIMITED**

For a recycling and energy recovery facility for the treatment of municipal (including healthcare), commercial and industrial waste together with ancillary infrastructure including bulking transfer facilities administration/visitor centre, landscaping, habitat creation, drainage and highway improvement works

AT

Land at New Barnfield, Travellers Lane, Hatfield, Hertfordshire

Call-In Public Inquiry

Planning Inspectorate Reference: APP/M1900/V/13/2192045

**SUPPLEMENTARY PROOF OF EVIDENCE OF  
STEVEN KOSKY BA (Hons) Dip TP MRTPI**

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## **1.0 SCOPE OF SUPPLEMENTARY EVIDENCE AND REBUTTALS**

1.1 This supplementary proof has been produced in response to the publication of the consultation draft Waste Management Plan for England July 2013 and the consultation draft revisions to PPS 10, both of which post-date the submission of my main proof.

1.2 A rebuttal element is also incorporated within this supplementary proof of evidence and responds to the issues raised in the proofs of Anthea Hoey, Tony Fletcher, Simon Chivers (Welwyn Hatfield Borough Council) and Paul Zukowskyi (New Barnfield Action Fund) respectively.

1.3 With regard to the proof of Anthea Hoey, I respond to the following issues:

- Choice of site and justification for a single site solution
- Critique of the Veolia ASA

1.4 With regard to the proof of Tony Fletcher, I respond to the following issues:

- The position of the RERF in the Waste Hierarchy
- The scale and size of the facility

1.5 With regard to the proof of Simon Chivers, I respond to the following issues:

- Consistency with the Development Plan
- Green Belt Issues
- The Planning Balance

1.6 With regard to the proof of Paul Zukowskyi, I respond to the following issues:

- The need for the RERF
- Sustainability

## **2.0 THE WASTE MANAGEMENT PLAN FOR ENGLAND 2013**

- 2.1 The Draft Waste Management Plan for England (WMPE) reaffirms government support for anaerobic digestion and other recovery. The relevant paragraphs under 'Other Recovery' on page 11 (paragraphs are not numbered) reiterates advice found in the recent 2013 DEFRA guide on Energy from Waste (CD/E7) that the Government supports efficient energy recovery from residual waste from materials which cannot be reused or recycled, to deliver environmental benefits, reduce carbon impact and provide economic opportunities.
- 2.2 The RERF proposed at New Barnfield will represent a highly efficient energy recovery system and will deliver the above wider environmental benefits as envisaged by the WMPE.

## **3.0 UPDATED DRAFT PPS 10**

- 3.1 The primary rationale of the updated PPS is to streamline the policy in line with the NPPF (Paragraph 13). The updated policy follows a similar structure to that of the existing PPS 10 and Appendices A and B largely carry over from the existing formats currently found in PPS 10 (Paragraph 13).
- 3.2 A proposed policy change of relevance to the proposals is found at Paragraph 27 in relation to the Green Belt. The updated policy proposes to remove the current reference in PPS 10, whereby under national policy, waste planning authorities are to give significant weight towards locational needs and wider environmental and economic benefits when considering waste applications in the Green Belt. These considerations will now only carry the same weight as other considerations when planning applications for new waste development are decided by waste authorities.
- 3.3 However, applications for facilities within the Green Belt will still need to be considered on their own merits, having regard to the local waste plan and other material considerations. The revised policy also makes clear that the weight to be given on particular planning considerations is for the decision maker, subject to the circumstances of each particular case.

- 3.4 My interpretation of this revision is that whilst the advice in relation to increased weighting for locational needs and the wider environmental and economic considerations, relative to other considerations, is proposed to be removed at the national policy level, the weight to be given to locational needs and the wider environmental and economic benefits at the local level, remains with the decision maker, having regard to the specific circumstances of the case and other material considerations.
- 3.5 Accordingly, with regard to the New Barnfield proposals, the locational needs of this proposal remain highly material at the local level, notwithstanding the proposed policy revision at a national level, given the lack of more suitable and available alternatives and the urgent need for a more environmentally sustainable waste management solution for Hertfordshire.
- 3.6 My proof addresses the overall planning balance in Section 11 (the concluding section) and, taking into account the recent PPS 10 update I remain of the view that the specific circumstances of this case indicate that even if only due weight is given to locational needs and wider environmental benefits, when considering a Green Belt site, rather than significant weight, the overall balance of this particular case, still substantially weighs in favour of planning permission being granted for the proposals, given the local circumstances.
- 3.7 I reach this conclusion based on the weight of relevant national guidance in favour of more sustainable waste management and increased energy supply from renewable and low carbon energy sources, a quantifiable and urgent need for a deliverable waste treatment facility in Hertfordshire, a lack of viable and deliverable alternatives, the specific circumstances of the existing developed site and the contribution to renewable energy and climate change considerations at the local level.
- 3.8 These matters all constitute the very special circumstances, which on balance, indicate that permission should be granted.

## 4.0 REBUTTAL OF THE EVIDENCE OF ANTHEA HOEY (AH)

### Choice of Site and Justification for a Single Site Solution

- 4.1 Paragraph 2.10 of AH's evidence incorrectly refers to paragraph 157 of the DEFRA guide (CD-E7) which relates to procurement. I address here paragraph 154 of the guide, from where the quotes used by AH are in fact taken. Primarily, AH asserts that *'none of the locationally specific justifications for larger plants set out in this paragraph apply to the New Barnfield proposal'*. The partial quote from paragraph 154 is however used out of context in relation to New Barnfield.
- 4.2 The use of a larger scale facility at New Barnfield will bring greater efficiency to the treatment of waste in Hertfordshire and provide economies of scale over that of a dispersed network of smaller facilities, as recognised by paragraph 154 of the guide. The text which recognises the efficiency and economies of scale of larger plants is not highlighted or disputed by AH and no evidence is advanced by AH that the proposed RERF would not have these benefits.
- 4.3 The DEFRA (P.154) text which is highlighted by AH, preceded by the use of 'justifications' in her evidence, implies that larger facilities are not appropriate, *unless* dedicated rail heads can be supported and large heat customers are available. This is however an incorrect interpretation, as these matters are not required as 'justifications' as AH infers, rather they are a recognition by DEFRA of the potential benefits, likely to be associated with larger waste schemes. Notwithstanding, the inability to support a dedicated rail head, it is readily apparent from the site context that there *are* potential large heat customers proximate to the New Barnfield site, as discussed in my main proof, which is exactly why the facility is designed to be built as 'CHP ready' from the outset.
- 4.4 Furthermore, no reference is made in AH's proof to the remainder of the quote taken from paragraph 154 of the guide which emphasises the importance of getting the size of plant right, which *'is a key part of the debate and should not be ignored, but an overemphasis of restricting facilities to local waste ...*

*and the quantities that this implies, can lead to sub-optimal solutions in terms of cost efficiency and environmental impact.'*

- 4.5 The New Barnfield proposals have been conceived to be the optimal solution for the future management of Hertfordshire's waste, but will not deal with the total quantum of waste capacity shortfall envisaged by the plan, thereby requiring a range of other complementary treatment options to come forward during the plan period, i.e. there will not be any 'crowding out' as suggested. The proposals are also consistent with the approach in WCS Policy 6.

### **Critique of the Veolia ASA**

- 4.6 The proof of AH raises numerous criticisms in relation to the scoring rationale of the submitted ASA which are dealt with below. I however wish to deal first with matters of general principle and the legislative context, within which the submitted ASA was prepared and the following rebuttals are made.
- 4.7 The Environmental Impact Assessment Regulations 2011 do not impose any duty on applicants to identify alternative sites for the development proposed. However where alternatives have been considered by applicants, the Regulations require an outline of the main alternatives studied and an indication of the main reasons for the choice made, taking into account the environmental effects. This is the general context within which the ASA was undertaken for the submitted RERF and the PIN's review of the overall alternatives exercise for the purposes of this Inquiry has rated the applicant's assessment of alternatives as **Grade A**.
- 4.8 Town Planning legislation seeks the attainment of an acceptable use of land, with applications for planning permission determined in accordance with the development plan, unless material considerations indicate otherwise. However nothing exists within existing planning legislation, which requires applicants to undertake limitless searches for alternative sites, or evaluate alternative development strategies, to prove that their application site is the *best site available* for a proposed development.

- 4.9 This principle was endorsed by the Inspector in the *Ince Marshes* case (CD/F14) whereby the Inquiry Inspector determined:

*'it is not the intention of either national or regional policy that the promoter of a scheme for waste management facilities should be required to undertake an exhaustive search of all potential alternative sites to establish that there is none sequentially preferable'.*

- 4.10 Accordingly, there is no requirement within relevant legislation to investigate a completely different scale of development to that proposed or to have to assess an alternative development scenario (as AH's evidence implies) when evaluating the capacity and suitability of a given alternative site. Indeed, guidance within NPS EN-1(CD/D3) suggests the opposite.

- 4.11 Paragraph 4.4.1 of EN-1 makes clear that the relevance of the existence (or the alleged existence) of alternatives is a matter of law and beyond the scope of the NPS. However from a policy perspective the NPS is clear in that EN-1 *'does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option'.*

- 4.12 Paragraph 4.4.3 of EN-1 requires that where undertaken, considerations of alternative sites should be *'carried out in a proportionate manner' (first bullet)*. Where alternatives are considered the IPC (now PIN's) *'should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale as the proposed development' (second bullet)*.

- 4.13 The third bullet from this paragraph also raises an important point in that an application for development should not be rejected on one site *'simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site, and it (PIN's) should have regard as appropriate to the possibility that all suitable energy infrastructure of the type proposed may be needed'...* This principle is also reflected in WCS Policy 6(vi) whereby the wider economic and environmental benefits of sustainable waste



management and the need for a range of sites, is one of the criteria that will be taken into account as material considerations in the determination of applications for new waste management facilities in the Green belt.

- 4.14 The sixth bullet from paragraph 4.4.3 identifies that where alternative sites are proposed that mean the necessary development could not proceed, e.g. because the proposals are not commercially viable, or physically suitable, they '*can be excluded because they are not important and relevant.....*'
- 4.15 Similarly, the seventh bullet of 4.4.3 states that alternative proposals '*which are vague or inchoate can be excluded on the grounds that they are not important and relevant*'. Importantly, the final bullet from paragraph 4.4.3 makes clear that where an alternative is put forward by a third party after an application has been made, the onus is on those proposing the alternative '*to provide the evidence for its suitability*' and (PIN's) '*should not necessarily expect the applicant to have assessed it*'.
- 4.16 It is within the context of the above NPS, which is a material consideration in the determination of the RERF application, that the following specific rebuttals to the evidence of AH, in relation to the ASA, are made:

**Paragraph 5.9**

- 4.17 It is not accepted that the site selection exercise was undertaken 'back to front'. The Ince Marshes decision (CD/F14) shows that the applicant was under no obligation to undertake a sequential test to determine the best site option relative to the emerging WCS, nor to provide, in isolation, the network of facilities envisaged by the WCS. However what was important was that any application proposed did not crowd out or prejudice the potential for such a network to come forward. The evidence in my main proof shows that the application does not prejudice the delivery of such a network of facilities.

**Paragraph 5.10**

- 4.18 It is not accepted that the site ASA was flawed because its main objective was to compare alternative sites capable of accommodating a similar scale of development to that proposed. There was no legislative or policy requirement

upon the applicant to sub-divide the proposals into a series of smaller facilities in an attempt to 'make suitable' sites that were subsequently shown to not be suitable for the development as proposed (Paragraph 4.4.3 of EN-1, First Bullet refers).

- 4.19 The issue of multiple sites is addressed by the WPA in the Committee Report (CD/B1) wherein it is noted that given the urgent need for a waste treatment facility in Hertfordshire for LAC waste, an approach based on two or more sites would risk delivery, as this approach presents greater uncertainty and involves more landowners and other site specific issues to address.
- 4.20 Furthermore the timing of the delivery of the overall net capacity required by the multiple applications would be tied to the timing of the most 'difficult' site coming forward. Other issues of relevance are that the RERF as proposed would not be possible without the economies of scale and the logistical benefits that a single large facility provides.
- 4.21 In addition two facilities, of say 200,000 tonnes throughput capacity each, would not be materially smaller in terms of height and land take than the single facility proposed, due to the nature of the technologies involved and cumulatively would occupy a larger area, albeit dispersed across two sites.
- 4.22 In summary, to make a materially smaller ERF facility, the annual throughput would need to fall considerably below 100,000 tonnes, with the MBT component requiring its own site central to a network of up to four facilities. The risks to achieving coordinated delivery of such a multifaceted approach are obvious and it is not commercially viable.

**Paragraph 5.14**

- 4.23 It is not accepted that all Employment Land Areas of Search (ELAS) were automatically required to be included in the ASA. The exercise was to assess individual sites, capable of accommodating a large thermal treatment facility, rather than test generic waste search areas per se, which was considered too vague an exercise if no specific site had been identified. Those ELAS's which

were assessed were done so on the basis that a potential site existed (or in the case of Maylands, had recently existed) within them. For those ELAS's which were not assessed in the ASA this was because no specific site of sufficient size could be identified to input into Stage 1 of the ASA, due to the existing site coverage (the final bullet to Paragraph 4.4.3 of EN-1 is also relevant here).

### **Paragraph 5.15**

- 4.24 It is not accepted that the ASA methodology treats Green Belt sites on a completely equal par with brownfield sites, as sites are scored down for being in the Green Belt, for having good agricultural land quality and having no previous development upon them. In addition, sites are also marked down if they are not allocated and are remote from CHP supply opportunities.
- 4.25 On this basis, the maximum overall score that could be obtained by an urban site would be 78 (26 x 3). However the maximum score achievable by an unallocated, undeveloped green belt site, with an agricultural land quality of say 3 or above, is only 70, as it would achieve only the minimum score in each of these criteria (and reduced to 68 if there was also no CHP potential).
- 4.26 Accordingly, there is an effective weighting of approximately 10% in favour of urban sites over high quality Green Belt sites. However, the reason that New Barnfield scores well in the ASA is that it is an allocated site, it has major development upon it, it does not involve the loss of high quality agricultural land and potential CHP customers are adjacent. These are uncharacteristic attributes for most Green Belt sites, hence a higher score.
- 4.27 It should also be emphasised that the ASA is not a planning appraisal of what sites should or should not be developed. It is a comparative exercise, to provide reasons for the choice made, taking into account the environmental effects, in the context of the requirements of the Environment Regulations. Hence the emphasis in the ASA on mainly comparing relative environmental proximity between sites and making limited judgements on deliverability.

4.28 Accordingly, it is not the role of the ASA exercise to demonstrate very special circumstances in order to justify the score achieved by New Barnfield in the assessment.

4.29 The judgement of whether very special circumstances exist is for the decision maker to assess in the weighing of the overall planning balance to which the results from the ASA are a material consideration.

**Paragraphs 5.26 / 5.27**

4.30 It is not accepted that the New Barnfield site is not a major developed site. Whilst it may not be as 'major' as some of the other industrial examples cited in the proof of AH, the test is not one of a scale comparison with the most developed site that AH can identify. Welwyn Hatfield BC is the authority which designated New Barnfield as a Major Developed Site, with all the further infill (Policy RA5) and redevelopment potential (Policy RA6) that this designation provides, due to the large extent of existing development within the site. The fact that other major sites can also be identified with even more development upon them is completely irrelevant to the ASA exercise.

**Paragraph 5.28**

4.31 It is not accepted that proximity to Groundwater Source Protection Zone is an irrelevant scoring criterion, on the basis that '*this factor can be easily mitigated*'. Primarily, the protection of water resources is a criterion identified in Annex E of PPS 10 (CD/D2) and is judged to be important (it is therefore retained in the Consultation Draft). The assertion that groundwater sensitivity can be easily mitigated is also a very sweeping statement and does not take into account the viability of doing so on a given site.

4.32 In addition, many of the individual criteria provided in the ASA are similarly capable of mitigation (such as the shared access with Southfield School) but specific mitigations on specific sites require detailed analysis which is beyond the scope of the ASA to assess. Therefore, where impacts are identified on a given criterion they are scored accordingly rather than being used in isolation to exclude a site from Stage 2.

**Paragraph 5.30**

- 4.33 It is not accepted that the CHP criterion is meaningless, just because none of the sites in the ASA are immediately adjacent to a future development area. The Trafford Biomass call in application (CD/F9) endorsed the principle of 'CHP readiness' and later retrofitting as a legitimate planning merit and sites assessed in the ASA are scored according to the practical feasibility of supplying heat should an RERF come forward on the assessed site.

**Paragraph 5.32**

- 4.34 With regard to the critique of the Stage 3 analysis, numerous erroneous assertions are made which are not accepted. Firstly, the fact that two higher scoring sites than New Barnfield are located in Bedfordshire, does not *'distort the formation of quartiles further down the range'*.
- 4.35 These sites were properly assessed in the interests of making the exercise as robust as possible by not limiting the exercise solely to Hertfordshire. However, if the site search had been limited to Hertfordshire, the range of scores, and hence the quartiles, would not have been materially different as both the highest score and the lowest score were recorded in Hertfordshire. The net effect would have been simply slightly fewer sites in each quartile. However New Barnfield would also have been the second highest scoring site after Maylands, which is not available.
- 4.36 Secondly, it is asserted by AH that opportunities were missed to 'reserve' sites at an earlier date following the Buncefield Oil Depot fire. However the Buncefield fire occurred in 2005, long before Veolia were invited to submit a design solution (ISDS) for the Hertfordshire Waste Contract.
- 4.37 Buncefield Oil Depot also was and still remains a strategic fuel distribution centre of national importance and no evidence is presented as to where these sites actually were. Furthermore, whilst this site lies in a designated WCS ELAS, there is little prospect of land being available for other development within the boundary of the Depot on this strategically important site.

- 4.38 A further consideration is that in the wake of the Oil Refinery fire, the Health and Safety Executive (HSE) has evaluated the future risks at the Buncefield site and recommended that local land use planning recognises and integrates with the safety protocols around this major hazard site.
- 4.39 This is illustrated by the proposed HSE Buffer Zones around Buncefield Oil Depot, which are available on the Dacorum Core Strategy consultation portal at the Buncefield Chapter (see **Appendix 1** to this supplementary proof).
- 4.40 Whilst these buffer zones do not necessarily imply that a thermal treatment facility would be precluded, the conclusion to be drawn is that an energy recovery process, based on 24 hour combustion, in such close proximity to a major hazard site, is unlikely to be the most appropriate use within any of the specified zones.
- 4.41 It is further submitted by AH that a suitable site remains for sale in Boundary Way, which should be considered (AH Appendix C). However, this linear site lies within the proposed 250m Petrol Storage Buffer (see above Appendix 1) and is not of a sufficient scale in any event to accommodate the RERF.
- 4.42 Reference to the site literature, indicates that the maximum building footprint achievable would be less than 14,000 square metres, whilst the proposed RERF requirement is 20,000 square metres. Accordingly, even setting aside the fact that the site is adjacent to a major hazard site, for the Boundary Way site to be suitable, another site (or sites) at locations elsewhere in the county would also have to be secured to meet the capacity proposed.
- 4.43 Whilst it is noted that a number of sites in the ASA are given favourable narrative assessments, this mainly in the context of accommodating much smaller facilities and technologies. None of the alternative sites referred to in paragraph 5.32 of AH's evidence achieved a higher score than New Barnfield when assessed in relation to the development proposed.

**Paragraph 5.36**

- 4.44 The conclusion of the ASA critique principally relies upon the subjective re-interpretation of the scores given across various criteria and sites. Whilst it is acknowledged that there is potential for differences of professional opinion in such matters, the evidence of AH does not indicate with any specificity what alternative site is considered more appropriate than the site at New Barnfield.
- 4.45 In particular, no individual site or sites are advocated with any independent supporting evidence to suggest that the Secretary of State should take those sites account into account when reaching a judgement.
- 4.46 With the exception of Boundary Way (which is far too small) none of the other sites advanced as being suitable in principle actually scored any higher in the ASA than New Barnfield and no independent assessment of these sites has been produced, rather an erroneous reinterpretation of the applicant's own ASA evidence to justify the assertions made in AH's proof.
- 4.47 The critique also heavily relies on the subdivision of the RERF proposals into a greater number of smaller facilities in order for these lower scoring sites to be more viable, which as stated above, runs contrary to the principles regarding the assessment of reasonable alternatives and notably the guidance provided in NPS EN1 4.4.3 (first bullet).

## **5.0 REBUTTAL OF THE EVIDENCE OF TONY FLETCHER (TF)**

### **Paragraph 2.9**

- 5.1 The evidence of TF suggests at 2.9 that the RERF is at the lower end of the waste hierarchy and so will attract waste that could be treated further up the hierarchy and stifle alternatives if it is oversized. This is not a correct view as the RERF is both a legitimate R1 recovery operation and has a front end MBT to help increase recycling efficiency in Hertfordshire, not detract from it.
- 5.2 Furthermore, the feedstock will be residual LAC waste which by definition (DEFRA Guide CD/E7, paragraph 17) has few recyclates that are economically or practically feasible to recover (those which are will be recovered at the front end of the RERF).
- 5.3 Whilst a component of the feedstock will also be Commercial & Industrial waste, the Waste (England and Wales) Regulations 2011 require businesses to confirm that they have applied the waste management hierarchy when transferring waste. In essence, there is a legal requirement to prevent, reuse and recycle, prior to the use of other waste management hierarchy options.
- 5.4 There are also financial incentives for waste producers to recycle at source, rather than bear the costs of disposal, as the costs of commercial waste management broadly correlate with the waste hierarchy, i.e. the lower down the hierarchy the more expensive the commercial waste management option.

### **Paragraph 2.11**

- 5.5 It is not accepted that the RERF is oversized. The evidence to justify the capacity is as set out in Section 6.0 of my main proof, which shows that even with the delivery of Ratty's Lane in Hoddesdon and the RERF at New Barnfield there will still be an overall capacity shortfall in Commercial and Industrial waste, with significant additional capacity shortfalls for composting.
- 5.6 Hence, the notion that recyclables will be required to maintain the feedstock is incorrect and reference to 'extreme' examples from Sweden are irrelevant.



### **Paragraph 2.19**

- 5.7 This paragraph states that the opportunities for reduction, reuse and recycling are far greater in C&I waste, than with LAC waste, with '*greater oversight than the general householder*' and tailored collection systems, therefore the composition of C&I waste brought to the RERF would not be the same as residual LAC waste.
- 5.8 However this is an entirely academic argument. The main consideration is not the similarity of the respective waste compositions, but whether the C&I waste would be residual, rather than unsorted waste. It is anticipated that any C&I waste received will be largely residual for the reasons given in paragraph 2.19 of TF's proof and my paragraphs 5.3 and 5.4 given above. Paragraph 2.19 also seems to contradict what is later said at paragraph 3.14 of TH's evidence.

### **Paragraphs 2.25 and 2.29**

- 5.9 This argument regarding R1 efficiency and the position of the RERF in the waste hierarchy is not accepted for the reasons provided at paragraphs 9.60 to 9.68 of my main proof. Annexes I and II of the Waste Framework Directive 2008 (CD/E1) also make a very clear distinction between the definitions of disposal and recovery operations and the Environment Agency has confirmed that the RERF will be R1 compliant and thereby a recovery operation.

### **Paragraphs 2.28 and 2.32/2.33**

- 5.10 The argument regarding the lost opportunity to provide CHP is not accepted for the reasons provided at paragraphs 9.82 to 9.85 of my main proof.

### **Section 3.0 Waste Arisings**

- 5.11 This section makes the proposition that the forecast waste arisings in the adopted WCS are now unsound only 12 months following the acceptance by the Inspector and the Secretary of State that the WCS was sound, having been '*founded upon adequate statistics and forecasts of the waste to be managed*'. (Paragraph 67 of WCS EiP IR). Accordingly it is not my intention to rebut this evidence, as it mainly criticises information and capacity assessment methodologies provided in a sound and adopted WCS.

5.12 However recent correspondence in July 2013, from the Association of Directors of Environment, Economy, Planning and Environment (ADEPT) to the SOS at DEFRA suggests that England's residual waste streams will not continue on a long term downward trajectory as TF infers (see **Appendix 2**). In this respect, paragraph five of the ADEPT letter states:

**'There is no certainty that the downward trend in household waste arisings observed over the last ten years will continue. In fact there is growing evidence that what we have seen is a medium downward adjustment, which coincides with the delivery of a number of successful waste minimisation initiatives across the country and the impact of the economic downturn over the last five years'.**

5.13 Paragraph six of the ADEPT letter also indicates signs of a reversal of trend:

**'There are already signs in some authority areas of an emerging reversal in this trend..... a brief comparison of the first three quarters of 2012/13 against the same three quarters of 2011/12 shows that out of the 33 Waste Disposal Authorities for which reported data were found, 17 had seen an increase in overall arisings of local authority collected waste.'**

5.14 Furthermore, the proposition that growth in Hertfordshire will be substantially lower than the future rate of growth set out in the former RSS is not accepted. Even if the former targets are not reached, the suggestion of an undershoot of 50%, in a growing county such as Hertfordshire, is totally unrealistic.

5.15 Hertfordshire is a very strong growth area directly proximate to North London, with an increasing affluent population and high levels of in-migration. As such, residential land values are very high, relative to the neighbouring counties of Cambridgeshire, Bedfordshire and Essex. This is particularly prevalent in the southern and western areas of the county closest to the M25 London Arc and demand for both market and affordable housing remains at record levels.

- 5.16 In this respect, TH notes at Paragraph 3.16 that whilst the RSS has been withdrawn, the evidence base of the RSS still remains. This is also true of the housing requirement for Hertfordshire and so those local planning authorities who radically depart from this previously assessed need, in future local plans, will need to justify their positions, in terms of the adequacy of their five year housing land supply, or be vulnerable to speculative planning applications.
- 5.17 However this is not the trend, contrary to what TH infers, as all local planning authorities in Hertfordshire recognise the duty imposed upon them by the NPPF to meet objectively assessed needs in their area. The example of Welwyn Hatfield Borough is a suitable case in point, whereby the RSS required 480 dwellings to be built per year in the period 2006 – 2021. This equated to 9,600 dwellings over a 20 year period to 2026.
- 5.18 Reference to paragraph 5.12 of the emerging WHBC Core Strategy (CD/C4) indicates a 7,200 dwelling target over 18 years of 400 dwellings per year, which equals 8000 dwellings over a 20 year plan period from 2011 to 2031. This will necessitate major releases of Green Belt northwest of Hatfield and to the east of Welwyn Garden City.
- 5.19 The point made here is that the current 20 year housing target of WHBC is 83% of the former RSS 20 year requirement, and has not fallen to the 50% suggested by TH at paragraph 3.8 of his proof. Other local planning authorities in Hertfordshire are also following a similar trend of responding objectively to the requirements of the NPPF. This undermines the erroneous assumptions made by TH later at 3.9 and in his conclusion that the RERF is 'oversized'.
- 5.20 Accordingly, on the evidence supplied at Appendix 2, the premise that waste arisings in Hertfordshire will continue to fall as part of a long term downward trend and at a rate which exceeds that predicted by the WCS is not accepted.
- 5.21 Similarly the notion that waste arisings will be reduced by much lower levels of future housing growth than that forecast by the former RSS is also rejected.

## 6.0 REBUTTAL OF THE EVIDENCE OF SIMON CHIVERS (SC)

### 'Consistency with the Development Plan'

- 6.1 **Paragraph 2.2** of SC's evidence suggests that the Hertfordshire Waste Site Allocations (HWSA) DPD November 2012 (CD/C5) has '*very limited weight*'. However the DPD is at an advanced stage and has been submitted by the WPA to the Secretary of State for examination, on the basis that it is in conformity with both the NPPF and the adopted Core Strategy. As I also consider the HWSA DPD to be accordance with the NPPF, I judge SC's view to be too dismissive of the significance of the HWSA as that the emerging DPD has some weight, which is material to the determination of the application.
- 6.2 **Paragraph 2.6** states that the RERF proposal will only comply with Policy 1 if it becomes an allocated site. However, nowhere within the wording of Policy 1 is it stated or to be inferred that proposals will not be permitted under this policy unless they are located on an allocated site. If this were the case, then it would also be implicit in the wording of Policy 3, which it is not. In addition, Policy 7 provides a framework for the determination of non-allocated sites within the Areas of Search, which is inconsistent with SC's interpretation of the requirements of Policy 1. Whilst the sixth paragraph of policy 1 contains a suitable caveat in relation to waste arisings from outside of Hertfordshire, this can be satisfied by a suitable non-allocated site.
- 6.3 **Paragraph 2.10** (in relation to Policy 6) states that the site characteristics of New Barnfield are not suitable for the location of the proposed development. The appropriateness of the site is dealt with under Section 7.0 of my proof, however I question here how a location close to an industrial area could be described as '*rather nebulous*'. For the industrial nature of RERF development proposed, it would seem obvious that the relationship with the main road network and general proximity to other industrial users are locational advantages in themselves. The location of New Barnfield in the southern part of Hertfordshire, close to the crossroads between the north/south A1M corridor and the east/west A414 corridor, with good access to the M25 and the M1 and A10, provides further locational advantage,

- 6.4 This is clearly corroborated by the presence of other major B8 distribution uses within this highly accessible area of the County, both at this site and in Hatfield generally.
- 6.5 The reference to Policy 6 (criterion iv) is also used out of context. Essentially, all the identifying criteria in this policy are potential mitigating factors, which the WPA will take into account as material considerations in the determination of waste applications proposed in the Green Belt.
- 6.6 Accordingly one of the legitimate justifications for waste proposals in the Green Belt will be the need for a range of sites, i.e. sites located both within the urban and rural areas, to ensure the best spatial distribution of the network of waste management facilities envisaged by Policy 1 of the WCS.
- 6.7 Policy 1 of the WCS makes provision for a mixture of small, medium and large facilities, of which the proposed RERF will constitute the latter. In this respect, both the submitted and updated ASA's indicate the substantial difficulties in locating a large RERF within an urban area, which indicates that flexibility in terms of the range of site locations will be required in order to select the most sustainable sites for facilities at the larger end of the envisaged range.
- 6.8 **Paragraph 2.14** (in relation to Policy 11) states that the proposal 'falls foul of five of the ten criteria', however this is not accepted. I deal with Policy 11 compliance in Section 7.0 of my proof and conclude that on balance, eight out of ten criteria *are* satisfied. In this respect, I do acknowledge that criterion iv is not satisfied in relation to the less than substantial harm on Hatfield House, which in turn leads to the conclusion, by implication, that criteria vii and ix of WCS Policy 17 are also not satisfied for the same reason.
- 6.9 However, SC correctly identifies at **Paragraph 2.17** of his evidence that the impacts upon Hatfield House and Park are not completely irreversible. I concur with this view that the proposed development does not have the same degree of permanence as, for example, a residential development, which would endure indefinitely.

- 6.10 This is corroborated by the proposed planning condition in relation to the future restoration of the site, although I also acknowledge that the development will last for a long period of time. However, the acceptance of reversibility from both SC and me is a material consideration to weigh against any current assessed failure to accord with the above Policy 17 criteria.
- 6.11 With regard to the extent of compliance with the policies of the WCS, the evidence of SC makes no reference to whether the RERF proposals accord with the primary objectives of the WCS, which they do as I demonstrate at paragraphs 7.55 to 7.59 of my main proof. I also do not accept that there is less than full compliance with policies 1 and 3 which I deal with at paragraphs 7.60 to 7.64 of my proof.
- 6.12 With regard to Policy 6, I do not accept that there is 'clear non-compliance' as suggested, as demonstrated by the updated July 2013 ASA and paragraphs 7.65 to 7.74 of my proof. With regard to policies 11 and 17, whilst there is a degree of non-compliance in relation to the heritage criterion (albeit tempered in relation to WCS policy 17 vii / ix given that we both agree that the RERF development is not irreversible) a substantial part of both of these policies is satisfied by the proposals, as set out in paragraphs 7.75 to 7.94 of my main proof.
- 6.13 Accordingly, I judge that with the exception of the heritage criteria of policies 11 and 17 (which must be considered in the wider planning balance) there is substantial overall compliance with the WCS, which underpins its allocation by the WPA as a suitable site for thermal treatment in the submitted HWSA DPD.
- 6.14 With regard to the saved policies of the Welwyn Hatfield District Plan, these now substantially predate the introduction of the NPPF and only due weight can therefore be afforded to them. In addition, the WHDP is not a waste plan and none of the policies within it were conceived with strategic scale waste facilities in mind.

- 6.15 Therefore whilst SC provides a lengthy critique as to why the proposals do not comply with policy RA6 at **Paragraph 2.29 – 2.32** of his proof, it has never been the applicant's assertion that the proposals do so.
- 6.16 The relevance of this saved policy in the overall planning balance for the RERF proposals is what it tells us about the essential character of the site; i.e. that the site comprises a major developed area, with the acceptance that either a materially greater reuse or complete redevelopment of the site is permissible, subject to specified development parameters being met. Accordingly, given the established local B8 uses, the logical alternative development scenario to come forward would be a similar large scale warehousing / distribution use.
- 6.17 Therefore, whilst the RERF cannot comply with saved policy RA6 (which was never conceived with such proposals in mind) the additional infill development (Policy RA5) and complete redevelopment potential of this site (Policy RA6) are significant material considerations in the overall planning balance and the developed nature of the site as recognised in these policies is part of the very special circumstances here.
- 6.18 In this respect, SC makes reference to Policy RA5 at **Paragraph 2.33** of his proof, but dismisses its relevance. However, whilst the further 2000 sq m of infill floorspace permissible under this saved policy would not necessarily be available to those seeking to redevelop the site strictly in accordance with Policy RA6, it is again indicative that this site is substantively developed and that the footprint of the existing buildings (7,570 sq m) could theoretically be increased by a further 26% (see **Appendix 2** of my main proof).
- 6.19 The additional development and redevelopment potential of this site is what sets it apart from other Green Belt locations considered in the ASA. Therefore I do not accept SC's assertion at **Paragraph 2.34** that the MDS designation is '*virtually irrelevant*' as this belies the site's potential for substantial further development, or complete redevelopment, for industrial purposes should the RERF not be located on the site.

- 6.20 In particular, I consider the 'no scheme' potential impacts in relation to noise and transport to be highly relevant, given the potential for over 9,500 square metres of industrial floorspace to be created at the site, under Policy RA5.
- 6.21 **Paragraph 2.39** of SC's evidence is also critical of HCC's approach to the re-use of the site in principle and the lack of a sequential approach by HCC to alternative development on the site.
- 6.22 Whilst this is a matter for the WPA to address, I do not share the view that the WPA were obliged to prioritise conformity with a saved, local (non-waste related) policy in a non-waste tier of the development plan, when considering the suitability of the site for the proposed RERF development.
- 6.23 There is also no duty upon the applicant to demonstrate that the site cannot be used for other purposes to justify the submitted application. The applicant must only show that the proposed development is an acceptable use of land.
- 6.24 In this context, SC's evidence further suggests at **Paragraph 2.42** that the site should be '*retained as a possible school site*' given the '*significant housing growth taking place in Hatfield over the next ten years*'. In this respect, I have two observations: Firstly, one of the justifications upon which SC relies to reserve the New Barnfield site for educational purposes (significant housing growth) contradicts the evidence presented by TF, at Paragraph 3.8, whereby TF asserts that housing provision in the County will fall to 50% of former RSS levels (see preceding rebuttal at Section 5.0).
- 6.25 Secondly, SC asserts as further justification that should a secondary school be provided '*within an urban location identified for new housing*' that this could potentially compromise the viability of such a development. However there is only one major urban extension proposed in Hatfield and that is the proposed new neighbourhood which will be released from the Green Belt for 2000 new dwellings, under policy CS18 of the emerging WHBC Core Strategy. In this respect, Criterion 1 requires the new neighbourhood to make provision, inter alia, for a range of retail and community facilities on site, including health and leisure provision and both primary and secondary education.



- 6.26 Accordingly, it is a fallacy to suggest that the New Barnfield site is required for educational purposes to ensure the viability of this new neighbourhood when the new school will comprise part of a much wider required community infrastructure package. In addition, the most appropriate location for a new secondary school is within the heart of the new community which it will serve and not adjacent to an industrial estate, in the south of the town.
- 6.27 **Paragraph 3.4** of SC's evidence suggests that as the RERF proposal is not consistent with the development plan, that there is a requirement for the applicant to demonstrate a need for the facility. In my main proof, I show that not only is there substantial compliance with the development plan, but that a substantive need case also exists (Section 6.0).
- 6.28 **Paragraph 3.19** of SC's evidence quotes paragraph 5.8.15 of EN-1 and in particular the weighing of any negative effects in relation to heritage effects against the wider benefits of the application. In this respect, the proposals will result in less than demonstrable harm and are acknowledged by SC to not be permanent. Accordingly, in the context of EN-1 the wider benefits of the proposed RERF exceed the heritage impacts.

#### **'Effect on the Green Belt'**

- 6.29 **Paragraph 4.3** of SC's evidence implies that the site is not 'brownfield' in the '*common understanding of the term*', because the WSA Preferred Options 2008 document (CD/C6) did not include buildings formerly used for purposes in the D1 use class in its general definition of brownfield land. However, this lack of inclusion of D1 uses is somewhat academic and does not alter the fact that New Barnfield is a Major Developed Site, and unquestionably 'brownfield' in character as it would not have otherwise attracted this designation and the redevelopment potential that such a designation confers.
- 6.30 Whilst it is acknowledged that the site is not designated specifically for industrial use and has no rights under the General Permitted Development Order for a permitted change use to industrial purposes, this belies the fact that Policies RA5 and RA6 of the WHBC Local Plan allow for the enlargement

or complete redevelopment and reuse of the site without any restrictions on the future use class of the new development proposed.

- 6.31 **Paragraph 4.9** of SC's evidence suggests that the PDL status of the land (which is a contradiction of what is said by SC at 4.3) and its proximity to the adjoining Employment Area are of '*very limited weight*' in mitigating the harm that would be caused to the Green Belt.
- 6.32 However, these attributes limit the harm to the Green Belt, to the effect that four of the five purposes of Green Belt are only affected to a minor degree, with the only significant impact being the impact on openness. Accordingly, the assertion at **Paragraph 4.13** that the development would contribute to the 'sprawl' of the existing built up area of Hatfield is not accepted, given that the existing built up area of southern Hatfield is over 250 metres distant, the site is already majorly developed and saved policy RA5 allows for a further 2000 sq m of planned infilling.
- 6.33 The assertion by SC at **Paragraph 4.17** that the site should remain in its current state without the proposed RERF so as to assist urban regeneration is also refuted. The argument is that this would focus future development upon urban land. However this assertion is flawed as it undermined by the intention of the Borough Council to release land for 2000 dwellings (i.e. 80-100 ha) from the Green Belt at north west Hatfield, land for a further 700 dwellings at Panshanger, east of Welwyn Garden City and the Borough Council are also looking to secure further Green Belt release in East Hertfordshire for up to 1500 dwellings (see **Appendix 5** of my main proof).
- 6.34 Whilst harm to the openness of the Green Belt is acknowledged at the site, it has to be balanced in the context that Hertfordshire is heavily constrained by Green Belt, which is why the Borough Council are intending to release at least 100 hectares of Green Belt from the Borough for future housing need and are actively seeking further Green Belt release from neighbouring authorities.
- 6.35 An important material consideration in relation to the impact upon the Green Belt is that similar to the Borough Council, the WDA is faced with an urgent

need and a lack of alternative sites. In this respect, **Paragraph 5.7** of SC's evidence acknowledges that the RERF is well designed in itself and suggests that it might assist in providing a proportion of renewable energy and will resolve an urgent need for diversion of waste from landfill. However, SC asserts that the development '*has simply been proposed in the wrong place*'. In this respect, whilst acknowledging the urgent need for a facility, SC fails to tell us *where* the development should alternatively be located to address this urgent need.

### **'The Planning Balance'.**

- 6.36 I deal with the overall planning balance in Section 11.0 of my Proof and so do not reiterate it here. However I have the following observations in relation to the overall planning balance suggested by SC.
- 6.37 A key area of disagreement is that I consider that the RERF proposals are substantially in accordance with the development plan looked at as a whole, and particularly the waste tier of the plan. Whilst some individual criteria of some policies are not wholly satisfied, notably in relation to heritage issues (albeit we agree that the development is not permanent) the balance of policy compliance points to significant accordance with the development plan.
- 6.38 However even if one were to conclude that, on balance, the proposals did not accord with the development plan (which is not the position I take, given the overall policy support in the WCS and the allocation of the site for thermal treatment in a key emerging DPD of the development plan, which has now been submitted to the SOS) then there is also the weight of other national and local material considerations, as set out in my main proof, that indicate that permission should be granted.
- 6.39 **Paragraph 6.6** of SC's appears to acknowledge that the proposals will meet acknowledged sustainable waste management and energy recovery objectives allied with employment and growth aims. However SC considers this to be

insufficient on its own, particularly for a project below the MIPU threshold, to be considered as sufficient very special circumstances.

- 6.40 Firstly, it is not relevant that the project is below the MIPU threshold, as projects do not have to be nationally significant to be able to successfully show very special circumstances (*Hartlebury*). Secondly, these considerations are not the only very special circumstances advanced by the applicant, as other key components of the case include a lack of alternative, more suitable and available sites, the developed nature of the site as recognised in development plan policy and a weight of national guidance which seeks waste management up the hierarchy and greater energy security and contribution to the mitigation of climate change.

## **7.0 REBUTTAL OF THE EVIDENCE OF PAUL ZUKOWSKYI (PZ)**

### **'No Overriding Need for the RERF'**

- 7.1 The evidence of PZ suggests that a recent draft opinion from the Committee of Regions of the EU will result in a ban on the incineration of all recyclable and biodegradable waste by 2020, unless CHP is in place (PZ Paragraph 15). These assertions and their relevance to the New Barnfield RERF are however flawed in numerous respects:
- 7.2 The proposed RERF will be fully operational by 2020 if planning permission is granted. In addition, the only recyclates that will be combusted after the front end MPT process are those recyclates that are not technically feasible to recover. The evidence of PZ also discounts the fact that the CHP readiness of the RERF and proximity to other industrial uses means that heat supply is also likely to be in place by 2020 in any event, subject to customer demand. This is subject in any event to the issue of a forthcoming national referendum in 2017 on remaining in (and therefore being subject to future legislation from) the European Union.
- 7.3 Paragraph 16b of PZ's evidence suggests that the 380,000 tonnes capacity has not been justified by the applicant and that over 97% of C&I that is landfilled could be recycled if the correct facilities were available. PZ also suggests that other planned facilities, including Rookery South, undermine the need argument further (16C). In addition, PZ advocates that a large centralised facility is inflexible and 'puts all the eggs in one basket' (16F).
- 7.4 The need argument is advanced at Section 6 of my main proof and deals with all these issues as appropriate and is not repeated here. However, the need case advanced by the applicant is based on an adopted Core Strategy which was examined and found sound by the Secretary of State in 2012.
- 7.5 In this respect, it should be remembered that these issues were all put before the Waste Core Strategy Inspector (Susan Holland) by PZ in evidence in the 2011 WCS EiP. The Inspector's response in this regard was as follows and is equally relevant to this Inquiry:

**'The WCS does not, through its policies, promote a single high-capacity waste treatment facility. However if it could be demonstrated that the waste arisings in all amounted only to the capacity of a single large facility, it might be possible to demonstrate that such a large single facility, if developed in the short term, would prevent the emergence of other facilities and technologies which could deal with waste, in the longer term, at a higher level in the waste hierarchy. Here however, the overall waste arisings for LAC and C&I waste, on a reasonable forecast, related to reasonable growth assumptions, are likely to be far in excess of an amount that could be said to be limiting in that way' (IR P-66).**

**'The RERF is not Sustainable'**

- 7.6 Paragraph 19 of PZ's evidence places a reliance on CHP provision to legitimise the applicant's claim that the RERF is a low carbon energy supply. In this respect, the R1 status of the RERF and the diversion of waste from landfill are the main indicators of a reduced carbon footprint, with the potential to supply CHP further adding to the low carbon credentials of the proposals.
- 7.7 This is also dealt with in greater detail in the evidence of Mr Aumonier.

## 8.0 COMMENTS ON FURTHER SUPPLEMENTARY EVIDENCE

### **Anthea Hoey (WHBC)**

- 8.1 **Paragraph 1.9** of AH's supplementary evidence reasserts that WCS Policy 6 is not satisfied by the applicant's proposals. AH maintains that Policy 6 specifically requires the consideration of the need for a range of sites (vi) as well as consideration of alternative sites (i) to justify AH's assertion that the applicant was therefore obliged under this policy to initially take a sequential approach to the development of waste facilities in Hertfordshire.
- 8.2 However this is a clear misinterpretation of the intent of the policy, which is also repeated by SC at Paragraph 2.10 of his evidence. In this respect, I have already referred to the *Ince Marshes* case at P.4.9 above, where the Inspector made clear that it is not the intention of national policy that applicants for new waste management proposals should be required to establish that there are no other sites that are sequentially more preferable.
- 8.3 As WCS Policy 6 is consistent with this approach, AH and SC have therefore both used the policy out of context. The starting point of WCS Policy 6 is that new waste management facilities in the Green Belt are inappropriate and require very special circumstances to outweigh the harm. The six criteria that then follow are all potential mitigating factors that '*will be taken into account as material considerations*' and are signposts for applicants to demonstrate why the harm to the Green Belt may be outweighed by their application.
- 8.4 Accordingly criterion (i) does not require the consideration of alternative sites, rather if the applicant can demonstrate that the need for development cannot be met by an alternative non-Green belt site then this will be taken into account by the WPA as a material consideration. Similarly, criterion (vi) does not require that a range of sites are considered to justify a proposal, rather the WPA's need for a range of sites is likely to include areas where restrictive planning policy provisions exist, such as in the Green Belt, which the WPA will therefore take into account as a material consideration, if the applicant can demonstrate the wider economic and environmental benefits, which reflects the general guidance found in PPS 10 and retained in the Consultation Draft.

**Paul Zukowskyi (NBAT)**

- 8.5 **Paragraph 3** of PZ's supplementary evidence asserts that the Veolia Alternative Site Assessment (ASA) is '*flawed in principle, factually inaccurate, inconsistent and fails to objectively compare sites*'. This assertion is strongly refuted on a number of levels, and in particular I do not accept any of PZ's 'alternative' scores for a range of assessed criteria across various sites, which provides the alternative outcomes and scenarios which PZ later relies upon as evidence that better alternative sites to New Barnfield do exist. Whilst the detail of such matters is more appropriately left for future cross examination, I have the following general observations to PZ's supplementary critique:
- 8.6 PZ is critical of the basic construct of the ASA and at **Paragraph 4** sets out a model methodology for such an exercise, based on his understanding of the function of an ASA. In this respect, the methodology of the submitted ASA is highly transparent and a diligent approach has been taken to the comparison of alternatives, in the context of the Environmental Impact Assessment Regulations.
- 8.7 Whilst the Stage 1 sieving exercise is a more generalised approach, this is not as PZ implies at Paragraph 4(c) on page 4, an attempt to mask or remove sites that were likely to '*outscore the application site*'. Indeed the reality is quite the reverse, as Section 3 of the ASA makes clear the purpose of the sieving exercise is to reduce the initial site list down to a more manageable number of sites for the more prescriptive stages.
- 8.8 In this respect, none of the sieved sites were excluded from Stage 2 for any one single reason, rather for a combination of reasons, which indicated that if further assessed that they were likely to score only in the lowest quartiles.
- 8.9 Accordingly, the majority of sites (36) were assessed at Stage 2, with only 18 sites sieved from the starting list of 54. This enabled the greater majority of the sites (66%) to be assessed in detail at Stage 2 where the scoring of each of the individual 26 criterion is open and transparent.

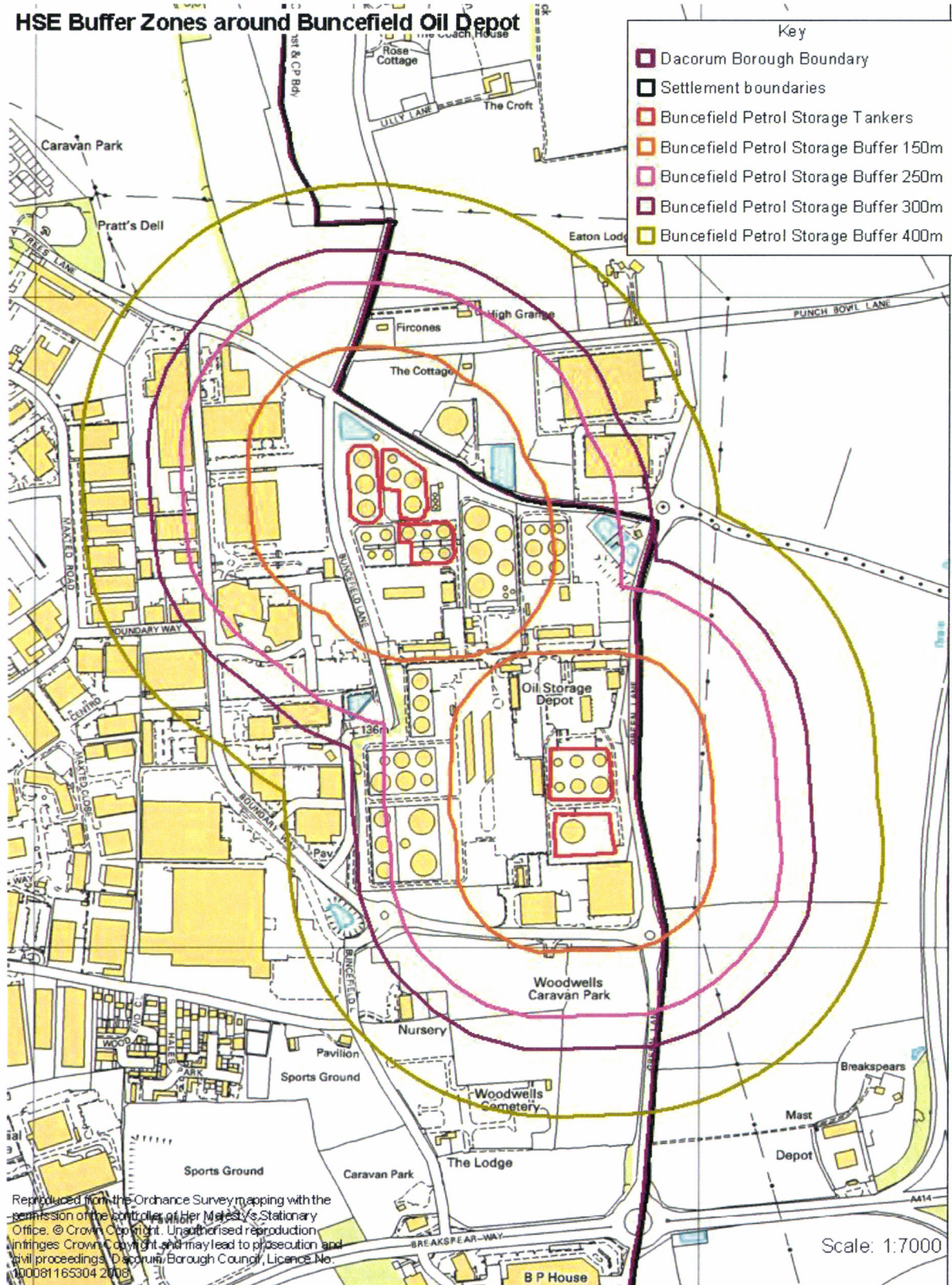


- 8.10 No sites were retrospectively sieved after having been assessed at Stage 2.
- 8.11 Paragraph 5 of PZ's supplementary proof states that for any industrial proposal, with a consequent risk of uncontrolled events, a precautionary approach is sensible and that location near vulnerable infrastructure should be avoided. In this regard, I do not accept that the proposed RERF poses any unacceptable fire risk to Southfield School and no evidence is advanced by PZ from any relevant authority, consulted by the WPA as part of this application, to corroborate these concerns.
- 8.12 However, I accept the general principle that where specific risks have been identified, for example by the Health and Safety Executive in the context of known Major Hazard sites, that the location of an energy generation facility near to such vulnerable infrastructure should be avoided. This runs counter to the evidence of Anthea Hoey, who criticises the applicant at Paragraph 5.32 of her evidence for not reserving sites that were put on the market at Maylands in the wake of the Buncefield Oil Depot fire in 2005 (repeated at Paragraph 1.55 of her supplementary proof) despite Buncefield being a known major hazard site (see **Appendix 1**).
- 8.13 PZ asserts at the final paragraph of **Page 11** (un-numbered) that *'it is not down to the objectors to find an alternative site for a developer, but for that developer to find the best site'*. This is not however an accurate assessment in law, for the reasons given at paragraphs 4.8 to 4.15 of this supplementary proof. The applicant is under no obligation to find the 'best' site, only to demonstrate that the proposals are an acceptable use of land.
- 8.14 Where there is a clear need for the development, as recognised in this case by the WPA (and accepted by SC in evidence) but there are objections to the proposals on this site from others, it is not sufficient to critique the submitted ASA and attempt to recast the individual findings of various criteria to suit a more preferred outcome.

8.15 NPS EN-1 makes clear in this respect that the onus is on those proposing an alternative to provide the evidence for its suitability. No independent evidence has however been advanced from to demonstrate that a more suitable site exists which is both available and deliverable to meet the identified need.

# Appendix 1

### HSE Buffer Zones around Buncefield Oil Depot



## Appendix 2

Steve Kent  
Strategic Advisor  
Cheshire West and Chester Council  
HQ, 4<sup>th</sup> Floor, 58 Nicholas Street  
Chester CH1 2NP  
Tel: 01244 973575  
Email: [steve.kent@cheshirewestandchester.gov.uk](mailto:steve.kent@cheshirewestandchester.gov.uk)

23 July 2013

The Rt Hon Owen Paterson MP  
Secretary of State for Environment, Food and Rural Affairs  
Defra  
Noble House  
17 Smith Square  
London  
SW1P 3JR

Dear Secretary of State

### **Landfill Directive Targets at Risk**

ADEPT has previously raised its concern about the impact of Defra's decision to withdraw Waste Infrastructure Credits from 3 projects that had featured in the National Infrastructure Plan.

A key part of our concern was the impact this decision has had on the confidence of investors in the waste sector, and in UK plc more generally. We were encouraged by Lord Deighton's response (see attached) that the negative impact of this decision on the UK's reputation for delivery has been recognised within Government.

I am writing to you again as there is new evidence that this decision was also short-sighted in relation to the UK's waste policy objectives.

ADEPT has conducted recent analysis of emerging waste trends, which, together with a lack of delivered infrastructure, clearly shows the UK is at risk of not delivering sufficient treatment capacity to meet Landfill Directive targets.

### England's Waste Arisings

There is no certainty that the downward trend in household waste arisings observed over the last ten years will continue. In fact, there is growing evidence that what we have seen is a medium term downward adjustment, which coincides with the delivery of a number of successful waste minimisation initiatives across the country, and the impact of the economic downturn over the last five years.

There are already signs in some authority areas of an emerging reversal in this trend. Data for 2012/13 has yet to be fully submitted to Waste Data Flow, however, a brief comparison of the first three quarters of 2012/13 against the same three quarters of 2011/12 shows that out of the 33 Waste Disposal Authorities for which reported data were found, 17 had seen an increase in overall arisings of local authority collected waste.

#### England's Recycling Rates, Initiatives and the Potential Impact of Reduced Local Authority Finances on Residual Waste

Whilst data for 2012/13 does not appear to have been fully submitted to the Environment Agency, a brief review of data available on Waste Data Flow showed 169 authorities that have submitted data for the four quarters of 2012/13 have experienced a reduction in recycling rates as measured by the former BVPI82a. It does not seem safe, therefore, to assume that recycling rates are set to continue to steadily climb.

ADEPT is concerned that 50% recycling and composting may not be achieved across all local authorities in England as the reduction in funding available to Local Authorities may lead to some waste re-use, reduction and recycling schemes and initiatives being delayed, pulled or not going ahead in the first place. It is not clear that this has been given consideration by Defra in assessing the future residual waste treatment needs, in a situation where it is already not certain that 2020 requirements will be met. There is clearly an ongoing need to maintain, and perhaps increase the national programme to provide for infrastructure to divert biodegradable waste from landfill.

#### Residual Waste Levels on the Rise

A brief look at 286 authorities that have submitted fourth quarter data in whole or in part showed that 140 authorities are already showing an increase in levels of total collected residual waste.

This is partly due to the reclassification of street sweepings which has meant this material can no longer be composted but must be sent to landfill. This has no doubt affected local authorities in England and it is clear that the full impact of this has yet to be felt as some authorities are still in a phase of transition in order to comply with the new regulations.

#### Disparity between Consented Capacity and Delivered Capacity

Defra's recent publication: *Energy from Waste, A Guide to the Debate*, February 2013 suggests that if the waste treatment capacity that has planning consent (around 12 million tonnes) reaches financial close and begins construction, then the 2020 capacity gap will decrease to just under 11 million tonnes per annum. It also notes that planning consent is being sought for around a further three million tonnes of waste treatment capacity.

ADEPT is aware that there is a difference from what has consented capacity and what actually gets constructed and this needs to be appreciated when considering the ability to comply with the Landfill Directive targets. It should also be appreciated that in some areas not all facilities will proceed to delivery where competitors are vying for contracted tonnages.

ADEPT remains concerned about the impact of Defra's decision to withdraw Waste Infrastructure Credits from 3 projects that had featured in the National Infrastructure Plan. Of the remaining 29 waste infrastructure projects supported by Defra there are risks associated with delivery of the 16 plants that are not yet fully operational. Even if this capacity is delivered there should be plans for additional capacity to achieve further, more challenging targets beyond 2020, bearing in mind the EU review of the waste framework directive (which may lead to the introduction of new targets) and the vision set out in the Government Waste Policy Review of a 'zero waste economy'.

I would be grateful for your urgent re-assurance that Defra will review these emerging waste data trends to provide re-assurance that the UK can meet its Landfill Directive targets. We would be happy to meet with your officials to discuss this in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Steve Kent', with a stylized, flowing script.

STEVE KENT  
President – ADEPT

CC:  
Lord Deighton KBE  
Nick Clegg MP  
Lord de Mauley TD

Peter Unwin (Defra)  
Colin Church (Defra)  
Nigel Atkinson (Defra)  
Paul Lienster (Environment Agency)  
Ed Mitchell (Environment Agency)