



**MINOR-MATERIAL AMENDMENT TO PLANNING
PERMISSION REF: 2015/09679/PA FOR A
RENEWABLE ENERGY CENTRE AND AN
INDUSTRIAL/WAREHOUSE BUILDING**

PLANNING STATEMENT ADDENDUM

**FORT INDUSTRIAL PARK, CASTLE BROMWICH,
BIRMINGHAM**

ON BEHALF OF ROLTON KILBRIDE

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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1. INTRODUCTION

1.1 This Planning Statement Addendum has been prepared on behalf of Rolton Kilbride ('the Applicant') to support an application seeking minor-material amendments to Planning Permission ref: 2015/09679/PA, made under the terms of Section 73 of the Town and Country Planning Act 1990 ('Section 73 Application').

1.2 Planning Permission ref: 2015/09679/PA (the 'Existing Permission') was granted by Birmingham City Council on 23rd June 2016 for development at the Fort Industrial Park, Dunlop Way, Castle Bromwich, Birmingham B35 7RB and has the following Description of Development:

"Demolition of existing buildings and erection of a renewable energy centre (gasification plant) and new industrial/warehouse buildings with ancillary plant/buildings/chimney stack together with associated works"

1.3 The Decision Notice for the Existing Permission imposes 33no. planning conditions. The Notice is attached at Appendix 1.

APPENDIX 1 – DECISION NOTICE REF: 2015/09679/PA

1.4 It has become necessary for amendments to be made to the Existing Permission (an explanation of the need for the changes and detail of the amendments is provided at Chapter 2 of this Statement). The revisions to the proposals are material but minor in extent so to not considered to represent a substantial or fundamental change to the Existing Permission. Accordingly, it has been agreed with the Local Planning Authority that an entirely new planning application is not necessary and a Section 73 Application would be appropriate.

1.5 This Section 73 Application seeks approval of the amendments to the Existing Permission via the variation of two conditions:

- Condition 1- which requires the 'scheme to be in accordance with the environmental statement';
- Condition 25- which requires the 'scheme to be in accordance with the listed approved plans'.

1.6 Full details of these conditions and the variations sought to their wording are provided at Chapter 3 of this statement.

Scope of Statement

- 1.7 This Planning Statement Addendum has been prepared to be read alongside the Planning Statement, dated 20th November 2015 ('November 2015 Planning Statement'), other application documents submitted to accompany planning application forming the Existing Permission, and the documents supporting this Section 73 Application.
- 1.8 This statement supports a Section 73 Application seeking approval for minor-material amendments to a development which has been granted planning permission. Assessment is undertaken only with regard to the matters relevant to the proposed amendments with assessment of effects with regard to other matters held to stand. Other matters, including the principle of the development at this location should be considered in light of the development plan and other material considerations at the time of the decision being made, but determination of acceptability for these in both the November 2015 Planning Statement and Case Officer's report to Planning Committee is held to stand.
- 1.9 Details of the matters which may be affected by the amendments are outlined in Chapter 2 of this statement and consideration of their compliance with planning policy and acceptability is provided at Chapter 4.
- 1.10 The Case Officer's report to Planning Committee of 23rd June 2016 is attached at Appendix 2.

APPENDIX 2 – CASE OFFICER'S REPORT TO PLANNING COMMITTEE

- 1.11 This statement also considers changes to the planning policy context which have taken place following grant of the Existing Permission in June 2016. It is noted that the relevant planning policy background has developed in the interim period via the progression of the emerging Birmingham Development Plan 2031 (BDP). Details of planning policy changes and assessment of whether this would affect the consideration of the development proposals is provided at Chapter 4.

Pre-application Discussions

- 1.12 The Applicant has engaged in pre-application consultation with Birmingham City Council prior to the submission of this Section 73 Application, primarily with regard to determine the correct procedure for the consideration of the proposed amendments and scope of the matters which would need further consideration. A

meeting was held at Birmingham City Council offices on 11th October 2016, with further correspondence subsequent to this.

- 1.13 Discussions regarding the correct procedure for considering the amendments included whether this may be via a Non-Material Amendment submission made under the terms of Section 96A of the Town and Country Planning Act. However, advice received from Birmingham City Council officers is that the revisions to the scheme represent minor-material amendments to the Existing Permission and, as such, a Section 73 Application to vary conditions is the appropriate method for these amendments to be considered and determined.
- 1.14 Birmingham City Council also advised certain environmental information would require updating as a result of the amendments, with reference specifically to the Air Quality and Noise chapters of the Environmental Statement to be updated to reflect the change in technology of the plant. Advice also confirmed the Townscape and Visual chapter of the Environmental Statement should be updated and to include revised visuals from a number of viewpoints.
- 1.15 The updated Environmental information has been provided in the form of an Environmental Statement Addendum (ES Addendum) submitted under Regulation 16 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended).

2. DESCRIPTION OF PROPOSALS

- 2.1 Amendments to the Existing Permission are required as, following its determination in June 2016, Energos, the company which provided the technology which formed the original proposals, has gone into administration. The Applicant has therefore subsequently investigated a range of Process Technology Companies to provide an alternative plant solution within the building for which planning permission has been granted.
- 2.2 This investigation has resulted in a new technology provider being selected for use. This new technology can largely function and be accommodated within the envelope of that approved in the Existing Permission, however it is necessary for some minor amendments to be made to the building form and layout, which are summarised below. It is these amendments which comprise this Section 73 Application.
- 2.3 It should be noted that the Proposed Development in this Section 73 Application continues to comprise of a renewable energy centre and a new industrial/warehouse building with ancillary plant, buildings and chimney stack with associated works. Accordingly, the Description of Development of the Existing Permission does not need to change as a result of the amended scheme. This indicates the development forming this application remains fundamentally the same as that previously determined.
- 2.4 The new technology has improved efficiency of the gasification plant in comparison with that previously approved in the Existing Permission. This increased efficiency is achieved by incorporating a more efficient steam boiler, which increases output capacity while using the same amount of feedstock to that detailed in the Existing Permission. As a result of this increased efficiency, output capacity is increased from 8.6MW to 12MW. This means that additional low carbon energy would be generated as a result of the amendments with no additional vehicle movements generated beyond those found acceptable in determining the Existing Permission. Confirmation of the planning policy requirements in this regard is provided at Chapter 4.
- 2.5 The required amendments to the approved drawings in the Existing Permission can be summarised as:

- An increase in height of part of the rear roof of the building from 23m to 29m, to allow the internal plant to be configured vertically as opposed to horizontally;
- A change to the configuration of the building involving the relocation of the delivery hall;
- Minor changes to the location of some of the external ancillary plant; and
- Excavating the section of the building where the gasifier is located by 8m, required to ensure the roof height is kept as low as possible, (the same depth as already approved for the waste bunker on the original plans).

2.6 Condition no.25 of the Existing Permission lists the approved plans. The above amendments result in a number of these being superseded and replaced with an alternative. A summary of the amended plans and drawings in which the amendments are detailed is provided in the Table 1 below together with the corresponding plan which is superseded.

Drawing Detail	Proposed Drawing no.	Approved Drawing no.
Proposed Layout	K.0168_06-1 REV: V	K.0168_06-1 REV: T ¹
Proposed Energy Plant Roof Plan	K.0168_06-2 REV: V	K.0168_06-2 REV: U
Proposed Energy Plant Elevations	K.0168_05 REV: J	K.0168_05 REV: F
HGV Tracking	11-0336/INF/80 rev P1	TPBR0068-H002 Rev F

Table 1: Amended Plans

2.7 All other matters relating to the Existing Permission, summarised at Chapter 3 of the November 2015 Planning Statement, remain as previously approved. This is both in terms of the form of development and its construction and operation. Table 2 below confirms the approved plans and drawings which are not amended in this application.

¹ Listed as K0168_06_1 Rev: T in the Decision Notice

Drawing Detail	Approved Drawing no.
Proposed Warehouse Building Elevations	5917-006
Gatehouse Plan and Elevations	\$-5917-007
Site Location Plan	K.0168_13 REV B

Table 2: Plans Retained from Existing Permission

Matters with Potential Change in Effects

- 2.8 Given the scope of the changes outlined above, it is clear that certain relevant matters should be considered further in light of the proposed amendments to determine whether there would be materially different impacts.
- 2.9 As outlined in Chapter 1 of this Statement, pre-application discussions regarding the need for further assessment as a result of the amendments has determined that only townscape and visual amenity, noise and air quality are matters considered in the original Environmental Statement which require such further assessment as a result of the proposed amendments.
- 2.10 Assessed effects from the Existing Permission in other regards, listed below, are considered to not be materially changed as a result of the amendments. To clarify, these matters are:
- Principle of Development and Need;
 - Traffic and Transportation;
 - Hydrology and Flood Risk;
 - Land Contamination;
 - Ecology and Nature Conservation;
 - Archaeology and Cultural Heritage; and

➤ Socio-Economics.

2.11 Please refer to the November 2015 Planning Statement and Case Officer's report to Planning Committee for assessment of the above matters and conclusion that the development is acceptable in these regards.

3. CONDITIONS TO BE REVISED

3.1 The Existing Permission is subject to 33no. conditions. This Section 73 Application seeks the variation only of conditions nos.1 and 25 by way of making the minor amendments to the planning permission, summarised in Chapter 2.

3.2 As listed on the Decision Notice, condition no.1 reads:

"Requires the scheme to be in accordance with the environmental statement.

The development hereby approved shall be implemented in accordance with the conclusions and mitigation measures outlined in the:

*Environmental Statement Vol. 1 Main Text and Figures;
Environmental Statement Vol. 2 Appendices;
Environmental Statement Non-Technical Summary;
Appendix C – Tree Survey;
Appendix B – VP4; VP14; VP18; VP26.*

Submitted with the planning application."

3.3 and condition no.25 reads:

"Requires the scheme to be in accordance with the listed approved plans.

The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers K0168_06_1 REV: T, 5917-006, \$-5917-007, K.0168_06-2 REV: U, K.0168_13 REV:B, K.0168_05 REV: F, TPBR0068-H002 Revision F (Autotrack Sheet 1 of 2) ('the approved plans')

3.4 As noted in Chapter 1, it has been agreed with Birmingham City Council that it is appropriate for the preparation of an ES Addendum to supplement the previously provided Environmental Statement, which is focused on those matters that could potentially be affected by the proposed amendments to the proposals.

3.5 Should the proposed amendments to the Existing Permission be considered acceptable and the Section 73 Application be approved by Birmingham City Council, then a revised wording of condition no.1 to include the ES Addendum as a referenced document for which the scheme must accord with is suggested below.

(Condition 1) "Requires the scheme to be in accordance with the environmental statement.

The development hereby approved shall be implemented in accordance with the conclusions and mitigation measures outlined in the:

*Environmental Statement Vol. 1 Main Text and Figures;
Environmental Statement Vol. 2 Appendices;
Environmental Statement Non-Technical Summary;
Appendix C – Tree Survey
Appendix B – VP4; VP14; VP18; VP26
Environmental Statement Addendum, dated January 2017*

*Submitted with planning application ref: 2015/09679/PA and this
planning application.”*

- 3.6 The new plans and drawings which detail the development as proposed in this Section 73 Application are listed in Table 1 and those which remain from the Existing Permission are shown at Table 2. Should planning permission be granted for this Section 73 Application, it will be required for condition no.25 to be revised to include the amended plans and remove those which have been superseded. A suggested wording for this revised condition is provided below:

*(Condition 25) "Requires the scheme to be in accordance with the listed
approved plans.*

*The development hereby approved shall be implemented in accordance
with the details submitted with planning application ref: 2015/09679/PA
and this planning application and shown on drawing numbers
K0168_06-1 REV: V, 5917-006, \$-5917-007, K.0168_06-2 REV: V,
K.0168_13 REV: B, K.0168_05 REV: J, 11-0336/INF/80 rev P1 ('the
approved plans')*

- 3.7 Note that there is no requirement to amend any other conditions listed in the Decision Notice. The Applicant will continue to comply with all requirements and commitments contained within them, including to provide further information to the Local Planning Authority for approval where this is required. It is therefore expected that, in the event that planning permission is granted for this Section 73 Application, the remaining 31no. conditions are reproduced as drafted on the Decision Notice for the Existing Permission.

4. PLANNING POLICY AND ASSESSMENT

- 4.1 As with the Existing Permission, the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004 for all planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise applies to this Section 73 Application.
- 4.2 National planning policy and guidance relevant to the proposal² (and forming important material considerations in determination of the application) was summarised at paragraphs 6.2-6.10 of the Officer's report to Planning Committee and Chapter 3 of the November 2015 Planning Statement. The relevant documents and provisions contained within them have not changed since the determination of the planning application and, therefore, the support in principle for this type of development at national level remains the same.
- 4.3 In fact, the increased output capacity in this Section 73 Application of 12MW compared with 8.6MW in the Existing Permission means that the amended proposals would draw further in principle support from national planning policy at Paragraphs 93 to 98 of the National Planning Policy Framework and Paragraph 3.4.1 of the Overarching National Planning Policy Statement for Energy (EN-1), which confirm significant support for renewable energy development to assist in meeting the UK's legally binding requirement to reduce carbon emissions.
- 4.4 The planning policy context at local level has developed in the period following the decision however. This is due to the progression of the emerging Birmingham Development Plan 2031 (BDP). Furthermore, it is considered possible this context could develop further during the consideration of this Section 73 Application through adoption of the BDP by Birmingham City Council, making this document the formal Development Plan for Birmingham. Adoption of the BDP would result in Birmingham Unitary Development Plan 2005 (UDP) policies, which currently form the Development Plan, being replaced or abandoned.
- 4.5 The progression relates to removal of a 'Holding Direction' on the BDP which was in place at the time of the Existing Permission being granted. The Department for Communities and Local Government issued this Direction to Birmingham City Council on 26th May 2016, which disallowed the Council from taking any step in

² Comprising the National Planning Policy Framework (March 2012), National Planning Practice Guidance (March 2014, as amended), Waste Management Plan for England (December 2013), National Planning Policy for Waste (October 2014), Overarching National Policy Statement for Energy (EN-1) (July 2011), National Policy Statement for Renewable Energy (EN-3) (July 2011)

connection with the adoption of the Development Plan. The Holding Direction was subsequently withdrawn in a letter to the Leader of Birmingham City Council from Gavin Barwell MP on 24th November 2016. The letter confirmed the Council is able to take further steps in connection with the adoption of the Plan. It is understood that the Council now intends to adopt the BDP in early 2017.

- 4.6 As such, it is possible that the BDP will have been adopted at such time this Section 73 Application is determined. However, even if this application were to be determined in advance of formal adoption, the advanced stage of preparation at which the BDP has reached and the removal of the Holding Objection means that relevant BDP policies can, in any case, be afforded significant weight.
- 4.7 A table is attached at Appendix 3 which confirms the UDP Policies considered relevant to the proposals and which (if any) BDP policy these would be replaced by. However, it is important to recognise that relevant policies of the BDP were given due regard within the Applicant's assessment of the proposal contained within the November 2015 Planning Statement³ and also in the Council's determination of the planning application in June 2016, as summarised in the Case Officer's report to Planning Committee. Therefore, the proposals forming the Existing Permission were assessed against relevant policies of the BDP at that time, and found to comply with their provisions.

APPENDIX 3 – TABLE OF REPLACEMENT POLICIES

Assessment of Effects

- 4.8 The matters considered below are those which it has been determined the amended proposals could potentially have a material impact upon.

Design and Visual Amenity

- 4.9 BDP **Policy TP15 – Location of Waste Management Facilities** confirms that such proposals will be considered against various criteria including the design of the proposal. The policy states that careful consideration should be given to the need to minimise environmental and visual impact.
- 4.10 **Policy PG3 – Place Making** confirms the expectation that all new development will be designed to the highest possible standards, contributing to a strong sense of place. It is also stated that new development should respond to site conditions in the local area context.

³ As confirmed at paragraph 5.31 of the November 2015 Planning Statement

- 4.11 In considering the proposals forming the Existing Permission, the Case Officer in their report to Planning Committee stated *"the REC building is considered acceptable in scale and massing terms and would reflect the prevailing character of taller industrial buildings within the immediate area."* The Applicant's consideration of the impact on character and appearance is provided at Paragraphs 6.20-6.26 of the November 2015 Planning Statement. This concludes that the originally proposed development is considered appropriate to the setting and townscape character of the site and would not have any significant effects on visual amenity as experienced within the local area. As such, it was determined the proposals would accord with the relevant provisions of the UDP and emerging BDP.
- 4.12 The ES Addendum considers the effects of the amended scheme in this regards and the assessment confirms that the amendments would not result in any significant changes to effects of landscape/townscape character, nor would there be significant changes to the impact on visual amenity from short, medium or long range views. The conclusion that the development was acceptable in these terms in determining the application forming the Existing Permission therefore remains.
- 4.13 It is therefore considered that the amended proposals continue to comply with planning policy requirements in this regard, as outlined in BDP Policies TP15 and PG3, and that the changes to the scheme remain acceptable in respect of design and impact on character of the area and visual amenity.

Noise

- 4.14 With regard to noise effects, BDP **Policy TP15 - Location of Waste Management Facilities** states that proposals will be considered against the impact on residential amenity and that the design of the proposal should, wherever feasible, be enclosed within buildings or sealed structures to minimise impacts on adjacent uses from adverse effects including noise.
- 4.15 Paragraph 6.57 of the Case Officer's report to Planning Committee considers potential noise effects of the proposals forming the Existing Permission. The report confirms that the surrounding area is commercial and industrial in character with the nearest residential properties some 350m away. The report also notes that the facility would operate 24 hours a day and seven days a week and that deliveries to and from the site taking place between 0700-1900 hours on

Monday to Friday and 0700-1400 hours on Saturday. As such, the report confirms the Case Officer's agreement to Birmingham City Council Regulatory Services who raised no objections to the proposals subject to the imposition of cumulative noise restriction condition for plant and machinery.

- 4.16 This Condition is no.24 as listed on the Existing Permission Decision Notice. The condition:

"limits the noise levels for Plant and Machinery.

The rating levels for cumulative noise from all plant and machinery shall not exceed 5dB below the existing LA90 background levels and 10dB below the existing LAeq at any noise sensitive premises as assessed in accordance with British Standard 4142 (2014)."

- 4.17 Furthermore, condition no.18 limits the delivery times to the renewable energy centre to those hours and days mentioned above.

- 4.18 The ES Addendum considers the potential for additional noise emissions as a result of the changes to the technology employed in comparison to that approved in the Existing Permission. The assessment confirms there will be no change to noise levels within the building, with the main change in comparative noise levels attributable to the operation of external air cooled condensers. Assessment of background and ambient noise levels has confirmed these would remain within the levels restricted by condition no.24, and therefore be acceptable in these terms. Conditions nos. 18 and 24 can therefore be imposed on the new permission with no revision to ensure acceptability in this regard.

- 4.19 Therefore, subject to the imposition of the relevant conditions which repeat those imposed on the Existing Permission, the amended proposals would continue to be acceptable in terms of noise emission levels and comply with relevant BDP policies.

Air Quality

- 4.20 In addition to requiring proposals to be considered against impact on residential amenity, **Policy TP15 - Location of Waste Management Facilities** confirms that consideration will be given to the effect of proposed waste facilities upon the environment and neighbouring land uses.

- 4.21 **Policy TP36 – Health** outlines measures to reduce health inequalities, increasing life expectancy and improving quality of life. This includes seeking to improve air quality within the city.
- 4.22 The November 2015 Planning Statement summarised the finding of the Air Quality Assessment forming part of the Environmental Statement supporting the original application and found that such impacts were predicted to be ‘not significant’ and accordingly in compliance with planning policy requirements. The Case Officer’s report to Planning Committee raised no objections with regards to effects on air quality and confirmed at paragraph 6.57 that the proposed facility would be a modern, appropriately located, well-run and well-regulated, waste management facility that would operate in line with current pollution control techniques with standards that should pose little risk to human health and maintained under separate permit regulations under Environment Agency.
- 4.23 The updated Air Quality Assessment within the ES Addendum concludes that the impacts of emissions of almost all pollutants from the proposed facility can be considered insignificant for both human health and ecological receptors. The assessment does predict a slight adverse or moderate adverse impact to some 48 properties in terms of nitrogen dioxide as a result of the renewable energy centre operating, which is a slightly higher number than for proposals forming the Existing Permission. However, the assessment notes that the renewable energy centre will contribute just a fraction of the total concentration at these receptors, with road traffic emissions being a far more significant source. Given this, it is concluded the overall impacts will not be significantly different from those predicated in the original air quality assessment, in which effects were found acceptable.
- 4.24 It is therefore considered the amended proposals continue to comply with planning policy requirements and the conclusions contained within the Case Officer’s report to Planning Committee remain.
- 4.25 The Applicant notes the High Court Judgment of *ClientEarth v Secretary of State for the Environment, Food and Rural Affairs* [2016]⁴. This recent Judgment quashed the Government’s Air Quality Plan (AQP), which was designed to meet the EU Limit Values. As a result, a new, more ambitious, AQP will be required from the Government, which should lead to the EU Limit Values for nitrogen

⁴ EWHC 2740 (Admin).

dioxide being achieved in the quickest time possible. As a result, Department for the Environment and Rural Affairs (Defra) will need to update both the air quality modelling as part of their Pollution Climate Mapping model and review the actions to ensure that compliance with the European Union (EU) Limit Values is achieved in the quickest time possible. As such, this Judgment relates to the UK Government's Duties under the Air Quality Directive (2008/50/EC) and it is not the role of the Applicant to demonstrate they are reducing nitrogen dioxide emissions in the quickest time possible; rather plans must be produced by Defra to demonstrate that this is indeed the case and to ensure national level compliance with the EU Directive. This is the responsibility of Defra at a national level and the Applicant cannot comment on the outcome of any updated assessments that take place.

- 4.26 The Air Quality Assessment is based upon robust data taken from Birmingham City Council, which operates a number of automatic monitoring stations within its area. Two of these are located relatively close to the Proposed Development, some 2km to the west, close to Tyburn Road. That data has also been independently verified. The Judgment therefore has no bearing on the conclusions of the Air Quality Assessment.

Summary and Planning Balance

- 4.27 The above assessment demonstrates that the amended proposals would not have a materially greater adverse effect in comparison to the proposals forming the Existing Permission, and that they would continue to comply with planning policy requirements.
- 4.28 Additional adverse effects are limited only to moderate impacts on air quality to a small number of properties, of which the proposed development would constitute only a fraction of experienced impacts. However, this must be considered in the context of increased output capacity resulting from the use of more efficient technology, which increases the amount of low carbon energy produced which accordingly gains further support from national planning policy which supports the UK's legally binding requirement to reduce carbon emissions.
- 4.29 It is therefore considered the proposals forming this Section 73 Application remain acceptable in planning terms and that planning permission should be granted with revisions to Conditions nos. 1 and 25 of the Existing Planning Permission.

5. SUMMARY AND CONCLUSIONS

- 5.1 This Planning Statement Addendum has been prepared on behalf of the Applicant to support an application seeking approval of minor-material amendments to Planning Permission ref: 2015/09679/PA (the 'Existing Permission') and to supplement the Planning Statement which supported the original application.
- 5.2 The amendments to the Existing Permission are required due to the use of a different technology than that which formed the Existing Permission and relate to changes to the form of the approved building and layout with regard to the position of the delivery bay. These amendments are considered to represent minor-material amendments to the Existing Permission, which would not substantially or fundamentally alter the terms of the development previously approved. The different technology also results in the installed output capacity being increased from 8.6MW to 12MW.
- 5.3 The scope of matters requiring further assessment as a result of the amendments has been discussed with Birmingham City Council. It is agreed that further Townscape and Visual, Air Quality and Noise assessments are required to determine the acceptability of the amended scheme in planning terms.
- 5.4 The form of the proposals means determination of impacts for a number of matters relating to the development forming the Existing Permission still stands. These are the Principle of Development and Need, Traffic and Transportation, Hydrology and Flood Risk, Land Contamination, Ecology and Nature Conservation, Archaeology and Cultural Heritage and Socio-Economics.
- 5.5 This application seeks to vary conditions no.1 and 25 of the Existing Permission in order to include reference to updated environmental assessment undertaken to consider the changes to the scheme provided in the form of ES Addendum and replace those approved drawings which have been superseded by the amendments.
- 5.6 National planning policy and guidance has not changed since determination of the Existing Permission and therefore, the in principle support afforded to this type of development contained within these documents remains and provides further support in respect of increased output capacity. The local planning policy context has progressed and is likely to progress further in the near future by way of potential formal adoption of the Birmingham Development Plan 2031. This

amended context does not change the determination of acceptability in those regards not requiring further assessment.

- 5.7 Consideration of those matters for which effects may have changed has demonstrated that the amendments to the scheme would not have a materially greater adverse impacts than those assessed in granting the Existing Permission, and is limited to moderate air quality effects. However, when considered against increased renewable energy generation, the proposals forming this Section 73 Application remain acceptable in planning terms and should accordingly be granted planning permission, with imposed conditions the same as the Existing Permission with the exception of nos.1 and 25, which can be varied to the following:

(Condition 1) "Requires the scheme to be in accordance with the environmental statement.

The development hereby approved shall be implemented in accordance with the conclusions and mitigation measures outlined in the:

Environmental Statement Vol. 1 Main Text and Figures;

Environmental Statement Vol. 2 Appendices;

Environmental Statement Non-Technical Summary;

Appendix C – Tree Survey

Appendix B – VP4; VP14; VP18; VP26

Environmental Statement Addendum, dated January 2017

Submitted with planning application ref: 2015/09679/PA and this planning application."

(Condition 25) "Requires the scheme to be in accordance with the listed approved plans.

The development hereby approved shall be implemented in accordance with the details submitted with planning application ref: 2015/09679/PA and this planning application and shown on drawing numbers K0168_06-1 REV: V, 5917-006, \$-5917-007, K.0168_06-2 REV: V, K.0168_13 REV: B, K.0168_05 REV: J, 11-0336/INF/80 rev P1 ('the approved plans')."

APPENDIX 1

DECISION NOTICE REF: 2015/09679/PA

DECISION DOCUMENT

APPLICATION NUMBER: 2015/09679/PA**TOWN AND COUNTRY PLANNING ACT 1990****APPLICANT**Industrial Property Investment Fund
c/o Agent**AGENT (if used)**Pegasus Group
Pegasus House
Querns Business Centre
Whitworth Road
Cirencester
Gloucestershire
GL7 1RT

BIRMINGHAM CITY COUNCIL GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS FOR THE FOLLOWING DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND APPLICATION AS NUMBERED ABOVE:

Demolition of existing buildings and erection of a renewable energy centre (gasification plant) and new industrial/warehouse buildings with ancillary plant/buildings/chimney stack together with associated works at

Fort Industrial Park, Dunlop Way, Castle Bromwich, Birmingham, B35 7RB

Conditions that affect this development or use

-
- 1 Requires the scheme to be in accordance with the environmental statement. The development hereby approved shall be implemented in accordance with the conclusions and mitigation measures outlined in the:
Environmental Statement Vol. 1 Main Text and Figures;
Environment Statement Vol. 2 Appendices;
Environment Statement Non-Technical Summary;
Appendix C - Tree Survey
Appendix B - VP4; VP14; VP18; VP26
submitted with the planning application.
Reason: In order to define the permission and comply with the Environmental Impact Assessment Regulations 1999 and ensure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.

 - 2 Requires prior submission of an updated CHP Feasibility Review.
Prior to the commissioning of the development, an updated CHP Feasibility Review assessing potential commercial opportunities for the use of heat from the development shall be submitted to, and approved in writing by, and deposited with the Local Planning Authority. This shall provide for the ongoing monitoring and full exploration of potential commercial opportunities to use heat from the development as part of a Good Quality CHP scheme (as defined in the CHPQA Standard issue 3), and for the provision of subsequent reviews of such commercial opportunities as necessary. Where viable opportunities for the use of heat in such a scheme are identified, a scheme for the provision of necessary plant and pipework to the boundary of the site shall be submitted to, and approved in writing by, and deposited with the Local Planning Authority. Any plant and pipework installed to the boundary of the site to enable the use of heat shall be installed in accordance with the agreed details.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8, 3.10, 3.64A, 3.65, 3.65A-C and 3.67 of the Birmingham UDP 2005 and the National Planning Policy Framework.

- 3 Restricts 105,000 tonnes of waste per annually.
The maximum combined total tonnage of residual and Refuse Derived Fuel (excludes hazardous or clinical waste) imported to the Recovery Energy Centre hereby permitted shall not exceed 105,000 tonnes per annum.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 3.65, 3.65A-3.65C, 6.17, 6.38 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 4 Requires development to be carried out in accordance with the approved Flood Risk Assessment (FRA). The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) reference K111, prepared by PFA Consulting, dated November 2015 and the following mitigation measures detailed within the FRA:
1. Finished floor levels are set no lower than 150-300mm above average surrounding ground level and sensitive plant is set above the 1 in 100 year plus climate change flood level of 83.42maOD with a suitable freeboard.
The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
Reason: In order to secure the satisfactory development of the application site and to reduce the risk of flooding to the proposed development and future occupants. in accordance with Paragraphs 3.8, 3.10 and 3.74 of the Birmingham UDP 2005, TP6 of the emerging Birmingham Development Plan, Sustainable Drainage - Birmingham City Council Guide to Design, Adoption and Maintenance and Sustainable Management of Urban Rivers and Floodplains SPD and the National Planning Policy Framework.
-
- 5 Requires the prior submission of sample materials for each phase of the development.
Prior to the erection of any building(s)/ structure(s) in each phase of development, details of samples of the materials to be used in the construction of the external surfaces for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 6 Requires the prior submission of a contamination remediation scheme
No development shall take place until the following components of a site assessment and, if required remediation scheme to deal with the risks associated with contamination of the site for the intended use has been submitted to and approved, in writing, by the Local Planning Authority:
1) A preliminary risk assessment, which has identified:
o all previous uses
o potential contaminants associated with those uses
o a conceptual model of the site indicating sources, pathways and receptors
o potentially unacceptable risks arising from contamination at the site.
2) A site investigation scheme, based on (1) to provide information for a detailed risk assessment of the risk to all receptors that may be affected, including those off site.
3) If contamination is found present and assessed as an unacceptable risk to human health safety and the environment an options appraisal and remediation strategy shall be submitted giving full details of the remediation measures required and how they are to be undertaken, timetable of works and site management procedures.
4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved and must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 (and subsequent legislation) in relation to the intended use of the land after remediation.
Reason: In order to secure the satisfactory development of the application site and to ensure protection of controlled waters within the underlying Secondary A and B aquifers and surface water receptors in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.

- 7 Requires the prior submission of a contaminated land verification report
Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
Reason: In order to secure the satisfactory development of the application site and and to ensure protection of controlled waters within the underlying Secondary A and B aquifers and surface water receptors in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework
-
- 8 Requires the prior submission of investigation for archaeological observation and recording for each phase of development
No development on each phase shall take place until a written scheme of investigation for archaeological observation and recording during that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme is to be implemented in accordance with the approved details.
Reason: The site is of archaeological significance and it is important that archaeological remains are observed and recorded during development in accordance with Paragraphs 3.31 and 8.36 of the Birmingham UDP 2005, the National Planning Policy Framework and the Archaeology Strategy SPG.
-
- 9 Requires the prior submission of a lighting scheme for each phase of the development.
The phase of development hereby approved shall not be occupied until a detailed lighting scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The detailed lighting scheme shall include site annotated plans showing lighting positions for the external spaces, facades, building elevations and structures they illuminate, site plans showing horizontal and vertical overspill to include light trespass and source intensity, affecting surrounding residential premises and details of the lighting fittings including: colour, watts and periods of illumination. All lighting works shall be implemented in accordance with the approved details and shall be completed prior to the occupation of any part of the development and thereafter maintained.
Reason: To ensure a high quality of external environment, to complement the development proposals, in the interests of highway safety for M6 Motorway and to protect and reinforce local character in accordance with Paragraphs 3.8, 3.10, 3.14, 3.16A, 6.17, 6.38 of the Birmingham UDP 2005, Places for All SPG, Lighting Places SPD and the National Planning Policy Framework.
-
- 10 Requires the parking area to be laid out prior to use for each phase of the development
The use of each phase of development hereby approved shall not commence or the building(s)/premises occupied until vehicle parking for that phase has been constructed, surfaced and marked out in accordance with the approved details and that area shall not thereafter be used for any purpose other than parking, loading and unloading of vehicles.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 6.17 and 6.39 of the Birmingham UDP 2005, the Car Parking Guidelines SPD and the National Planning Policy Framework.
-
- 11 Requires the prior submission of cycle storage details for each phase of the development
No development on each phase shall take place until details of the provision for the secure, and where appropriate, covered storage for cycles and motorcycles within that phase have been submitted to and approved in writing by the Local Planning Authority. Provision shall thereafter be implemented and maintained in accordance with the approved details.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.

- 12 Requires the delivery and service area prior to occupation for each phase of the development
No part of each phase of the development shall be brought into use until the delivery and service area has been completed for that phase in accordance with the approved details. All such areas shall be kept free of obstructions, including the storage, display and depositing of materials, packaging or other items so that the service area is fully available for the parking, turning and unloading of delivery and service vehicles throughout the life of the development.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.
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- 13 Requires the prior installation of means of access for each phase of the development
No building(s)/site/premises for each phase of development shall be occupied until a means of vehicular/pedestrian and/or cyclists access has been constructed for that phase in accordance with the approved plans.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 14 Requires the prior approval of details to prevent mud on the highway for each phase of the development
No development on each phase shall take place until details of measures to be taken to prevent spoil/mud from vehicles leaving the site during the construction works being deposited on the public highway have been submitted to and approved by the Local Planning Authority in writing for that phase of the development. The development shall be implemented in accordance with the approved details and the measures shall be retained for the duration of the construction period.
Reason: In the interests of highway safety in accordance with Paragraphs 3.8, 3.10, 6.17 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 15 Requires the prior submission of a construction method statement/management plan for each phase of the development.
No development on each phase shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority for that phase of the development. The approved statement shall be adhered to throughout the construction period. The method statement shall provide for details of the following:
* the parking of vehicles of site operatives and visitors
* location of loading and unloading of plant and materials
* hours of demolition/construction/delivery
The development shall be implemented in accordance with the approved details.
Reason: In order to safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 16 Requires the prior installation/ removal of redundant footway crossing for each phase of the development.
No building(s)/site/premises on each phase shall be occupied until removal of redundant and installation of footway crossing for that phase of the development have been submitted in writing and approved by the Local Planning Authority. The removal/ installation of footway crossings shall be constructed in accordance with the approved plans.
Reason: In order to secure the satisfactory development of the application site and to ensure the safe and free flow of users of the adjoining highway in accordance with Paragraphs 3.8, 3.10 and 6.39 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 17 Prevents storage except in authorised area
No equipment, raw materials, finished or unfinished products or parts, crates, packing materials or waste shall be stacked or stored on the site at any time except within the buildings or storage areas approved by the Local Planning Authority in writing.
Reason: In order to define this permission in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.

- 18 Limits delivery time of goods to or from Renewable Energy Centre (REC)
No deliveries shall be taken at or dispatched from the Renewable Energy Centre (REC) outside the hours of 0700-1900 Monday to Friday and 0700-1400 Saturday, Bank and other public holidays.
Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
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- 19 Requires the submission of hard and/or soft landscape details prior to occupation for each phase of the development.
Prior to the occupation of each phase of development, full details of hard and/or soft landscape works for that phase shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, fully annotated planting plans where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include planting schedules, noting species, plant sizes and proposed numbers/densities and details of the proposed planting implementation programme. All hard and/or soft landscape works shall be implemented in accordance with the approved details. The works shall be implemented prior to the occupation of any part of the development or in accordance with the planting programme agreed with the Local Planning Authority and thereafter maintained. Any trees or shrubs which, within a period of two years from the completion of the development, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
Reason: In order to secure the satisfactory development of the application site, ensure a high quality of external environment and reinforce local landscape character in accordance with Paragraphs 3.8, 3.10, 3.14 and 3.16A of the Birmingham UDP 2005.
-
- 20 Requires the submission of hard surfacing materials prior to occupation for each phase of the development.
Prior to the occupation of each phase of development, details of the materials to be used for hard and paved surfacing for that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter maintained.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 21 Requires the submission of boundary treatment details prior to occupation for each phase of development.
Prior to the occupation of each phase of development, full details of the proposed boundary treatment of the site for that phase shall be submitted to and approved in writing by the Local Planning Authority. These details shall include plans showing the locations of existing, retained and proposed new boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of proposed new boundary treatments. The approved scheme shall be implemented before occupation of the building(s)/use/dwelling (s) hereby permitted and shall be retained thereafter.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8, 3.10 and 3.16A of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 22 Requires the prior submission of a landscape management plan
A landscape management and maintenance plan, including a survey of the existing landscape and its condition, long term design objectives, management responsibilities and maintenance operations for all landscape areas, other than domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be implemented in accordance with the approved details and thereafter maintained.
Reason: To protect the landscape character and amenity of the development site over the long term in accordance with Paragraphs 3.8, 3.10, 3.14 and 3.16A of the Birmingham UDP 2005 and the National Planning Policy Framework.

- 23 Requires the prior submission of level details.
Prior to the erection of any building(s)/ structure(s), details of finished site and ground floor levels in relation to the existing site levels, adjoining land and buildings have been submitted to and approved in writing by the Local Planning Authority. The details shall include the proposed grading and mounding of land areas, cross sections through the site and relationship with the adjoining landform and buildings. The development shall be implemented in accordance with the approved details. Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 24 Limits the noise levels for Plant and Machinery
The rating levels for cumulative noise from all plant and machinery shall not exceed 5dB below the existing LA90 background levels and 10dB below the existing LAeq at any noise sensitive premises as assessed in accordance with British Standard 4142 (2014).
Reason: In order to secure the satisfactory development of the application site and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the NPPF.
-
- 25 Requires the scheme to be in accordance with the listed approved plans
The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers K0168_06_1 REV: T, 5917-006, \$-5917-007, K0168_06-2 REV: U, K.0168_13 REV: B, K.0168_05 REV: F, TPBR0068-H002 Revision F (Autotrack Sheet 1 of 2) ('the approved plans')
Reason: In order to define the permission in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 26 Requires the prior submission of a sustainable drainage scheme
No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed and thereafter maintained.
Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these in accordance with Paragraphs 3.71-3.76 of the Birmingham UDP 2005, Sustainable Management of Urban Rivers and Floodplains SPD and the National Planning Policy Framework.
-
- 27 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
No building(s)/ structure(s) or use hereby permitted shall be occupied or the use commenced until a Sustainable Drainage Operation and Maintenance Plan (including details of agreement with an adopting body and proposed inspection and maintenance actions) has been submitted to and approved in writing by the Local Planning Authority and the sustainable drainage for the development has been completed in accordance with the approved sustainable drainage scheme.
The approved drainage system shall be operated and maintained thereafter in accordance with the approved agreement with the adopting party and the approved Sustainable Drainage Operation and Maintenance Plan.
Reason: To ensure there is no increase in risk of flooding, improve and protect water quality, improve habitat and amenity, ensure that sustainable drainage principles are upheld in the design and implementation of the strategy and ensure the future operation and maintenance of the drainage system will be in accordance with the National Planning Policy Framework (including ministerial statement 18th December 2014), TP6 of the emerging Birmingham Development Plan, Sustainable Drainage - Birmingham City Council Guide to Design, Adoption and Maintenance and Sustainable Management of Urban Rivers and Floodplains SPD.
-
- 28 Requires the prior submission of a drainage scheme.
Prior to the erection of any buildings/ structures, a scheme for the disposal of foul waste and surface water from the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and maintained thereafter.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.71-3.76 of the Birmingham UDP 2005, Sustainable Management of Urban Rivers and Floodplains SPD and the National Planning Policy Framework.

- 29 Requires tree pruning protection
Prior to commencement of any works on site (including demolition), the crowns of all trees that extend over the vehicular routes/servicing areas hereby approved shall be pruned so as to achieve a crown lift to 6m above ground level above these vehicular areas. All such pruning works shall be undertaken in accordance with 'Recommendations for Tree Work' (2010 and any subsequent edition).
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8, 3.10 and 3.16A of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 30 Secures local employment
Prior to commencement of each phase of development hereby approved, the employment policy for the construction and operation of that phase shall be submitted and agreed in writing with the Local Planning Authority. It shall include liaison with the City Council's Employment Access Team and its partners and reflect employment protocols and initiatives at that time. It shall be updated as required and as agreed with the Local Planning Authority and the development shall operate thereafter in accordance with the approved details.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 4.15 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 31 Limits the approval to 3 years (Full)
The development hereby permitted shall be begun before the expiration of (3) years from the date of this permission.
Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework.
-
- 32 Requires prior submission and review compliance of R1 Status from the Environment Agency.
Prior to the Renewable Energy Centre development hereby permitted being brought into use, the operator shall submit to the Waste Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage Certification from the Environment Agency. The facility shall thereafter be configured in accordance with these approved details. Once operational, alterations to the processing plant may be undertaken to satisfy Best Available Technique or continued compliance with R1.
Reason: In order to secure the satisfactory development of the application site and to ensure that the development would move waste up the waste hierarchy in accordance with Paragraphs 3.8, 3.10, 3.64A, 3.65, 3.65A-C and 3.67 of the Birmingham UDP 2005 and the National Planning Policy Framework.
-
- 33 Requires the prior submission of a phasing plan
No development shall take place until a phasing plan for the construction and implementation of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved phasing plan.
Reason: In order to secure the satisfactory development of the application site in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework.

Date: Thursday 23rd June 2016



Waheed Nazir, Director of Planning and Regeneration

P.O. BOX 28, Birmingham B1 1TU

Please note
This is not a building regulation approval

INFORMATIVE NOTE

Water supplies for fire fighting should be in accordance with the "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK

Please ensure that you visit the following link before commencing any development:
<http://www.water.org.uk/home/policy/publications/archive/industry-guidance/national-guidance-document/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the West Midlands Fire Service Water Office at
water.officer@wmfs.net

In reaching this decision Birmingham City Council have made the decision in a positive way to foster the delivery of sustainable development, working proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. The decision has been taken having regard to the impact of the development, and in particular to the policies and proposals in the adopted Development Plan, and to all relevant material considerations, including the National Planning Policy Framework, the City Council's draft Birmingham Development Plan and Supplementary Planning Documents/Guidance. The City Council have worked in a seamless and timely manner to undertake the necessary liaison and negotiation with the applicant, third parties and statutory consultees (at the application and pre-application stages) to look for solutions which seek only high quality sustainable development.

APPENDIX 2

CASE OFFICER'S REPORT TO PLANNING COMMITTEE

Committee Date:	23/06/2016	Application Number:	2015/09679/PA
Accepted:	07/12/2015	Application Type:	Full Planning
Target Date:	28/03/2016		
Ward:	Tyburn		

Fort Industrial Park, Dunlop Way, Castle Bromwich, Birmingham, B35 7RB

Demolition of existing buildings and erection of a renewable energy centre (gasification plant) and new industrial/warehouse buildings with ancillary plant/buildings/chimney stack together with associated works

Applicant:	Industrial Property Investment Fund c/o Agent
Agent:	Pegasus Group Pegasus House, Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. Consent is sought for the demolition of existing industrial buildings and erection of a renewable energy centre (gasification plant) and new industrial/ warehouse buildings with ancillary plant/ buildings/ chimney stack together with associated works.
- 1.2. The proposal would result in the demolition of two single-storey blocks comprising of nine industrial and warehouse units (9,290 sq. metres) within the Fort Industrial Park. The proposed development includes two separate buildings; 1.) a general industrial/ warehouse building; and 2.) a Renewable Energy Centre.

Warehouse/ general industrial building with incidental offices and storage

- 1.3. The industrial/ warehouse building would be situated along the Dunlop Way frontage. Amended plans have been provided to re-site the building further into the site by approximately 7.8 metres to address building line and landscaping issues. The palette of materials would comprise grey steel cladding to walls and roof. There would be glazing panels and canopy to two floors of offices and reception area that would also address the corner frontage. Internally, the building would provide an open plan storage/ industrial area with incidental offices. The proposed building would measure 38 metres wide, 49 metres depth by 11.6 metres in height. Total floor area would be approximately 2,000 sq. metres.

Renewable Energy Centre (REC)

- 1.4. The proposed Renewable Energy Centre would be situated to the southern part of the site and to the rear of the proposed industrial and warehouse building. It would be powered by an Advanced Conversion Technology (gasification). The main elements to the proposed REC are:

- A Refuse Derived Fuel (RDF) gasification power plant to generate power and heat from residual commercial and industrial waste (CIW), construction and demolition (C & D) and potential Refuse Derived Fuel (RDF) and municipal solid waste (MSW). The Renewable Energy Centre (REC) would have capacity to process up to 105,000 tonnes of waste per annum. The proposed REC would not accept any hazardous or hazardous clinical waste.
 - The facility would have a capacity to generate a gross power output of 8.6MW.
 - The facility would be self-sufficient in providing its own electricity with excess energy exported to the local grid equivalent to powering 15,000 homes on a continual basis.
 - Around 10% of the energy would be delivered as heat in the form of high quality process steam to be delivered to adjoining industrial/ commercial buildings.
- 1.5. The proposed REC would house the majority of the process plant together with a number of silos to the rear. The single purpose-designed building measuring some 82.3 metres depth, 49 metres wide and 23 metres height up to the ridge. The total floor area (including plant and machinery) would be 5,636 sq. metres. The building would have a modern functional industrial appearance with dark grey colour horizontal cladding for the plinth, light grey along the centre section and white architectural panelling to the top third of the building. The key frontage and corners would be wrapped in an aluminium diamond shaped shingle. All operational doors, external machinery and lower part of the chimney stack would be faced in a contrasting blue coated metal. The internal base of the building would be laid in a concrete base.
- 1.6. The plant employs a two-stage system that first gasifies the waste to produce a synthetic gas which is then transferred to a second stage where it is oxidised. Changing the waste to a gas fuel means the process can be finely controlled, dioxins thoroughly destroyed and Nitrogen Oxides (NOx) emissions minimised which can achieve emissions levels that are compliant with the Industrial Emissions Directive (IED) through an Environment Permit from the Environment Agency. The key stages of the process are as follows
- Fuel bunkers and transport system
 - Thermal conversion;
 - Heat recovery steam generator
 - Energy utilisation system;
 - Flue gas cleaning system; and
 - Control and monitoring system
- 1.7. There would also be one chimney stack serving the REC facility to the east of the building. It would have an overall height of 55 metres from the proposed ground floor level and a maximum diameter of 2.2 metres. The chimney would be constructed from steel, and emerging from the eastern part of the roofline of the REC building, it would be some 32 metres in height above the roof. There would be a walk platform area around the top for continual air quality monitoring access.
- 1.8. Other ancillary buildings/ structures include a detached gatehouse building, two weighbridges, turbine room, ash bunker, air cooled condenser fan, fire water tank, pump room, technical/ control room and a workshop.

On-site traffic circulation

- 1.9. The access to the industrial unit would be gained via a private access road to the western side of the unit. The eastern side of the unit shall gain access onto Dunlop

Way, which would replicate existing access arrangements. There is also a turning circle together with potential for two HGV bays within the service yard.

- 1.10. The proposal would make use of existing access points from Dunlop Way that would serve the proposed industrial and warehouse building and private centralised service road to Fort Industrial Park that is also from Dunlop Way. A new priority junction would be constructed onto the private access road at the south-western corner of the application site. Upon entering the REC site, all vehicles would be directed north towards a manned booth, where two control barriers would split into two and allow for a separation between staff and visitor cars and operational vehicles internally within the site. The waste would be delivered to the site via refuse collection vehicles or in large heavy goods vehicles. The plan shows two weighbridges (entry and exit) at the main access point to the site. There are two HGV turning areas with four HGV parking available within the waste delivery area internally within the building.

Vehicle parking areas

- 1.11. Plan shows that there would be 30 parking bays dedicated for staff and visitors within the main and overspill car parks to either side of the proposed industrial and warehouse building to serve that element of the development.
- 1.12. Dedicated parking areas for the REC are located to the west of the proposed REC building. The parking layout for the REC would provide 19 spaces for cars, including 2 disabled parking and 7 cycle stands incorporated to the side of the parking area.

Landscaping and boundary

- 1.13. Amended plans have been provided that have increased the depth of landscaping buffers adjacent to Dunlop Way and to the railway line, so designed to retain existing trees protected by Tree Preservation Orders and create an appropriate setting for the buildings. The proposal includes tree and hedge planting that includes native planting. A 2 metre high paladin fence would be provided to the perimeter and car park and service areas of both sites.

Hours of operation

- 1.14. The proposed industrial/ warehouse and REC uses would operate 24 hours a day, 7 days a week, throughout the year except during shutdowns for maintenance. The HGV traffic entering and leaving the REC facility would be confined to between 0700-1900 hours Monday to Friday and 0700-1400 hours on Saturdays, Bank and other public holidays with no Sunday deliveries of waste. The anticipated heavy good vehicle movement would be 66 vehicles per day, which would equate to 33 vehicles entering and 33 vehicles exiting the site per day. The applicant has confirmed that the expected HGV importing and exporting materials from the site would be spread evenly during the 12 hour period with peak movement associated with the operation of REC facility.

Working shift patterns

- 1.15. In terms of employment, temporary jobs would be created during the construction stage. When the REC facility is fully operational, it would provide a total of 20 full-time jobs to operate the plant on a 3 shift pattern. A further 28 full-time jobs would be created by the proposed industrial and warehouse building.

- 1.16. An Environmental Statement (ES) and associated appendices, include the environmental considerations of the following topics/issues:
- Development proposals
 - Need and Alternatives
 - Townscape and Visual Impact
 - Air Quality
 - Odour Noise and Vibration
 - Ecology and Nature Conservation
 - Hydrology and Flood Risk
 - Hydrology and Ground Condition
 - Traffic/ Transport
 - Archaeology and Cultural Heritage
 - Socio-economic Impact

[Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site is an approximately 1.91 hectare site that comprises 9 industrial/ warehouse units, located within the Fort Industrial Park. All of the industrial units contained within the industrial park are single-storey industrial/ warehouses with trade counters, internal offices and service yard/ parking. The application site is accessed via a private service road from Dunlop Way. The topography of the site is generally flat. The site is bounded by a fence line adjacent to the railway line to the rear; landscaping area to the front and side of the buildings adjacent to private service road, and Dunlop Way. There are trees to the south of the site that are protected by Tree Preservation Orders (TPO's).
- 2.2. The surrounding area is predominantly industrial and commercial in character. The site is bounded by the Fort Parkway to the north beyond which is Jaguar Land Rover Castle Bromwich Assembly Plant. To the west is industrial and warehouse units that are part of the wider Fort Industrial Park that include Rolls Royce gas turbine power station with a stack that is 60 metres in height. To the east adjacent to the site is B & Q store beyond which is the A452 (Chester Road)/ Spitfire Island) and the Castle Vale residential estate. To the south is the main railway line, Castle Bromwich Inn hotel and the elevated M6 motorway. The River Tame lies to the south of the site, between the railway line and the M6 motorway. There are also 60 metre pylons with high voltage transmission lines to the south and southwest of the site. Castle Bromwich Hall is a Grade II* Listed Registered Park and Garden that is situated approximately 600 metres to the south-east of the application beyond the elevated M6 motorway. The nearest residential properties are situated approximately 350 metres to the south-west and north-west of the application site.

[Location Map](#)

3. Planning History

- 3.1. 03-06-2013 – 2013/02046/PA – Creation of an additional 59 car parking spaces within the Industrial Estate – Approved subject to conditions.
- 3.2. 28-01-1988 – 01444177 – Change of use from Class 4) general industrial to warehousing (use Class B8) – Approved subject to conditions

3.3. 19-04-1982 – 01444169 – Change of use from Class X to Class III for manufacture of sealed double glazing units – Approved subject to conditions.

3.4. 27-08-1981 – Change of use from Class X (Warehousing) to Class IV (General Industrial) – Approved subject to conditions.

4. Consultation/PP Responses

4.1. Site and press notice displayed. Adjoining neighbours, Resident Association, Ward Councillors and MP consulted – one letter of objection received from a neighbour, who objects on the following grounds:

- This “monster” construction will have a detrimental impact on the health and wellbeing of residents in the local area and further afield.
- Increase traffic in an area that is already at maximum capacity at peak rush hour.
- Increased noise, dust and air quality pollution.
- Unsightly tall chimney stack more suited to a heavy industrial area rather than near residential and retail accommodation.
- Cumulative impact of the above raised issues on health grounds.
- Other areas need to be explored that are not situated in close proximity to residential.

4.2. United Kingdom Without Incineration Network (UKWIN) and Friends of the Earth object on the following grounds:

- The facility should be classed as a disposal facility and not “other recovery” within the waste hierarchy and does not represent the best practical environmental option for the anticipated waste stream. It would conflict with policies 3.64A and 3.67 of the UDP.
- Concerns raised together regarding comparison of the proposal to the Lock Street appeal decision in relation to no clear evidence of need for additional capacity and not being demonstrated quantitative or market need contrary to paragraph 3.65C of the UDP.
- Various concerns outlined in the Lock Street appeal decision and comparison to the proposal in relation to the waste hierarchy. The disposal facility would not be in accordance with up to date Local Plan and the applicant has not been able to demonstrate that the proposal would not prejudice movement of waste up the waste hierarchy. The proposal REC would sit at the very bottom of the waste hierarchy at the same level as landfill.
- Reference is made within the Lock Street appeal decision to Merseyside WP policies in relation to demonstrating movement of waste up the waste hierarchy. Reference is also made that “*whilst the attainment of R1 status is not mandatory process by which planning proposals should be considered, it is nevertheless a method of demonstrating whether or not a proposal is recovery or disposal*”.
- Reference is made to an extract from the Lock Street Appeal Decision and carbon credentials from poor use of resources that are likely to have adverse climate change impacts on the environment.
- The proposal could discourage investment in recycling and other management infrastructure that would sit higher in the waste hierarchy than the Castle Bromwich incinerator.
- The performance of the technology to be used within the proposed Renewable Energy Centre and uncertainty regarding the reliability, viability, robustness and flexibility of the technology proposed at Castle Bromwich.
- There are number of references made to extracts from the Waste Framework Directive and the failure of the applicant to demonstrate that the application is a

recovery operation through the use of R1 formula and/ or receipt of a Design Stage R1 Certificate status/ classification by the Environment Agency.

- Their own rebuttal against R1 condition as outlined above highlights that the facility is still considered to be disposal rather than recovery as the applicant failed to demonstrate that the facility is a recovery operation.
- Extracts from Skrytek Court of Appeal Decision and their interpretation of Government policy that if a facility is considered to be recovery, then the following two pre-requisites are met:
 - The facility must benefit from a Design Stage R1 Certificate issued by the EA or an enforceable planning condition prior to the facility being constructed
 - Planning decision makers are confident that the facility would actually operate as a recovery operation throughout the operational life of the facility
- The judge in Skrytek case established the principle that a facility can be treated as “other recovery” only if there is “clear findings” that the facility would be “more likely than not” to “achieve R1 threshold” during its operation.
- If planning permission is to be granted, then a condition should be imposed for the proposed facility to provide in writing verification that it has achieved R1 Status through Design Certification from the Environment Agency.
- Absence of robust evidence as gasification plant and failure to get most energy out of waste.
- Contrary statements have been submitted by the applicants that anticipate gross electricity output of 8.6MW in planning statement and 6.45MW is highlighted within Transport Assessment.
- Applicant’s failure to demonstrate that the proposed facility would be renewable or low carbon.
- The proposal could prejudice the waster hierarchy, including preventing waste from being sent to recovery incinerator such as existing RDF incinerators in the UK with spare capacity or incinerators in Continental Europe that rely on feedstock from abroad for their Combined Heat and Power (CHP) schemes.
- The applicants fail to provide a number of matters related to Greenhouse Gas (GHS) emissions, Global Warming Potential (GWP) and Climate Change.
- Possible cumulative impact on traffic, flood risk, noise and air quality.

4.3. Rebuttal to UKWIN and Friends of the Earth comments submitted by the agents (Pegasus Group) on behalf of the applicant. Summary of points raised as follows:

Proposed technology

- The proposed gasification technology supplier, Energos, is a lead supplier of Energy from Waste plants and offers a clean energy recovery from waste solutions.
- Ability to design, build, operate and maintain facilities capable of converting residual municipal and commercial waste into valuable renewable energy
- The technology provides a best practice solution as an alternative to mass-burn incineration and landfill.
- The supplier, Energos, has been using low emissions to supply industry with sustainable heat and power from waste for more than 15 years and has 800,000 operating hours across 8 sites in Europe within EU safe emissions limits.

Environment Agency R1 Status

- R1 status is administered by Environment Agency and not mandatory process by which planning application should be considered, which is acknowledged within the Lock Street appeal decision.
- NPPG discusses the relationship between planning and other regimes. It advises that the role of the planning system should be to consider whether the development itself is an acceptable use of land and the impacts of those uses, rather than controls over processes, health and safety or emissions, which are subject to approval by other regulatory regimes, and the Waste Planning Authority should assume that they would operate effectively.
- The Environment Agency has not requested a R1 condition for the proposed facility.
- European Commission has only made R1 status mandatory for any facility looking to import waste to other countries, since 2010, and exports of Refuse Derived Fuel from UK go solely to R1 plants.
- DEFRA published in 2014 a list of more than 65 Energy for Waste in the UK and only six of these have achieved formal accreditation from the Environment Agency. There are many UK plants that are potentially compliant with R1 status but have not applied for operational validation.
- The technology supplier for the proposed REC facility is able to demonstrate a long and successful record of delivering significant quantities of heat to industrial customers, sufficient to meet R1 criteria.
- Delivering a plant close to heat users represents a commercial strategy which would deliver higher revenues for the operator.
- Several sites in the Birmingham area were considered and are high on the list of criteria with potential for heat delivery.
- The applicant is unable to currently confirm interest in heat supply contracts as the plant is not yet designed and operational. There are also commercially sensitive discussions with users in close proximity of the site, which are confidential at this time and cannot be disclosed.

Recovery or Disposal

- UKWIN has asserted in their objection that the proposed REC sits at the very bottom of the waste hierarchy, at the same level as landfill. They also suggest that the waste to be used by the proposed facility could be sent to other incinerators in the UK or even incinerators in Continental Europe.
- The proposed REC would complement efforts to increase local recycling rates that would otherwise divert or be sent to landfill or export elsewhere in UK or Europe.
- This small-scale REC is located close to where the waste is being produced, follows the Proximity Principle and reduces the need to transport waste to sites outside Birmingham.
- The proposed REC would meet energy demands of potential customers in the vicinity.
- The proposed facility provides feedstock flexibility and the feedstock will be sourced from several Material Recovery Facilities (MRF) in the Birmingham area.
- The applicants are not suggesting that the proposed REC will be wholly renewable and agree that the net carbon impact of the facility depends on the biogenic content of the feedstock.
- Government CfD (Contract for Difference) regime operators may be required to demonstrate the biodegradable content of the residual waste at regular intervals and the default position of DEFRA is at 50% for CfD's.

Waste Recovery Facility

- The applicant is fully aware of the requirements for R1 classification and would develop the CHP facility to the required level is that classification was to be pursued.
- It is estimated, based on other successful schemes implemented by other owners of Energos designed plants, approximately 10% of the energy will need to be delivered as heat in order to meet the R1 criterion and designation as a recovery plant.
- A lot of interest is being generated and discussions held with local businesses about the supply of heat. Heat supply contracts cannot be agreed however until the associated additional infrastructure costs and details of the forthcoming Renewable Heat Incentive (RHI) are fully known.

Efficiency of the proposed REC facility

- The applicants acknowledge that large-scale mass-burn incineration plants are generally more efficient than smaller-scale plants.
- R1 Certification from EA does not take into account all of the criteria that need to be considered when assessing the sustainability of an EfW scheme, such as:
 - To transport of residual waste over long distances to supply fuel to large scale plants.
 - Environmental impact of transporting residual waste in large quantities over long distances.
 - Increased traffic congestion and the associated vehicular emissions.
- The proposed community-sized, sensibly located REC will deliver the benefits of renewable heat and power back into the local economy and efficiency of the process will be optimised to meet the R1 threshold, whether or not such classification is sought in due course from the Environment Agency.

Planning Policy

- The proposal is a “recovery” facility and in accordance with NPPW. This is treating waste that would otherwise go to landfill, thereby lifting it up the waste hierarchy.
- The proposal is in accordance with up-to-date development plan and NPPW and there is no need for the applicant to demonstrate the quantitative or market need for new or enhanced waste facilities.

Comparative analysis of the Lock Street Appeal Decision and Birmingham UDP

- Query to what weight should be given to Lock Street appeal decision in St. Helens, where Development Plan to include Merseyside and Halton Joint Waste Plan required proposals for Energy from Waste facilities in relation to operational and consented capacity in the plan area and requirement for new facilities.
- The Waste Plan for the Lock Street appeal decision identified that there was a significant amount of consented and available Energy from Waste capacity.
- The Birmingham UDP does not contain such provisions and there is not sufficient consented and available capacity to cater the needs in the Birmingham area.
- Policies 3.64A and 3.65B require the proposal to take account of the need for the facility and its proximity to the source of the waste to be treated.
- The applicant has identified need and there is circa 2 million tonnes of waste disposed with 17% of this sent to landfill within the Midlands region. There is opportunity to secure waste currently going to landfill or being transferred out of the region.
- A conservative estimate is 500,000 tonnes per annum of potentially suitable waste being available within the catchment area.

- The proposal would increase treatment capacity and address shortfall in the potentially available waste stream.
 - The proposal will receive residual material from recycling plants and will not discourage recycling.
 - The proposal will generate electricity and heat to meet the needs of local businesses.
- 4.4. Further consultation with counter-rebuttal from UKWIN and Friends of the Earth on the following grounds:
- Uncertainty continues to remain regarding the reliability, viability, robustness and flexibility of the proposed technology.
 - The proposal involves the maximisation of biogenic fraction of waste through gasification at the cost of potential recycling and adverse environmental impact.
 - No evidence provided that the proposed facility would be able to meet or exceed the R1 threshold contrary to Lock appeal decision, where planning permission was refused on the basis of the applicants failure to demonstrate that the facility would operate as recovery.
 - No R1 application has been made to the Environment Agency and no design data to indicate that the proposed facility would meet R1 threshold with significant heat export.
 - From the applicant's failure and absence of R1 planning condition it is clear that the proposal should be treated as a disposal facility.
 - The gasification plant would drive waste down the waste hierarchy as biodegradable waste is intended to rely upon feedstock that could, if separately collected, otherwise go to Anaerobic Digestion or composting.
 - More should be recycled as it is less costly than incineration in environmental terms and more money needs to be invested in necessary collection, sorting and treatment infrastructure. They also admit that some materials would be expensive to recycle than others.
 - The proposed gasification facility would discourage recycling infrastructure and subsidised gate fees can be set at an artificially cheaper financial charge than recycling.
 - It is not clear whether 10% of energy delivered as heat in order to meet R1 criterion is gross or the net energy.
 - The applicants have not undertaken a guarantee that they would bear the cost of installing necessary piping and other infrastructure necessary for heat exported from site. There is no guarantee that it would obtain relevant planning consent.
 - Fresh assessment is required of the odour assessment as the applicant within rebuttal letter states that a large proportion of the waste to be used as feedstock that may be biogenic.
 - The applicant's failure to address the policy conflicts suggests that the proposal is disposal facility at the bottom of the hierarchy.
- 4.5. Transportation Development - No objections subject to conditions to include reinstatement/ installation of redundant/ new footway crossings, parking and vehicle circulation areas marked out and used for no other purpose, construction management/ method statement, secure cycle storage, measures to prevent mud on highways, means of access constructed and delivery and service areas completed prior to occupation.
- 4.6. Highways England – No objections subject to a lighting condition.

- 4.7. Environment Agency – No objections subject to conditions to include the development to be carried out in accordance with the approved Flood Risk Assessment and remediation strategy.

The proposed plant would require an environmental permit from the Environment Agency and would be required to comply with the emission limits and operating conditions specified in Chapter IV of the Industrial Emissions Directive. In order to grant a permit application, EA would need to be satisfied that the proposed development would not add significantly to local air quality issues, which may require tighter controls on emissions.

The assessment for potential odour impacts has been assessed as negligible. However, this assessment is based on Refuse Derived Fuel, which is expected to be the main feedstock for the plant and will normally have undergone pre-treatment to remove potential odorous content. The applicant does concede the possibility for dirtier batches and refer to Municipal Solid Waste as a possible alternative fuel source. EA is likely to require the applicant to provide an appropriate Odour Management Plan as part of submission towards the determination of an environmental permit.

- 4.8. City Ecologist – No objections subject to conditions to include lighting and Ecological Enhancement Strategy based on recommendations contained within ES supporting reports.
- 4.9. West Midlands Police – No objections subject to Secure by Design commercial development initiative.
- 4.10. Historic England – No objections.
- 4.11. Natural England – No objections
- 4.12. Canal and Rivers Trust – No objections
- 4.13. BCC Local Lead Flooding Authority – No objections subject to conditions requiring a Sustainable Drainage Assessment and Operation and Maintenance Plan.
- 4.14. West Midlands Fire Services – No objections
- 4.15. Employment Access Team – No objections subject to a condition that request that local employment is considered
- 4.16. Severn Trent – No objections subject to drainage condition for the disposal of foul and surface water flows
- 4.17. Regulatory Services – No objection subject to land contamination and restricting cumulative noise from plant and machinery condition.
- 4.18. Birmingham Public Health – Awaiting comments

5. Policy Context

- 5.1. NPPF (2012), National Planning Policy for Waste (2014), National Policy Statement for Energy (2011), National Policy Statement for Renewable Infrastructure (2011), Government Review of Waste Policy in England (2011), Waste (England and Wales) Regulations 2011, Waste Framework Directive 2008, Birmingham UDP (2005), Draft

Birmingham Development Plan (2013), Places for All SPG (2001), Loss of Industrial Land to Alternative Uses SPD (2006), Car Parking Guidelines SPD (2012). DEFRA's "Guidance on Applying the Waste Hierarchy".

6. Planning Considerations

6.1. The main considerations in the determination of this application are:

6.2. **Planning Policy** – The Waste Framework Directive 2008/98/EC introduced new provisions in order to boost waste prevention and recycling as part of the waste hierarchy.

6.3. The Waste (England and Wales) Regulations 2011 requires everyone involved in waste management to take in the transfer of waste all reasonable measures to apply the waste hierarchy.

6.4. Government Review of Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered wherever possible and only disposed of as the option of last resort. There is clear requirement that materials are re-used, recycled or recovered wherever possible and only disposed of as the option of last resort. There is clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for Energy from Waste facilities such as that proposed, not only in the context of waste management but also having regard to low carbon/ renewable energy provision and climate change.

6.5. National Policy Statements (NPS) EN-1 Overarching Energy (EN-1) and EN-3 Renewable Energy Infrastructure (EN-3) deal with nationally significant infrastructure projects and promotion of renewable energy projects. It promotes waste as a valuable resource in the production of energy.

6.6. The NPPF (2012) sets out that the purpose of the planning system is to contribute towards achieving sustainable development and that at the heart of the NPPF is a presumption in favour of sustainable development. It also includes chapters on:

- Building a strong, competitive economy
- Promoting sustainable transport
- Requiring good design
- Meeting the challenges of climate change, flooding and coastal changes
- Conserving and enhancing the historic environment

6.7. NPPF Paragraph 5 states that *"this Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. However, local authorities preparing waste plans and taking decisions on waste applications should have regard to policies in this Framework so far as relevant"*.

6.8. Waste Management Plan for England (2013) provides an analysis of the current waste management situation in England and sets out how government policy will support the implementation of the revised WFD.

6.9. National Planning Policy for Waste (2014) sits alongside the National Planning Policy Framework and is a material consideration. The National Planning Policy for Waste amongst other elements *"promotes delivery of sustainable development and resource efficiency, including provision of modern facilities, local employment*

opportunities and wider climate change benefits, by driving waste management up the waste hierarchy”.

- 6.10. National Planning Policy for Waste (2014) states that *“when determining waste planning applications, waste planning authorities should:*
- *Only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;*
 - *recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy;*
 - *Consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;*
 - *Ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;*
 - *Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;*
 - *Ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.*
- 6.11. Paragraph 3.64A of the UDP seeks a *“sustainable approach to waste management taking account of the following principles:*
- *Consideration of the best practicable environmental option for each waste stream*
 - *Regional self-sufficiency*
 - *The proximity principle*
 - *The waste hierarchy*
- 6.12. Paragraph 3.65 of the UDP identifies that there is likely to be a demand for new commercial waste treatment and processing plants within the Birmingham area. Paragraph 3.67 Adopted UDP states that waste incinerators can provide an efficient means of reducing the amount of waste for disposal and represents an opportunity for energy recovery. However, it does acknowledge that, where it is practical and viable option, the re-use of recycling of wastes is preferable to incinerating waste. The policy also highlights that for new energy from waste plants need to be considered in light of the policy set out in paragraphs 3.65A-3.65C.
- 6.13. Paragraph 3.65A of the UDP states that *“the City Council’s policy is that the development of all new waste management, processing and treatment facilities should be provided in accordance with current national and regional planning guidance, should be in appropriate locations, and should be sited so that they minimise any adverse impacts on local communities, the environment and the local transport network. Where appropriate, the City Council will require mitigation such*

as protective screening and/or landscaping to minimise the impact of such facilities on adjacent areas”.

6.14. Paragraph 3.65B sets out *“the following type of locations...regarded as being suitable for developments that involve the management, treatment and processing of wastes:*

- a) Industrial areas, especially those containing other heavy or specialised industrial uses;*
- b) Degraded, contaminated or derelict land, provided that any nature conservation issues are adequately addressed by the development;*
- c) Existing or former landfill sites, provided that any problems of contamination and/or gas migration can be safely addressed;*
- d) Existing or redundant sites or buildings which can be re-used or adapted;*
- e) Sites previously occupied by other types of waste management facilities;*
and
- f) Other suitable sites located adjacent to railways, canals, or major junctions in the road network.*

It further specifies that *“New energy from waste plants ... that are likely to cause noise, disturbance, air pollution, smells and other nuisances, are expected to be located within existing industrial areas, and will not be permitted in or adjacent to residential areas, unless any adverse environmental impacts can be adequately mitigated.*

6.15. Paragraph 3.65C sets out that *“When considering proposals for new or expanded waste management, treatment and processing facilities, the City Council will take the following into account:*

- The need for the facility and its proximity to the source of the waste to be treated;*
- The impact that the facility is likely to have upon the environment and adjoining uses, particularly in relation to sensitive land uses such as residential areas and nature conservation areas;*
- The need for pollution control measures appropriate to the type of wastes to be processed or handled;*
- The effectiveness or appropriateness of any measures proposed to mitigate or overcome any adverse environmental impacts;*
- The impact of traffic generated by the proposal and the potential to transport bulky goods by more sustainable transport modes, e.g. rail or canal.*

6.16. Policy TP1 of the Draft Birmingham Development Plan sets out commitment of the City to achieve a 60% reduction in total carbon dioxide emissions in the City by 2027 from 1990 levels. Policy TP4 and TP5 sets out a number of actions in promoting and supporting the use of low and zero carbon energy sources and technologies.

6.17. Policy TP13 of the Draft Birmingham Development Plan seeks to prevent the production of waste wherever possible, and where this is not feasible will seek to move and manage Birmingham's waste up the waste hierarchy. It goes on to state that there is a shortfall in the number of material recycling facilities within the City and more will need to be constructed during the plan period.

6.18. Policy TP14 (New and Existing Facilities) and TP15 (Location of Waste Management Facilities) of the Draft Birmingham Development Plan largely reflect UDP policies in supporting gasification and pyrolysis technologies, which can

generate energy and power, in appropriate locations such as industrial areas with similar criteria set for consideration of planning applications within policy 3.65C of the adopted UDP.

6.19. Policy TP18 of the Draft Birmingham Development Plan states that the Core Employment Areas will be retained in employment uses and will be the focus of economic regeneration activities and additional development likely to come forward during the plan period. It goes on to define the employment use context of this policy to include waste management facilities.

6.20. **Land use** –

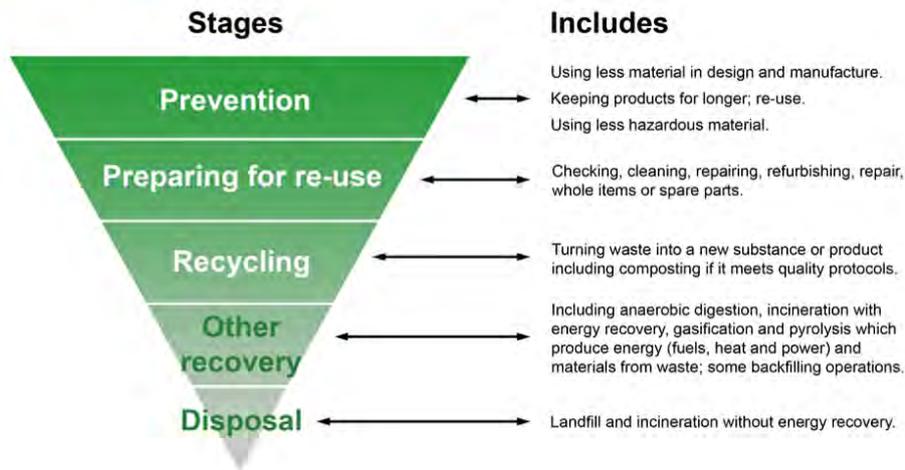
6.21. The proposal needs to be considered in accordance with the NPPF, NPPW, Birmingham UDP and the emerging Draft BDP. The application site is situated within a Core Employment Area and industrial regeneration area within the Adopted UDP and Draft Birmingham Development Plan. The proposed redevelopment of part of the site for industrial/ warehouse use would be compatible with wider industrial uses and so complies with UDP, Draft BDP and the Loss of Industrial Land to Alternative Uses SPD. The proposed development would also involve part of the site for redevelopment for proposed REC facility and Policy 4.31 of the adopted UDP and adopted Supplementary Planning Document "*Loss of Industrial Land to Alternative Uses*" seeks to protect the stock of existing industrial land and is a material consideration in determining planning application involving the loss of industrial land. In this instance, reference is made to part 2.2 of the SPD, which states "*A number of Sui Generis uses can also be located on industrial land such as waste management and treatment facilities and should be assessed on a case by case basis*". The supporting statements have confirmed that the site was identified due to:

- Its availability and its size which was suitable for up to a 105,000 tonnes facility;
- Its proximity to energy intensive industrial consumers. It is intended that the proposal will be able to offer low cost secure energy to one or more neighbouring businesses, assisting in securing the future of those companies and their employees;
- Its access through the existing industrial estate which immediately joins the primary route network without the need to go through residential areas.

6.22. The Birmingham UDP and Draft BDP recognise that there is not sufficient consented and available capacity in the area to cater for the waste needs of the Birmingham area. Birmingham does not have any active landfill sites and the existing energy from waste facility in the city takes only municipal waste. The application site provides an opportunity for power to be supplied back to the local grid as well as the opportunity to export energy the facility generates to nearby industrial/ commercial users including the JLR Castle Bromwich Plant. The proposal would divert up to 105,000 tonnes of waste going to landfill annually and is equivalent to powering 15,000 homes or local businesses. The proposed centralised and sustainable facility close proximity to the source would mean that much of this waste would not have to be transported long distances and thereby promoting self-sufficiency in the region. The proposed facility is accessible from the major road system including the M6 motorway. Consequently, the sui generis REC proposal would comply with aspirations laid out within relevant policies laid out within UDP, Draft BDP and NPPF in bringing this site forward to deal with the level of waste arising in Birmingham area and comply with policy 3.64A, 3.65, 3.65A-3.65C and 3.67 of the UDP and TP1, TP14, TP15 and TP18 of the Draft BDP in Birmingham.

- 6.23. Within their objection UKWIN have made reference to the Lock Street appeal decision and Merseyside and Halton Joint Waste Plan, however this is considered to be of less comparative relevance in the determination of this application with regards to the proposed REC facility. The Lock Street appeal decision was an existing facility being relocated elsewhere, where the local plan identified that there were a significant amount of operational and consented capacity for Energy from Waste within the development plan area. The proposed REC facility herein however is a new facility that is classed as Advanced Conversion Technology (ACT), namely as the biomass element for renewable technologies contracts are awarded by the government through the Department of Energy and Climate Change (DECC). The Birmingham UDP or Draft BDP does not contain similar provisions as there is not sufficient consented and available capacity to cater for needs in the Birmingham area.
- 6.24. **Waste as a provider of energy** – It is also notable that, although it deals with nationally significant infrastructure projects, the National Policy Statement for Energy (2011) and National Policy Statement for Renewable Energy Infrastructure (2011) together the Government Review on Waste (2011) all promote waste as a valuable resource in the production of energy. The NPPF, paragraph 98 states that “*when determining planning applications, local authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if it impacts are (or can be made) acceptable*”. National Policy Statement for Renewable Energy Infrastructure states that “*the recovery of energy from the combustion wastes.....will play an increasingly important role in meeting the UK’s energy needs*”. The proposed energy from waste is considered to be renewable source of energy and a low carbon option. The proposal would meet economic benefits and diversify energy in providing energy security of supply and utilise locally sourced residual waste thereby less dependency of fossil fuels. The proposal would also comply with policy 3.79-3.79C of the UDP and Policy TP1 of the Draft BDP and represents a significant and important local contribution to meeting the legally binding target the UK is required to achieve by 2020 of 15% of energy from renewable sources (UK Renewable Energy Roadmap) and achieving a 60% reduction in total carbon dioxide emissions in the City by 2027 (from 1990 levels).
- 6.25. **Waste hierarchy and the proposed REC facility** – The waste hierarchy is derived from EU legislation and transposed into Government Legislation through The National Planning Policy for Waste 2014 and referred to in the Government Review on Waste 2011. The following diagram illustrates the hierarchy:

The Waste Hierarchy



6.26. As highlighted within the illustrated diagram above, prevention and preparation for re-use is at the top of the waste hierarchy. However, this proposal is for the treatment of the residual waste that is not able to be prevented or prepared for re-use. UKWIN and Friends of the Earth have challenged where the proposal falls within the waste hierarchy. There have been a number of representations made stating that the applicant had failed to demonstrate that the proposal is a recovery operation (other recovery) within the waste hierarchy and therefore concludes that it is a disposal operation, at the bottom of the hierarchy and in their opinion equal to and as poor as landfill disposal. Consequently, the proposal would, in their view, be contrary to EU, Government and Birmingham UDP policies that seek to drive the management of waste up the waste hierarchy. UKWIN note in their objection that uncertainty remains regarding the reliability, viability, robustness and flexibility of the technology. They suggest that there is no evidence provided that the proposed facility would be able to meet or exceed the 0.65 R1 threshold and recovery operation.

6.27. The Waste Framework Directive (Directive 2008/98/EC) includes the same hierarchy priorities, namely waste prevention and recycling followed by recovery and, as the least favourable, disposal. Waste Framework Directive (WFD) makes the definitions of recovery and disposal as follows:

- "recovery" means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II sets out a non-exhaustive list of recovery operations;
- "disposal" means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy. Annex I sets out a non-exhaustive list of disposal operations."

6.28. The classification of a recovery operation or a disposal operation becomes uncertain when considering waste incineration. An Incinerator could be classed as either a recovery operation (R1 – Use principally as a fuel or other means to generate energy) or a disposal operation (D10 – incineration on land). The Waste Framework Directive also specifies that incineration facilities dedicated to the processing of

municipal waste can be classified as R1 only where the energy efficiency is equal to or above 0.65. The supporting statements have confirmed that the proposed REC facility would use Refuse Derived Fuel and non-hazardous municipal, commercial and industrial waste. The supporting statement also confirms that the proposed REC would have the capability to meet R1 recovery criteria if such classification was sought from the Environment Agency. They also confirm that this technology is only used across 8 sites within Europe. The REC facility would have a capacity to generate gross power output of 8.6MW and around 10% of the energy could be delivered as heat output to the adjoining industrial and commercial buildings subject to appropriate contractual agreements.

- 6.29. It is not a requirement in the determination of the planning application to have achieved a R1 status or certification. The determination whether the proposed site satisfies the R1 efficiency criteria is carried out by the Environment Agency as part of their permitting controls, specifically at three stages: plant design; commissioning; and then during normal operation. The NPPF confirms that Local Planning Authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under other pollution control regimes. Local Planning Authorities should also assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities. Although, it is encouraged by the Government, obtaining R1 status is not mandatory for energy from waste plants as supporting statements confirm. The Department for Environment, Food and Rural Affairs (DEFRA) published in December 2014 a list of more than 65 energy from waste (EfW) plants in the UK and only six of these achieved formal accreditation from the Environment Agency. This would mean that majority of UK plants are potentially compliant but have not applied for validation.
- 6.30. The key consideration for the determination of this application is waste planning policy and where the proposal sits within the waste hierarchy. It is worth noting that to maintain R1 certification necessitates an annual review of actual performance level is required based on the previous year's operation. Having regard to this process it would be difficult to see how any energy from waste plant could guarantee R1 status throughout the life of the proposed plant. I note that UKWIN highlight a number of paragraphs from the Lock Street Appeal Decision. However, the Court of Appeal Decision in *Dorothy Strytek V Secretary of State CLG and Others* carries greater weight than the Lock Street appeal decision by virtue of its issue by a Higher Court, and wherein the Judge states, "*it would be unusual for the operator to sign up customers to take any heat produced by the plant at the outset. Potential customers are likely to wait to see whether the plant comes up to expectations in terms of the amount of heat that it produces and the reliability of supply of the heat. Once they are satisfied on these points, then contracts to take the heat may well be signed. It is in the financial interests of the operator of the plant to secure customers to take any heat generated. Once heat is being exported, the operator of the plant can return to the Environment Agency to have the plant reclassified as an energy recovery facility*".
- 6.31. The judge goes on to state: "*In recognition that there can be misunderstanding as to how to apply the waste hierarchy in such situations, DEFRA has produced guidance on the interpretation of the hierarchy. (See a copy of DEFRA's "Guidance on Applying the Waste Hierarchy" at CD151). The table on page 6 of the guidance, which is dated June 2011, makes it clear that all energy recovery technologies, whether electricity only, heat only or heat and power combined, come higher in the*

waste hierarchy than disposal. Thus, the proposed waste treatment facility on the appeal site lies higher in the hierarchy than disposal.”

- 6.32. Whichever is the case of this proposal for REC facility, other recovery or disposal, it has been demonstrated through the Court Judgement in Dorothy Skrytek V Secretary of State CLG and Others that the Planning Inspector correctly applied the waste hierarchy in a practical way by applying energy from waste technologies, whether electricity only or heat and power combined, so that they would come higher up in the waste hierarchy and away from the least sustainable option, namely disposal to landfill.
- 6.33. UKWIN have suggested that an R1 condition should be attached requiring the proposed REC facility to operate as “*Other Recovery*” and in line with Waste Hierarchy in line with policy 3.64A of the UDP and National Planning Policy for Waste. However, there is no requirement by the Environment Agency for this within their consultation response. Furthermore, it has been demonstrated by the Courts and DEFRA’s guidance “*Applying the Waste Hierarchy*” that energy from electricity only or combined heat and power comes higher in the waste hierarchy than disposal to landfill.
- 6.34. As specified above, paragraph 122 of the NPPF sets out the role of the Council and Environment Agency and states “***local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively....***”. Additionally, the National Planning Policy for Waste 2014 “***Planning authorities should – concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on assumption that the relevant pollution control regimes will be properly applied and enforced***”. Court of Appeal Decision in Dorothy Strytek V Secretary of State CLG and others, the judge clearly states that “***the Environment Agency through the environmental permit requires..... the operator of the plant to review options for recovering heat on an ongoing basis***”. Consequently, the request for R1 condition by UKWIN would in this instance be inappropriate for the reasons specified above. Environmental permits issued by Environment Agency would impose conditions on operators to ensure that the facility is designed to enable heat provision in the event of suitable users are identified.
- 6.35. However, a condition could be imposed for an updated CHP Feasibility Review that assesses the potential and viable commercial opportunities together with the on-going monitoring for the use of heat from the development. The condition could also require submission of details of plant and pipeworks within the site boundary to be submitted and approved in the interests of the proper planning of the area, where viable opportunities for the use of heat within the immediate area emerge in the future.
- 6.36. UKWIN also highlights that no infrastructure connections necessary for heat to be exported have been submitted and there is no guarantee that such infrastructure would obtain relevant planning consent. In response, the relevant heat link would be determined by potential industrial/ commercial users together with the output that the REC produces in future years as highlighted above and conditioned accordingly. The infrastructure works outside the application site could potentially be undertaken

by statutory undertakers under permitted development rights, relevant licenses or through formal planning application.

- 6.37. **Need for a waste management facility** – I note concerns have been raised by UKWIN with regards to the need for this facility which they feel has not been demonstrated within the submission.
- 6.38. In assessing proposed waste developments, the “need” for the waste management facility should be addressed, in line with National Planning Policy for Waste, which states that “*planning authorities should:*”
- *Only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;*
 - *Recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspirations of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy.*
- 6.39. The UDP and the evidence base reports for the Draft Birmingham Development Plan support general “need” for additional facilities within Birmingham. The applicant is not required to demonstrate “need” as highlighted above the National Planning Policy for Waste 2014 is clear on this matter that there is no requirement to demonstrate a quantitative or market need where proposals are consistent with an up-to-date development plan (UDP and Draft BDP). The LPA consider that the proposal is consistent with UDP and Draft BDP as explained above.
- 6.40. The Updated Waste Capacity Study submitted in the evidence base for the Draft BDP states that Birmingham does not have any active landfill sites. Given its urban nature, there are unlikely to have landfill sites available and there is a need to consider the reliance on export of waste from Birmingham to landfill outside of the authority area. Currently, the energy from waste facility in the city only takes only municipal waste. The Updated Waste Capacity Study also sets out that there has been a decrease in waste facilities from 106 (based on 2007 EA data) to 87 facilities based on 2012 EA data, which is potentially due to the recession. There is a shortage of Material Recycling Facilities (MRFs) within Birmingham with over 27,000 tonnes of waste being exported from Birmingham. The data suggests that waste is expected to grow over the period up to 2030/31 by around 20%. The Updated Waste Capacity Study (2014) considers that there are opportunities to address the need for the development, or expansion to meet the shortfall and capacity anticipated in future for the recovery of energy waste facilities, whilst still achieving the self-sufficiency principle and without undermining the objectives of the waste hierarchy.
- 6.41. Waste Policy Review alongside NPPF, UDP and Draft BDP announces the Government’s target of a zero waste economy in which “material resources are re-used, recycled or recovered wherever possible, and only disposed of as the option of very last resort. Zero waste does not mean that no waste is produced; rather that only the minimal amount of waste possible is sent to landfill such that it truly a last resort, and sending any waste which could have recovered *is clearly wrong*”. *The Waste Policy Review makes it clear that “the government supports energy from waste as a waste recovery method through a range of technologies, and believes*

there is potential for the sector to grow further” noting carbon savings and potential energy benefits from the process.

- 6.42. With regards to Cumulative and Combined Effects, the National Planning Policy for Waste makes it clear that only operational facilities should be considered when defining the capacity of facilities to satisfy any identified need. There are four waste facilities within Erdington/ Castle Bromwich area. One is Bottom Ash facility at Tameside Drive, which is potentially affected by HS2 and would be relocated elsewhere in the City. The household recycling centre on Tameside Drive would remain and continue to be operational during the construction stage of HS2. Green waste recycling facility is situated on Bromford Drive, which is approximately 2km from the application site. A further site at Washwood Heath Freight Yard on Heartlands Parkway benefits from extant permission granted in 2015 but not yet been implemented for an anaerobic digestion plant and should therefore be disregarded in this instance. City-wide, a gasification plant for wood waste was approved and implemented at Webster and Horsfall in Hay Mills with capacity of 60,000 tonnes per annum. Taking into account the location of other facilities and the surrounding industrial/ commercial character, the proposed REC facility is unlikely to have significant impact on the environment of the immediate area in planning terms and there is a need for the proposed REC facility which would not undermine the objectives of the waste hierarchy.
- 6.43. UKWIN and Friends of the Earth have also raised concerns that the proposal could inhibit recycling and consume materials that could be managed higher up in the waste hierarchy. The proposed Energos gasification technology provides feedstock flexibility. It is intended that the feedstock would be sourced from several Material Recovery Facilities within the Birmingham Area and not hinder other improvements to local recycling rates.
- 6.44. UKWIN also raise concerns that the proposal is disposal and would prevent waste being sent to recovery facilities elsewhere in the UK with spare capacity or in Europe that rely on this feedstock. There is no firm evidence in UK or abroad that there is appropriate spare capacity and it can be argued that such statements would be contrary to National Planning Policy for Waste, where it states that *“...communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle”*. Consequently, this concern as raised by UKWIN could therefore undermine NPPW policy by sending the waste elsewhere in the UK or abroad which would contribute to an increased carbon footprint.
- 6.45. **Socio-economic** – The proposed REC facility would provide 20 full time equivalent jobs, with the industrial contributing a further 28 FTE jobs. There would also be indirect and direct construction jobs created together with local multiplier effects that have potential to make a significant contribution to the local economy. The job opportunities will be across a variety of skills and levels of expertise. Supporting statements also confirm that the applicant (Legal and General) own four industrial estates within the Birmingham area and the tenants have opportunity to move into the proposed industrial/ warehouse building to the front of the site or relocate to another industrial estate owned by the applicant. The proposed development would therefore accord with the NPPF, UDP and Draft BDP, which seek to secure a good range of local employment opportunities by enabling diversification of the local economy.

- 6.46. The proposal would result in significant capital investment in the area and generate 8.6 MW of electricity of which a small amount could be used to power plant with the remainder exported to the local grid or adjoining industrial occupiers. The proposed REC facility has also been designed to export surplus heat to the adjoining industrial and commercial users by agreement and, as a result, there would be savings in their waste management and fuel costs to those local businesses within the area. The proposal would also divert 105,000 tonnes of residual waste from landfill.
- 6.47. **Impact on design and character** – The National Planning Policy for Waste 2014 states that in the determining planning applications, Local Planning Authorities should ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.
- 6.48. There have been extensive discussions at pre-application stage and during the planning application process and the design of the building has evolved taking into account the requirements of the business operation and physical and visual constraints on site such as building lines, the presence of TPO trees, a main railway line and the position of existing and proposed site entrances. Key viewpoints have been provided together with justification for mitigation measures to address the visual impact of the proposal.
- 6.49. Currently, the application site comprises a number of industrial buildings and is situated within a core industrial and employment area. The proposed redeveloped industrial/ warehouse building would be similar in scale and massing to that of other adjoining industrial buildings within Fort Industrial Park. The proposed form of the REC building is strongly influenced by internal plant and operations and would be approximately 23 metres in height. The proposed REC building would be situated to the rear and partially screened by existing buildings and proposed industrial/ warehouse building. There are a number of buildings that have been recently approved and implemented within the wider JLR Castle Bromwich Plant that range from 23 to 30 metres in height. The proposed REC building is considered acceptable in scale and massing terms and would reflect the prevailing character of taller industrial buildings within the immediate area. The choice of materials together with the distinct character of each building would also break up the buildings' scale and massing. Amendments have been secured that have sited the redeveloped industrial/ warehouse building further into the site and also increase the depth of planting to include retention of TPO trees to the south and north part of the site, which would comprise of evergreen trees and shrubs that would help further screen the free-standing plant and buildings. My Landscape and City Design Officers have reviewed revised key viewpoints submitted as part of the Environment Statement's Landscape and Visual section, which show the proposal as a photomontage. They have confirmed that they are satisfied that the proposal is acceptable in the surrounding industrial context and any impact would reduce over time as planting matures.
- 6.50. The proposed chimney stack for the plant at 55 metres has been designed to be as narrow as possible in order to meet the emissions target set by the Environment Agency. The surrounding area comprises electricity pylons together with the existing chimney stack of the Rolls Royce peaking plant gas turbine station which are all approximately 60 metres in height. The proposed stack is considered acceptable as it would be situated within industrial setting and approximately 5 metres lower than the existing pylons and stack associated with the Rolls Royce gas turbine plant.

- 6.51. **Impact on trees, landscaping and ecology** – Due to the overall height of the proposed REC facility and chimney stack it is accepted that its built form would not be fully screened from view. However, much consideration has been given to creating a strong landscape setting around the proposed facility, which responds well to both to its local and wider site contexts. Amendments have been submitted which have removed an HGV turning area that affected existing trees protected by Tree Preservation Orders (TPO) and also additional trees and shrubs proposed as part of the landscaping scheme for the site adjacent to the railway line and Dunlop Way. My Landscaping and Tree Officers together with Network Rail have raised no objections subject to conditions to include landscaping, tree protection, site levels and hard surfacing that would ensure that the proposal makes a substantial contribution to the site and overall area in amenity and biodiversity terms.
- 6.52. The ecology section as part of Environment Statement takes into account all of the potential issues for protected species. The City Ecologist has raised no objection to the demolition of existing buildings subject to the recommendations made within the ecology section of the Environmental Statement are implemented. Soft landscaping areas are proposed to the adjoining railway line and Dunlop Way and City Ecologist recommends imposition of an ecology enhancement condition for plant species selection to provide biodiversity benefits for bird and pollinator insects. The site also sits next to the overflow channel for the River Tame and a rail corridor and there is some potential for commuting and foraging bats, therefore a lighting condition is also recommended for any external lighting in the south of the site to be directed and of minimal light spill to avoid illuminating this corridor.
- 6.53. **Residential amenity** – I note concerns have been raised by UKWIN and Friends of the Earth with regards to air quality, emissions, climate change, health and well-being etc.
- 6.54. Paragraph 122 of the NPPF sets out the role of the Council and Environment Agency and states *“local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively....”*. Additionally, the National Planning Policy for Waste 2014 under paragraph 7 states that *“impacts to the local environment and amenity should be considered but it is not necessary to carry out detailed assessment of epidemiological and other health studies on the basis that these controls would be provided through the pollution control regime.”* And *“Planning authorities should – concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on assumption that the relevant pollution control regimes will be properly applied and enforced”*.
- 6.55. National Policy Statement for Energy also states that that *“those aspect of energy infrastructure which are most likely to have a significant detrimental impact on health are subject to separate regulation (for example for air pollution) which will constitute effective mitigation, so that it is unlikely that health concerns will either constitute a reason to refuse permission or require specific mitigation”*. Birmingham Public Health has been consulted and any comments received will be reported at the meeting.
- 6.56. As part of the Environmental Statement, an air quality assessment has been submitted. The Environment Agency have confirmed that the proposal would

require an environmental permit. The Environment Agency note the results of the Air Quality impact assessment and conclude that a tighter emission limit for oxides of nitrogen may be appropriate in this location than is required by the Industrial Emissions Directive (IED), and that an annual mean emission limit of 150 mg/Nm³ would be achievable (cf 200 under the IED). They also note that the potential odour impacts have been assessed as negligible. However, this assessment is based on Refuse Derived Fuel (RDF), which will normally have undergone pre-treatment to remove most of the potentially odorous content. This is currently expected to be the main feedstock for the plant, but the applicant concedes the possibility of occasional “dirtier” batches, and the application continues to refer to Municipal Solid Waste as a possible alternative fuel source. They would require the applicant to provide an appropriate Odour Management Plan as part of the Environmental Permit, which would address UKWIN concerns.

- 6.57. The proposed REC facility would be a modern, appropriately located, well-run and well-regulated, waste management facility that would operate in line with current pollution control techniques with standards that should pose little risk to human health and maintained under separate permit regulations under Environment Agency. The proposed REC facility would operate 24 hours a day 7 days a week with deliveries to and from the site taking place between 0700-1900 Monday to Friday and 0700-1400 hours on Saturdays. The surrounding area is commercial and industrial in character including Jaguar Land Rover Castle Bromwich plant on the opposite side Fort Parkway. Dunlop Way is situated off Fort Parkway and busy Spitfire Island and Chester, which are part of strategic highway, where the application site is located approximately 350 metres south west (Bromford Drive) and north-east (Castle Vale) of the nearest residential areas and the routing would not HGV's to travel along residential roads. Regulatory Services have raised no objections subject to the imposition of a cumulative noise restriction condition for plant and machinery. I concur with this view and consider that the proposal is unlikely to affect the amenity of residential occupiers within the immediate vicinity of the site.
- 6.58. Regulatory Services have also approach this application on the assumption that the plant would operate in accordance with an Environmental Permit should one be granted and that, should there be any non-compliance, the Environment Agency would act in accordance with its enforcement powers conferred through the environmental permitting regime.
- 6.59. I note that UKWIN refers to the Isle of Wight Energos Plant, which had to be closed to deal with emissions that breached pollution control. In the Isle of Wight case, Energos technology was applied to an existing facility, which had to be adapted, and this resulted in problems meeting emission limits. I note from the applicant and evidence available that this has been corrected, and that the pollution control regime was able to regulate the operation on site. The proposed REC facility here would be a new facility and designed differently to the plant on the Isle of Wight. The applicant has also confirmed that the Energos Plant in Norway operates with emissions below those specified in the Waste Incineration Directive through permit regulation.
- 6.60. With regards to climate change, the proposal includes a number of measures to tackle climate change:
- Proposed modern facility with proven technology across 15 sites across Europe in providing sustainable, renewable energy production and delivering low emissions;

- Proposed REC facility would utilise residual waste that would otherwise be sent to landfill;
 - Proposed energy from waste would reduce greenhouse gas produced at landfill sites and/ or through the use of fossil fuels;
 - Improved local energy diversity, resilience and security;
 - By providing a localised facility, it would reduce the need to transport waste to landfill or other facilities across UK;
 - Re-use of industrial site and improvements to landscape buffers in the form native species are proposed to the front and rear of the site that has potential to off-set greenhouse gases;
 - SuDS feature includes below ground geo-cellular storage and flow controls within the development site;
- 6.61. **Land contamination** – Currently, the application site comprises a number of industrial buildings. A desk top study was been provided as part of the supporting ES submission. The Environment Agency and Council's Regulatory Services have recommended land contamination conditions are imposed as the desk study recommends that environmental soil samples for chemical analysis or conceptual modelling (to determine contamination during the construction stage) are necessary in order to meet the requirements of environmental planning conditions.
- 6.62. **Flood risk and drainage** - A Flood Risk Assessment has been submitted as part of the application as the site covers an area of approximately 1.9 hectares. It identifies the site as being entirely within Flood Zone 2 and 3 and in an area that benefits from flood defences. The Environment Agency mapping identifies flood defences have been installed along both banks of the River Tame within the immediate vicinity of the site. The Environment Agency has raised no objections to the proposal subject to a condition that the development is carried out in accordance with the approved Flood Risk Assessment. There has been further supporting information submitted and the Council as Local Lead Flooding Authority has also raised no objections subject to a number of conditions to include submission of further drainage details to minimise the risk of off-site flooding caused by surface water run-off and submission of a maintenance and management plan relating to a sustainable drainage scheme. Severn Trent has also recommended a drainage condition for the connection and disposal of foul waste. I concur with this view and subject to conditions, it is considered that the proposal is in accordance with policies 3.72 and 3.75 of the UDP, paragraph 103 of the NPPF and paragraph 7 of the National Planning Policy for Waste 2014 in terms of ground water, flood risk and environment impact.
- 6.63. **Impact on setting of heritage assets and archaeology** – An Archaeology and Cultural Heritage submission as part of the Environment Statement accompanies the application. Castle Bromwich Hall is a Grade II* Listed Registered Park and Garden that is situated approximately 600 metres to the south-east of the application beyond the elevated M6 motorway. Historic England and my Conservation and Archaeological Officer has raised no objections as the proposal is situated within an industrial area and is unlikely to have an adverse impact on the setting of these designated heritage assets.
- 6.64. The applicants within their Archaeology and Cultural Heritage Statement have identified that prehistoric archaeological finds have been found within 300m of the site and therefore consider the site to have some potential implications for archaeology. The Conservation and Archaeological Officer has raised no objections to the proposal subject to imposition of a condition to safeguard any potential archaeology at the site during construction.

6.65. **Impact on highway safety** – I note concerns have been raised with regards to traffic congestion. The access arrangement would either continue to remain from Dunlop Way to the redeveloped industrial/ warehouse unit or via the private access road onto Fort Industrial Park for the Renewable Energy Centre or redeveloped industrial unit. The proposal would provide 30 spaces for the redeveloped industrial unit and 19 spaces for the Renewable Energy Centre includes four disabled spaces. The supporting statements confirm that the plant would accept 105,000 tonnes and result in 33 in/ 33 out net daily HGV trips and 20 in/ 20 staff out trips. Transportation Development have reviewed the Transport Assessment and consider that the level of vehicle movement generated from the proposed development would be a decrease in comparison to the site's existing use. Transportation Development have raised no objections subject to the imposition of conditions. I concur with this view and consider that the proposal is unlikely to undermine highway safety within the immediate vicinity of the site.

6.66. **Employment generation** – The Employment Access Team (EAT) have recommended that a condition be attached in order to secure jobs for local residents living in the area. This can be attached and delivered in so far as appropriately skilled workers are locally available.

6.67. **Community Infrastructure Levy** - The proposed development would not attract a CIL contribution.

7. Conclusion

7.1. The scheme would involve the re-use of an industrial site and would provide a purpose-built industrial/ warehouse and Recovery Energy Centre development. The proposed REC facility represents innovative energy technologies in a suitable industrial location with good links to the strategic highway network without adverse impact on highway safety or residential amenity in planning terms, subject to relevant conditions. Additional pollution control mechanisms arise through the environmental permitting regime operated by the Environment Agency. The proposal's design would introduce a modern industrial development that would add to the character and appearance of its industrial surroundings. The proposal is in accordance with relevant policy and guidance as set out above and planning permission should be granted subject to conditions.

8. Recommendation

8.1. Approve subject to conditions

-
- 1 Requires the scheme to be in accordance with the environmental statement
 - 2 Requires prior submission of an updated CHP Feasibility Review.
 - 3 Restricts 105,000 tonnes of waste per annually.
 - 4 Requires development to be carried out in accordance with the approved Flood Risk Assessment (FRA).
 - 5 Requires the prior submission of sample materials
-

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- 6 Requires the prior submission of a contamination remediation scheme
 - 7 Requires the prior submission of a contaminated land verification report
 - 8 Requires the prior submission of investigation for archaeological observation and recording
 - 9 Requires the prior submission of a lighting scheme
 - 10 Requires the parking area to be laid out prior to use
 - 11 Requires the prior submission of cycle storage details
 - 12 Requires the delivery and service area prior to occupation
 - 13 Requires the prior installation of means of access
 - 14 Requires the prior approval of details to prevent mud on the highway
 - 15 Requires the prior submission of a construction method statement/management plan
 - 16 Requires the prior installation/ removal of redundant footway crossing.
 - 17 Prevents storage except in authorised area
 - 18 Limits delivery time of goods to or from the site
 - 19 Requires the submission of hard and/or soft landscape details prior to occupation.
 - 20 Requires the submission of hard surfacing materials prior to occupation.
 - 21 Requires the submission of boundary treatment details prior to occupation
 - 22 Requires the prior submission of a landscape management plan
 - 23 Requires the prior submission of level details.
 - 24 Limits the noise levels for Plant and Machinery
 - 25 Requires the scheme to be in accordance with the listed approved plans
 - 26 Requires the prior submission of a sustainable drainage scheme
 - 27 Requires the prior submission of a Sustainable Drainage Operation and Maintenance Plan
 - 28 Requires the prior submission of a drainage scheme
 - 29 Requires tree pruning protection
 - 30 Secures local employment
 - 31 Limits the approval to 3 years (Full)
-

Case Officer: Mohammed Akram

Photo(s)

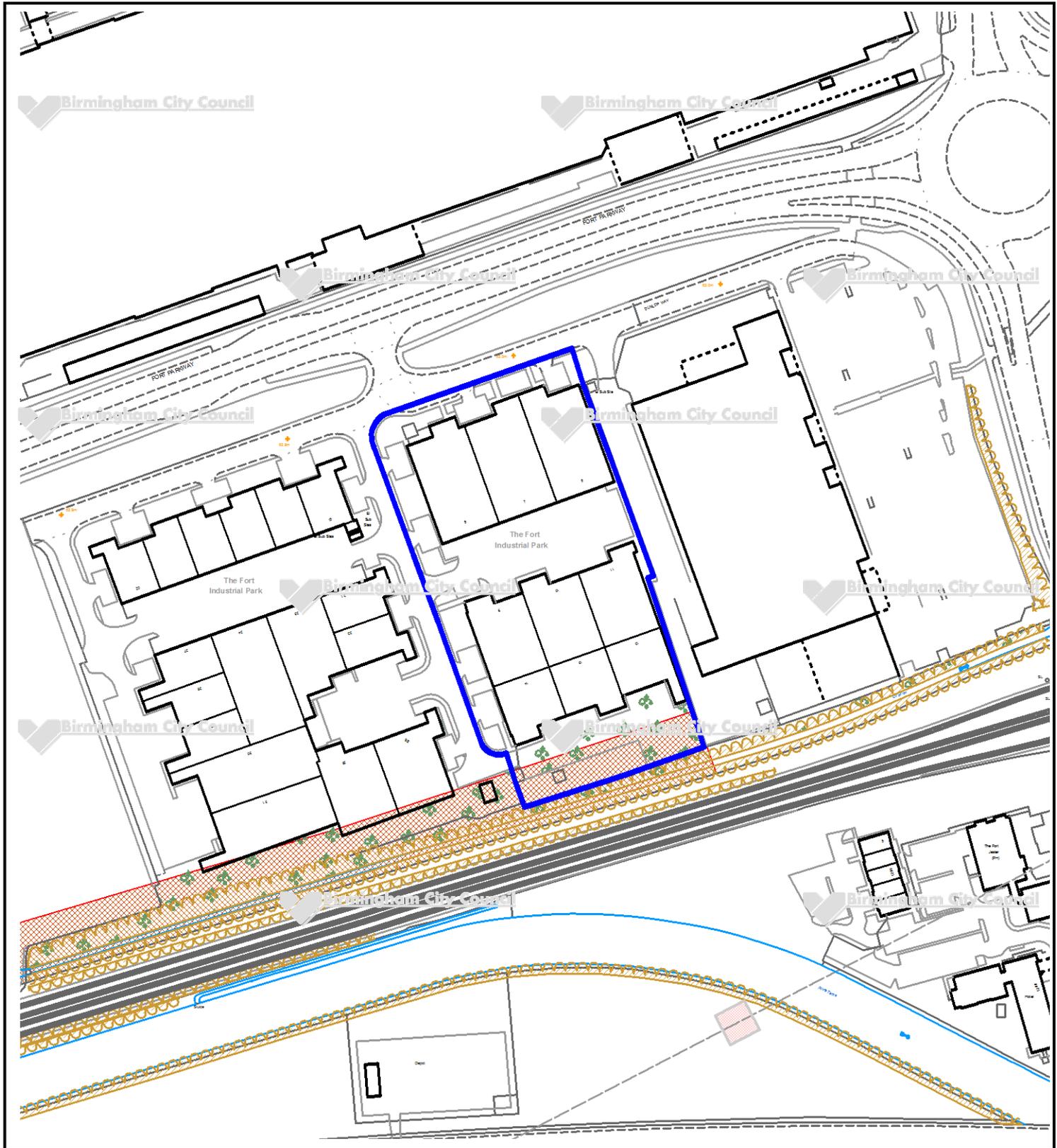


Figure 1: Illustrative 3D view



Figure 2: View from Dunlop Way

Location Plan



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APPENDIX 3

TABLE OF REPLACEMENT POLICIES

UDP Policy Title and Paras	Replacement Devt. Plan Policy and Title
Energy from Waste Plants – 3.67	TP14 – New and Existing Waste Facilities
Waste Treatment and Management – 3.64A-3.65C	TP14 – New and Existing Waste Facilities
The Design of New Development – 3.14-3.14C	PG3 – Place-making
Trees and Landscape in the Urban Environment – 3.16A	TP7 – Green Infrastructure Network
Conservation of the Built Environment – 3.20-3.24	TP12 – Historic Environment
Nature Conservation – 3.37-3.40	TP8 – Biodiversity and Geodiversity
Water and Drainage – 3.71-3.76	TP6 – Managing Floodrisk
Air Quality – 3.77-3.78	TP36 – Health, TP37 – A Sustainable Transport Network, TP39 – Cycling, TP42 – Low Emission Vehicles
Energy – 3.79-3.79C	TP1 – Reducing the City’s Carbon Footprint, TP4 – Low and Zero Carbon Energy Generation
Maintaining the Supply of Industrial Land – 4.31-4.32	TP16- Portfolio of Employment Land and Premises, TP19 – Protection of Employment Land
New Developments- Transportation Requirements – 4.31-4.32	Vision, strategy and objectives
Birmingham Heartlands: Bromford – 11.26-11.30A	Abandoned policy