

REPORT FOR STRATEGIC PLANNING COMMITTEE

Date of Meeting	27 July 2022
Application Number	20/06775/WCM
Site Address	Northacre Energy from Waste Facility, Stephenson Road, Northacre Industrial Estate, Westbury, BA13 4WD
Proposal	Amended energy from waste facility to that consented under planning permission 18/09473/WCM
Applicant	Northacre Renewable Energy Ltd
Town/Parish Council	Westbury
Electoral Division	Westbury West – Cllr Matthew Dean
Grid Ref	385757 151868
Type of application	Full Planning
Case Officer	Andrew Guest

1. Background

On 22 June 2021 the Strategic Planning Committee resolved to grant planning permission for this development (committee report (excluding annexes) at appendix 1). In making its decision the Committee took account of all matters relevant at the time. These included the development plan policies, national legislation/guidance and evolving national policy/guidance, the standalone Environmental Permitting regime, the general 'need' for the facility, the specific circumstances of the site, and the likely effects of the development itself (in terms of the visual effects, transport impact (including on the Westbury Air Quality Management Area) and the environmental effects (including noise, vibration, air quality, odours, plume visibility/grounding, operational odours and bio-aerosols insofar as these are relevant to planning).

The Committee's decision was subject to the planning permission not being issued until the application had been referred to the Secretary of State for his consideration as to whether or not it should be 'called-in' for his determination. On 31 March 2022 – some 9 months after the Committee meeting – the Council received notification from the Planning Casework Unit that the Secretary of State does not wish to call-in the application.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, and if during this 'gap' the authority becomes aware of new material considerations, then the relevant law requires the authority to have regard to the new considerations before finally determining the application. In these circumstances the authority need only consider the new considerations, and so not re-consider matters which had already been considered and which are not new.

In accordance with this, the planning application was re-presented to the Strategic Planning Committee on 20 April 2022 with a further report setting out the new material considerations since June 2021 (appendix 2). The outcome was that the Committee resolved to defer determination of the application, notably to allow additional information to be provided in the report, and so allow further consideration of the following matters –

- the Government’s (DEFRA) consultation on Environmental Targets required by the Environment Act, and specifically the proposed target for “halving the waste that ends up at landfill or incineration by 2042”;
- the ‘need’ for the facility, this in the context of the above; and
- the traffic impacts of the development, this in the context of the Bath Clean Air Zone and its implications for traffic levels on the A350.

Other new material considerations were considered by the committee in April, but not raised as reasons to defer determination. Those reasons were/are the updated National Planning Policy Framework, the ‘Net Zero Strategy: Build Back Greener’, and the Government’s consultation on the review of National Energy Policy Statements.

Other considerations were also considered by the committee in April 2022 (and raised in representations before and at the meeting). These included some of the environmental effects of the proposal (notably, the effects on air quality, and of odours, plume visibility/grounding, operational odours and bio-aerosols insofar as these are relevant to planning). It was not necessary for the Committee to consider these matters as they had already been considered in July 2021 and were not new material considerations in April 2022. They remain not new material considerations in July 2022.

2. Further New Material Considerations since 20 April 2022

There are two further new material considerations since April 2022 –

- Implementation of planning permissions 18/09473/WCM for an ‘Advance Thermal Treatment Facility’ at the site and 19/02481/FUL for an ‘underground grid connection’. Work commenced on these planning permissions in May and June respectively, comprising a section of grid connection in fields south of the facility, and the highway access and boundary fencing to the site itself.
- Environmental Permit issued. The Environment Agency issued the Environmental Permit for the proposed facility on 15 June 2022 (annex 3).

3. Appeal against non-determination

On 24 June the applicant lodged an appeal against the local planning authority’s failure to determine the application within agreed timeframes (a ‘non-determination’ appeal). The consequence of this is that the decision will now be made by a Planning Inspector and not the local planning authority (Wiltshire Council).

The local planning authority will remain a relevant party in the process, and accordingly must still make a ‘decision’ in relation to the planning application. The decision will be the authority’s reason(s) for either defending the appeal or its reasons for not defending the appeal. The decision cannot be the final grant or refusal of planning permission.

A letter from the applicant to the Committee Chairman explaining the reasons for the appeal is attached at Appendix 3.

4. Response to reasons for deferral at 20 April SPC meeting

Government's (DEFRA) consultation on Environmental Targets required by the Environment Act, and specifically the proposed target for "halving the waste that ends up at landfill or incineration by 2042".

On 16 March 2022 the Government launched a public Consultation on Environmental Targets with closing date of 27 June. The overarching reason for the Consultation – taken from the DEFRA website – is as follows....

Environmental targets, a key commitment in our Environment Act, will help deliver the government's vision of leaving the environment in a better state than it was found and will drive forward ambitious environmental improvements by successive governments that protect and enhance our natural world.

The targets form part of the government's response to the clear scientific case, and growing public demand, for a step-change in environmental protection. Environmental targets will require action across the economy and will provide long-term certainty to businesses and society. This will stimulate innovation and economic growth and will create and support green jobs across the country.

The Environment Act 2021 requires the government to set at least one long-term target in each of the following areas: air quality; water; biodiversity; and resource efficiency and waste reduction. It also requires targets to be set for fine particulate matter (PM2.5) and species abundance.

We are proposing targets that we think will deliver environmental outcomes in the areas where there are some of the greatest problems. This is why we are considering targets beyond the legal minimum that we are required to set, with additional proposals on: biodiversity; water; marine; and woodland cover.

The relevant section from the Consultation document ("Target proposals for resource efficiency and waste reduction") states the following –

The problem –

Since the 1990s, England has successfully shifted away from a waste management system reliant on landfilling. Today, we manage our waste through treatment options such as recycling, composting, anaerobic digestion, incineration (including with energy recovery) and controlled landfilling. But we continue to send large amounts of waste to treatment processes which have more harmful impacts on the environment. Simultaneously, material resource use in England continues to grow. The extraction, production and disposal of material resources produces significant environmental pressure.

In 2019, 29 million tonnes of waste (excluding major mineral wastes) were sent to landfill, energy recovery or incinerated, with nearly half landfilled. In the same year, approximately 3 million tonnes of waste were sent for energy recovery treatment overseas.

Proposed target to address it –

- Reduce residual waste (excluding major mineral wastes) kg per capita by 50% by 2042 from 2019 levels. It is proposed that this will be measured as a reduction from the 2019 level, which is estimated to be approximately 560 kg per capita.

Residual waste originates from a range of sectors, including households, (“black bag waste”) commercial and industrial, and construction, demolition and excavation sources. It is usually sent for incineration at an energy recovery plant or to landfill. Tackling residual waste reduces the environmental impacts of treatment, including air, soil, and water pollution, and unnecessary energy use. It is more sustainable to prevent waste completely and, where waste is unavoidable, to recycle it.

Our proposed target includes all residual waste, excluding major mineral wastes. These are largely inert waste categories from construction and demolition, and excavation and mining activities. This focus will ensure attention on where the environmental impact is greatest, and where our evidence is strongest. The large tonnages associated with major mineral wastes would also risk perverse outcomes if they were included, because the target could be achieved more easily by focussing on these wastes rather than those we believe have greater environmental impact.

The proposed target ensures that a holistic view of waste is taken, which avoids potentially perversely incentivising material substitution with potentially worse environmental impacts through material specific targets. To address the significant public concern towards plastic waste, there is a separate, existing government commitment within the 25 YEP to eliminate avoidable plastic waste by 2042.

The proposed target can drive both waste minimisation and recycling of unavoidable waste. Measuring in relation to population size ensures a target remains comparable over time and isn’t affected by impacts beyond our control. This is described in Figure 1 below.

Figure 1: Proposed metric for reducing residual waste

$$\text{Residual waste (excl. major mineral waste) per capita (kg)} = \frac{(\text{Tonnes of waste sent to landfill + put through incineration + sent overseas for energy recovery + used in energy recovery for transport fuel excl. major mineral waste}) * 1000}{\text{Population}}$$

We propose to measure at the end-point of waste management to include the treatments that are typically associated with mixed residual waste, covering waste that is sent to landfill, put through incineration (including energy from waste incineration), sent overseas for energy recovery or used in energy recovery for transport fuel. The government will continue to review which treatments are appropriate to include as new technologies and treatment options emerge. Environment Agency data on permitted waste site activities and international waste shipments will be used to report on the metric. This will provide a robust approach, recognising that there is limited data availability at the point waste is collected.

Incineration with energy recovery is preferable to disposal of waste via landfill or incineration without energy recovery. However, it is important to include all of these treatment options to:

- a) provide the best proxy measure for waste that isn’t separately collected;
- b) help drive real improvement via waste minimisation and increased recycling, rather than simply diverting waste from landfill to incineration with energy recovery.

The proposed target excludes waste sent for anaerobic digestion (AD), which treats separately collected food waste. AD is one of the least detrimental end of life treatment options for food waste, when considering climate change impacts and depletion of natural resources. It recycles food into digestate fertiliser and recovers energy from biogas. We are exploring how AD may be used in the future to generate carbon dioxide from waste.

Data will be required to develop robust indicators to monitor progress towards a target related to residual waste, future recycling targets and landfill reduction targets. Until recently, there was a legal requirement on Local Authorities (LAs) to provide data on waste, which would assist in this monitoring. To ensure such data will be available, we propose reinstating a similar obligation for LAs in England to provide it.

Why we are setting it at this level –

The proposed target level is based on modelling the collective impacts of the planned Collection and Packaging Reforms (CPR) on residual waste, as well as considering potential future pathways. These could include policies to separate more waste materials for recycling and to divert waste from residual waste treatment. The Government believes it is important that local authorities continue to support comprehensive and frequent rubbish and recycling collections to households. Our consistent collection proposals have included consulting on expanding food waste collections, supporting garden waste collections, and introducing a minimum collective frequency for residual waste. Such reforms would help ensure households continue to have access to a comprehensive and frequent service, whilst improving environmental outcomes.

This target is ambitious, with the major changes set out in CPR only expected to get us halfway towards our target. Meeting the target will require progress beyond the current commitment to achieve a 65% municipal recycling rate by 2035, and would represent a municipal recycling rate of around 70-75% by 2042. This pathway assumes sufficient private investment in necessary infrastructure and significant behavioural change.

Response -

At this point in time DEFRA's suggested targets in the document are proposed only, being subject to the public consultation exercise; the consultation opened on 16 March and closed on 27 June. It is expected that the responses to the consultation will be subjected to analysis by DEFRA, with, presumably, reports and recommendations then published. However, as there is no indicated timeline for this reporting, and as it is not possible to predict how the proposed targets may, or may not, change as a consequence of the reporting, and as it is also not possible to predict how?, what? or when? any government policies or legislation affected will then be enacted, it is considered that little weight, if any weight, can be given to the consultation as a material planning consideration at this time. The proposed target remains, in essence, a theoretical / aspirational position.

The planning application was considered with full regard to actual adopted waste and energy policies which applied in 2021 and which continue to apply now, and these have not materially changed in terms of the relevance of incineration and energy from waste facilities. Likewise, the planning application was also considered with regard to the question of need for such facilities based on actual quantities of waste requiring management. Again, the circumstances relating to the need have not changed over the last c. 12 months. In particular, the 'capacity gap' referred to in the original report between the present availability

and capacity of facilities to manage waste and the actual quantities of residual waste to be managed, remains essentially the same. It follows that at this point in time the current 'targets' consultation exercise can have little or no bearing on the Committee's original decision which addresses the current and, for the time-being, future positions.

In the event that the Government's target is adopted and is then enshrined in policy and legislation, there will remain a need for facilities to manage residual waste in any event. Referring back to the sub-regional waste market analysis work commissioned by the applicant in support of the planning application (and referred to in the original committee report, and now in this report (below)), this forecasts the sub-regional need for the Westbury facility to be presently c. 470,000 tpa which has not changed, from mainly commercial and industrial waste and some LACW (Local Authority Collected Waste) sources. A simplistic 'halving' of this (as proposed in the proposed Government target) would leave 235,000 tpa still to be addressed. The facility would address this continuing need.

The question of need is considered in greater detail in the following paragraphs.

The 'need' for the facility

The Committee questioned the need for the proposal, both in any event and in the context of the Government Consultation.

The Planning Statement which accompanies the planning application includes a chapter which addresses need. The larger part of the chapter is set out below –

3.1 Introduction and Context

- 3.1.1 There is no Government policy that requires, as a matter of general principle, applicants to demonstrate that there is a need for their development. However, it is widely recognised that the need for a particular scheme may be a material planning consideration, that weighs in its favour.*
- 3.1.2 By their nature, schemes such as the Northacre Facility bridge two industrial sectors. They have their roots in waste management, but are also equally important in terms of secure indigenous energy generation, renewable and low carbon energy generation and associated climate change benefits. Accordingly, this Section of the Planning Statement identifies relevant principles relating to need for the Proposed Development, both in terms of waste management and energy generation.*
- 3.1.3 First and foremost, the Northacre Facility already benefits from an extant planning permission on the Application Site by virtue of the 2019 Permission. That consent was for a plant with a total waste throughput capacity of circa 160,000 tpa, of which 41,500 tpa was proposed to be direct transferred from the adjacent Northacre RRC, with the balance of waste being sources from elsewhere in Wiltshire, largely from commercial sources, and the wider sub-region.*
- 3.1.4 The Northacre Facility as now proposed would have a forecast maximum throughput of 243,000 tpa. It would continue to take waste from the RRC (in an increased quantity) and also from commercial sources in Wiltshire and from the wider sub-region. In this section of the Planning Statement consideration has been given to the 'need' for the larger scheme, as now proposed, in the prevailing waste and energy markets and in terms of the planning / policy context.*

3.1.5 *In terms of waste policy, the approach to demonstrating need is manifest in the National Planning Policy for Waste (NPPW) (paragraph 7), which only expects a market need to be demonstrated where proposals are not consistent with an up-to-date Development Plan. In such cases, planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need.*

3.1.6 *In this context, the following key points in relation to waste management need are noted:*

- i. Wiltshire has no known true existing, operational residual waste treatment capacity.*
- ii. The 'Waste Development Plan' is in 3 parts, of which the Wiltshire and Swindon Waste Core Strategy and Waste Development Control Policies Document were both adopted in 2009 and can be considered aged as they pre-dated the NPPF.*
- iii. However, the Wiltshire and Swindon Waste Site Allocations Local Plan (2013) post-dated the initial NPPF and can be considered to be more up-to-date. Further, it updated aspects of the Waste Core Strategy in relation to matters such as the 'capacity gap' i.e. need for new waste management facilities.*
- iv. As set out previously in sub-section 2.2, in granting the 2019 Permission, WC concluded that developing a strategic scale EfW facility on the Application Site would be in compliance with the Development Plan Documents as a matter of principle.*
- v. Again as described in sub-section 2.2, the Development Plan states that strategic scale facilities include EfW plants and are anticipated to operate at a wider spatial scale, managing higher tonnages of waste, over a wider catchment area. The Waste Core Strategy and Committee Report for the 2019 Permission make it clear that this wider catchment extends into adjacent local authority areas and a wider sub-regional context.*

3.1.7 *Thus, two conclusions can be drawn:*

- Given that the strategic scaled scheme in the 2019 Permission was found to accord with the Development Plan as a matter of principle, there is a strong case that, a little over one year later and facing the same policy context, the current strategic scaled scheme should equally accord with the Plan; and consequently, there should be no expectation to demonstrate need from a waste management perspective.*
- That, in so far as the quantitative or market need for the facility might be considered, it is entirely appropriate to look at that need from a wider subregional perspective.*

3.1.8 *With regard to renewable energy and climate change policy, the position on need is clear. The Energy White Paper (May 2007) and the National Planning Policy Framework (NPPF) are unequivocal in stating that it is not necessary for an applicant to demonstrate need for renewable energy schemes such as the Northacre Facility. Of particular relevance are:*

- Paragraph 5.3.67 of the Energy White Paper which states: "Applicants will no longer have to demonstrate either the overall need for renewable energy or for their proposal to be sited in a particular location.";*
- and Paragraph 154 (extract) of the NPPF states that: "When determining planning applications for renewable and low carbon development, local planning authorities should... not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions".*

3.1.9 *Again, notwithstanding the above, where there is a clear and urgent need (and thus benefit) for a renewable energy development; this is a material planning consideration that weighs heavily in its favour.*

3.1.10 Accordingly, even where a planning proposal is found to cause a degree of harm, or non-conformity with policy, planning permission can still be granted where the benefits of the scheme, whether they be waste management or energy related, outweigh its dis-benefits.

3.1.11 This Section of the Planning Statement considers the need for, and benefits arising from, the Northacre Facility (as now proposed) in terms of waste management need at both the local / sub-regional and wider national level. It then considers the Northacre Facility in the context of the overall UK picture relating to energy / renewable energy. Finally, it sets out other benefits associated with the scheme.

3.2 Local Waste Management Need

General

3.2.1 The feedstock for the Northacre Facility would be waste based, comprising nonhazardous residual wastes that are currently either being consigned to landfill or subject to thermal treatment elsewhere, typically in EfW facilities located outside of the UK in mainland Europe. Whilst its annual throughput would be dependent on a number of variables, including the energy content of the waste it treats, it is forecast that the maximum realistic throughput would be 243,200 tpa of residual waste.

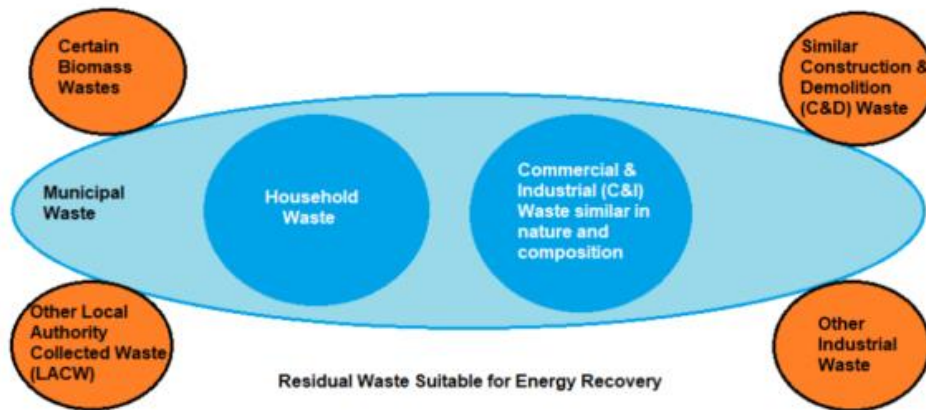
3.2.2 The Proposed Development would be classed as a waste recovery operation and thus, where it results in waste being diverted from landfill, would move the management of that waste up the waste hierarchy.

3.2.3 In relation to exported wastes, which the UK presently sends in very significant quantities in the form of crudely processed RDF, the Government recognises this is undesirable. It notes: "While such exports are permissible, the energy recovered from the waste does not contribute to UK renewable energy targets and is effectively a lost resource to the UK. The Government is keen to support domestic RDF and SRF markets, where they can provide better environmental outcomes, to ensure that the UK benefits from the energy generated from UK waste."

3.2.4 Similarly, the Committee on Climate Change Technical Report (May 2019) states, within its section on 'Waste', that in order to deliver the required climate change outcomes in this sector (our emphasis): "Additional private sector investment is required in alternative waste disposal facilities – AD, MBT and incineration to deal with waste diverted from landfill. There are risks of offshoring waste if this doesn't happen." Offshoring means waste exports and, in short, is an acknowledgement that it is fundamentally wrong for the UK to say it will achieve zero carbon and then burden other countries with our waste carbon.

3.2.5 The Northacre Facility would be a 'merchant plant'. This means that it is not being brought forward primarily to serve a specific public sector waste contract, but to serve the wider market. The input residual waste would be secured through a series of medium and long term contracts with a number of waste management companies, with, initially, the waste being primarily from commercial and industrial ('C&I') sources and with just over 20% of the throughput comprising the residual fraction of Wiltshire Local Authority Collected Waste ('LACW') transferred from the adjacent Northacre RRC. Some of the other input waste may also be LACW where the third-party waste management companies have MSW contracts, and it may also include combustible fractions of the construction and demolition ('C&D') waste stream. The sources of waste are likely to vary over the life of the facility as new contracts opportunities

arise. All wastes received at the site would be classed as 'residual' having been subject to pre-treatment, either through source segregation or direct pre-processing. The types / sources of waste that could be treated at the facility are illustrated below, noting that this diagram adopts the contemporary nomenclature for the waste types / sources.



Wiltshire Waste

3.2.6 In terms of local waste planning documents, the last attempt to quantify the need for waste management facilities and new waste management capacity within Wiltshire, appears to be in the Wiltshire and Swindon Waste Site Allocations Local Plan (2013). Whilst this updates aspects of the Waste Core Strategy (Waste CS) in relation to the 'capacity gap' (i.e. need for new waste management facilities), in terms of quantifying 'need', the data is still pretty aged. Further, it appears that the source of the data is actually largely based upon a Waste Capacity Gap report prepared in 2011, making the information older still. Notwithstanding, the headline requirements for new waste management capacity reported at that time are:

- No new capacity for LACW;
- 123,000 tpa of treatment capacity for C&I waste;
- 363,204 m³ of landfill capacity for C&I waste.

3.2.7 However, these figures are considered unreliable for a number of reasons as follows:

- The numbers are founded on the requirement to manage regionally apportioned quantities of waste from the completely obsolete Regional Spatial Strategy;
- The determination that no new treatment capacity is required for MSW is largely founded upon reliance on the Northacre RRC, which as described previously is only intermediate treatment and requires a further solution for the output material;
- The capacity gap is calculated based upon including planning permissions for waste facilities which have not been built out (or even commenced) and are not operational, contrary to paragraph 3 (7th bullet) of NPPW;
- There is a significant continued reliance on landfill as a means of waste management, whereas the Waste CS should be planning for waste to be managed further up the waste hierarchy, thus promoting a wider capacity gap for recycling and residual waste treatment facilities.

- 3.2.8 *Remaining focussed on the position in Wiltshire, the Waste CS promotes, through Policy WCS1, the concept of net self-sufficiency. This relatively crude concept effectively seeks to align suitable waste management infrastructure capacity with the numerical quantity of the various types of waste material arising within Wiltshire.*
- 3.2.9 *In this case the key waste streams are LACW and C&I waste. Wiltshire broadly generates 250,000 tpa of LACW. In 2018/19 Wiltshire recycled 43.9% of its household waste (household waste being the vast majority of MSW). Applying that recycling figure to the overall LACW stream, the authority generated just over 140,000 tpa of residual LACW requiring treatment.*
- 3.2.10 *In terms of C&I waste, practically no published data has been identified in any of Wiltshire's waste planning or strategy documents, or related evidence based papers. The most contemporary headline figure revealed is that from the DEFRA C&I Waste Survey (Jacobs 2010) to which Wiltshire Council was a partner. This puts C&I arisings at 286,000 tonnes in 2009. Analysis by Tolvik¹ in their report "Filling the Gap – The Future for Residual Waste in the UK" (February 2019) puts the annual average growth rate of C&I waste at 1.5% between 2010 and 2016. Applying such growth would give C&I waste arisings of 331,914 in 2019. In the same report, Tolvik provides a C&I waste recycling rate of 60%. Based on this level of recycling, there was circa 133,000 tpa of residual C&I waste requiring treatment.*
- 3.2.11 *Based on the foregoing, and applying the net self-sufficiency approach advocated by Policy WCS1, Wiltshire has circa 273,000 tpa (at around the present time) of residual waste that requires management. Whilst it is recognised that this tonnage of waste is slightly reduced via the mass loss that occurs in the Northacre RRC / MBT process, and also recognising there will be modest waste growth (increasing residual waste quantities) and increased recycling rates (decreasing residual waste quantities), it can be seen that the Northacre Facility as now proposed would broadly deliver net self-sufficiency in Wiltshire for residual waste management.*

Wider Sub-Regional Need

- 3.2.12 *As described previously, the Northacre Facility would be strategic in scale, operate on a merchant basis, and serve a wider catchment than simply the administrative area of Wiltshire. Accordingly, as part of the project development phase, NREL has commissioned a sub-regional waste market analysis from the aforementioned Tolvik Consulting. This provides a more commercial evaluation of residual waste treatment capacity requirements within the sub-region.*
- 3.2.13 *The report contains commercially sensitive data, but the headline findings of the market analysis, in terms of waste management requirements and available residual waste quantities, have been summarised as follows:*

- i. The report is based upon:*

¹ Tolvik specialises in market analysis and commercial due diligence in the waste and bioenergy sectors. It is respected for its understanding of the market, rigour of its analysis and independence. It is for this reason that Tolvik's analysis is primarily used by third party investors seeking an objective view of the markets needed to assist them make informed investment decisions.

Tolvik's analysis is also regularly used by Government, including, most recently the March 2022 ETS (Emissions trading Schemes).

- Tolvik's in-house Market Analysis Model – which has itself been developed from a range of publicly available data sources;
 - DEFRA's Annual Municipal Waste Management statistics;
 - The Environment Agency's (EA) Waste Data Interrogator tool;
 - EfW Annual Returns as provided by the EA.
- ii. The report considers a market (split into discrete 6 sub-markets), broadly based on a 2 hour drive time from the Application Site, but adjusted to reflect the effects of EfW competition, particularly towards the periphery of the market. Its broad boundaries are the Bristol Channel, South Coast, Gloucestershire and vicinity of the A34. Of the 6 sub-markets there is a defined 'Inner' market comprising Wilshire, Bath & NE Somerset, Bristol and South Gloucestershire.
- iii. The report focusses purely on 'residual waste'. This is defined as solid, combustible, non-hazardous waste remaining after recycling deriving from either LACW or municipal-like C&I Waste and which is similar to household waste. Residual waste may be presented in three forms:
- Unprocessed 'black bag' waste generally with European Waste Code ('EWC') 20 03 01;
 - Lightly processed Refuse Derived Fuel ('RDF') with EWC 19 12 10 or 19 12 12;
 - A refined Solid Recovered Fuel ('SRF'), prepared to a with EWC 19 12 10;
 - The definition above includes the combustible element of 'fines' from residual waste processing operations.
- iv. The report looks only at residual municipal-like C&I waste and excludes analysis of residual LACW. Hence any residual LACW that might be available, over the life of the plant, is a further potential source of input material.
- v. In the market in 2017 there was 0.76 million tonnes ('Mt') of residual municipal-like C&I waste. Of this some 61% (436,000 tonnes) was consigned to landfill and 31% (235,600 tonnes) exported.
- vi. With regard to future tonnages of residual waste, Tolvik model 3 scenarios, in each case taking account of: future recycling rates; greater resource efficiency; and waste growth. The 3 scenarios are:
- Incremental Change – a scenario in which modest, incremental improvements in recycling and resource efficiency are seen, driven by a combination of social attitudes and relatively 'light touch' legislative change;
 - Median – a scenario in which the key elements of the Waste and Resources Strategy for England ('Our Waste, Our Resources: A Strategy for England') are eventually delivered, but beyond which there is limited progress.
 - Policy Intervention – in which there is legislative and fiscal support for sustained action on recycling and prevention to deliver recycling performance in line with northern European experience.
- vii. In the Policy Intervention scenario, residual municipal-like C&I waste falls to 0.64 Mt. Under the Incremental Change and Median scenarios the tonnages are projected to remain relatively flat through to 2035.
- viii. Within the market area there are 6 'certain' EfW facilities. These are facilities that are either operating or under construction. All 6 will be operational by 2022. These 6 facilities have a combined merchant C&I waste capacity of 0.3 Mt (the majority of their capacity being subject to long term LACW contracts).

ix. *In the 2022 Median scenario (which remains relatively constant through to 2035), Tolvik’s modelling shows that across the market 0.47 Mt of residual municipal-like C&I waste is potentially available / requires treatment. Of this, 0.13 Mt would be from within the ‘Inner’ market.*

3.2.14 *Based on the foregoing, the following conclusions are drawn about the subregional need for the Northacre Facility as now proposed with a maximum processing capacity of 243,200 tpa:*

- *The facility would receive 52,000 tpa of waste directly by conveyor from the adjacent Northacre RRC;*
- *The remaining merchant capacity of the facility (maximum 191,200 tpa) would make a material contribution towards meeting the residual waste treatment requirements of the sub-regional market area, which is forecast to have a capacity gap of circa 470,00 tpa;*
- *Circa 130,000 tpa of the residual C&I waste requiring treatment / potentially available is located in the ‘Inner’ market most proximate to the Application Site;*
- *The above analysis is conservative in that it takes no account of any future LACW that may become available in the market area.*

3.2.15 *Accordingly, there is a clear and demonstrable need for the Northacre Facility, as now proposed, within the sub-regional area.*

3.2.16 *The subsequent sub-section looks at the wider national need for waste management facilities and explains why this is relevant to the Proposed Development.*

3.3 *National Waste Management Need*

Spatial Context and Proximity

3.3.1 *The need for residual waste treatment capacity (i.e. EfW) facilities) and its spatial provision often brings in the issue of the ‘proximity principle’. In the context of EfW facility provision, this matter is frequently misunderstood. The Government publication ‘Energy from Waste: A Guide to the Debate’ (Defra 2014) looks to clarify the position.*

3.3.2 *Paragraph 152 of the Guide states: “The proximity principle arises from Article 16, “Principles of self-sufficiency and proximity”, of the revised Waste Framework Directive (2008/98/EC), the EU legislation that governs waste management. The principle is often over-interpreted to mean that all waste has to be managed as close to its source as possible to the exclusion of other considerations, and that local authorities individually need the infrastructure required to do so. This is not the case. Indeed, the final part of the Article itself states: “The principles of proximity and self-sufficiency shall not mean that each Member State has to possess the full range of final recovery facilities within that Member State”. Clearly if not even the entire country needs to have the full range of facilities, a specific local authority does not have to. While there is an underlying principle of waste being managed close to its source, there is no implication of local authorities needing to be self-sufficient in handling waste from their own area.”*

3.3.3 *Paragraph 154 (extract) goes on to say: “...There is nothing in the legislation or the proximity principle that says accepting waste from another council, city, region or country is a bad thing and indeed in many cases it may be the best economic and environmental solution and/or be the outcome most consistent with the proximity principle...”*

- 3.3.4 Paragraph 155 (extract) continues: "...in some circumstances a larger plant may be the appropriate solution and there can be benefits from these also. For example: greater efficiencies; economies of scale ... an overemphasis on restricting facilities to 'local waste', particularly defining it by administrative ownership of waste and the boundaries and quantities this implies, can lead to sub-optimal solutions in terms of cost, efficiency and environmental impact; and a significant loss of long term flexibility."
- 3.3.5 Finally, paragraph 156 states: "The ability to source waste from a range of locations / organisations helps ensure existing capacity is used effectively and efficiently and importantly helps maintain local flexibility to increase recycling without resulting in local overcapacity for residual waste. For an existing plant, taking waste from a range of locations should be seen as a positive by keeping the plant running at maximum efficiency. In many places waste from a number of authorities is processed at the same site very successfully."

National Need

- 3.3.6 In looking at the prevailing national picture, it must be noted that waste management data and future waste management forecasting is not a precise science. Probably the most accurate, relevant, contemporary information is contained within an annual report by Tolvik Consulting (whose source information is ultimately derived from Environment Agency data and from their Scottish and Welsh counterparts – the SEPA & NRW) on the EfW market. The most recent edition of this report is 'UK Energy from Waste Statistics – 2019' (May 2020). 3.3.7 The May 2020 report identifies (page 5), that in 2019 a total of 12.6 Mt of residual waste was processed in UK EfWs, which represented 45.5% of the UK's residual waste. This was up from 11.49 Mt to EfWs in 2018, with the 2019 figure being the first time the tonnage of residual waste sent to EfW exceed that going to landfill.
- 3.3.8 In 2019, approximately 11 million tonnes (40%) of residual waste (suitable for energy recovery) was sent to landfill. Further, EA data (England only) shows just over 2.6 Mt of RDF was exported from England to EfWs in mainland Europe. This means that in 2019, the UK had an energy recovery (EfW) capacity gap of circa 13.6 Mt.
- 3.3.9 In this context, there is an undeniable ongoing need for new infrastructure in the UK to facilitate sustainable waste management and, in particular, move the management of residual waste up the waste hierarchy and away from landfill or export overseas where it is a lost resource.
- 3.3.10 Notwithstanding this factual position, DEFRA's publication of 'Our Waste, Our Resources; A Strategy for England', in December 2018 ('the Strategy') has caused continued debate as it seeks to reflect the ambitious EU Circular Economy targets. The Strategy includes a 'goal' (not a firm target) for municipal waste recycling targets of 55 % by 2025, 60 % by 2030 and 65 % by 2035. Importantly, it also includes a review clause for these targets in 2028 (i.e. before the Government aspires to progress beyond 55 %).
- 3.3.11 Whilst the aspiration for high levels of recycling is both admirable and the correct ambition, the waste industry needs to plan for, and deliver, infrastructure based upon a realistic market assessment. Consequently, there is the important 'policy' point that if residual waste treatment capacity is delivered (or limited) on the basis of very high recycling levels being achieved (based on the above rates are not being reached),

the remaining residual waste has to be either landfilled or exported because of a lack residual waste treatment infrastructure.

3.3.12 The previously referenced Tolvik Report of February 2019 was published after DEFRA's 'Strategy for England'. The Tolvik report analyses the 65 % recycling 'goal' in detail. The salient points are set out below.

3.3.13 English household waste recycling rates have been flat since 2013 at circa 43–44 %. This compares to the UK's revised Waste Framework Directive target of 50 % household waste recycling by the end of 2020, which is now an all but impossible target to meet.

3.3.14 The Tolvik Report considers the key intervention measures in the Strategy that have the potential to materially impact on the residual waste market. These are:

- a. Food waste reduction;*
- b. Legislation for separate food waste collection;*
- c. Rolling out a Deposit Return Scheme (DRS); and*
- d. Extended Producer Responsibility (EPR) for Packaging.*

3.3.15 Tolvik assess the compound effect of the above (by 2030) on English annual residual waste quantities to be 3.28 million tonnes. This contrasts sharply with the 10 million tonnes which the Strategy believes is potentially achievable.

3.3.16 With regard to international benchmarking to validate their modelling, Tolvik identifies that:

a. With the exception of Germany and Austria, no other European country is currently achieving a municipal waste recycling rate in excess of 50 % and, for the largest EU countries, the UK ranks second only to Germany in terms of its current recycling performance;

b. Further, in a study of Germany, Sweden and Netherlands (all high recycling countries), once their recycling rate hit the current English rate, their subsequent average annual increase in recycling was 0.5–0.6 % per annum; and

c. Given the significant level of fiscal and legislative intervention in waste management in these three countries (to which the Strategy does not commit), it is very difficult to see how England could ever sustain an annual increase in recycling greater than these countries.

3.3.17 Using this evidence, together with further benchmarking informed by the accuracy of their market predictions since 2011, Tolvik draw several conclusions including:

- "On the evidence ... it is difficult not to conclude that the delta between political aspirations (as measured by indicative "goals" and generally soft targets) and the overall ability to deliver them has potentially never been so great."*
- The need to ensure market projections that: "are primarily based on empirical data underpinned by what we assess can be actually achieved."*

3.3.18 Based on Tolvik's assessment of the Strategy measures, they have developed three future waste management scenarios. These mirror those used for the Northacre Market Study and are:

- a. Incremental Change;*

- b. Median; and
- c. Policy Intervention.

3.3.19 The household waste recycling rates arising from these scenarios are illustrated in Figure 17 of the Tolvik report and reproduced in Table 3.1.

Table 3.1: Scenario Household Waste Recycling Rates

	Scenario	Adjusted Annual Household Waste Recycling Rate			
		2017 (%)	2025 (%)	2030 (%)	2035 (%)
England	Incremental Change	42.2	45.0	46.4	47.8
	Median		48.4	49.3	50.1
	Policy Intervention		50.1	52.7	55.2
UK	Incremental Change	44.2*	45.8	47.2	48.5
	Median		49.0	49.9	50.8
	Policy Intervention		50.5	53.1	55.5

* excluding IBA recycling in Wales

3.3.20 In summary, by 2035 England only achieves 50.1 % household waste recycling under the Median scenario and, under the most optimistic Policy Intervention scenario, achieves 55.2 %, compared to the Strategy 'goal' of 65 %.

3.3.21 In brief, the report then:

- a. Calculates the future quantity of residual waste (using the recycling rates and other data);
- b. Sets out projected (known) UK residual waste 'treatment' capacity, comprising: 'Certain' EfW capacity; MBT Diversion; Co-Incineration; and waste to landfill; and
- c. Identifies the future 'Capacity Gap', i.e. how much new, future EfW capacity is required.

3.3.22 The above data is all summarised in Figure 23 of the Tolvik report and reproduced in Table 3.2 (noting that all numbers are millions of tonnes).

Table 3.2: Supply, Capacity and Capacity Gap Summary

		2020	2025	2030	2035
Residual Waste Supply	Incremental Change	28.0	27.9	27.9	28.2
	Median	27.8	26.6	26.4	26.2
	Policy Intervention	27.6	25.2	24.1	22.9
UK Capacity	Certain EfW	15.0	15.6	15.6	15.9
	MBT Diversion	0.4	0.3	0.2	0.2
	Co-Incineration	0.5	0.7	0.7	0.7
	BOG to Landfill	2.8	2.6	2.6	2.6
	Total (exc. RDF export)	18.7	19.3	19.2	19.1
Capacity Gap	Incremental Change	9.2	8.6	8.7	9.0
	Median	9.2	7.3	7.2	7.0
	Policy Intervention	8.8	5.9	4.9	3.8

Data in millions of tonnes

3.3.23 Tolvik's headline conclusion is that the projected residual waste 'Capacity Gap' in the Median Scenario is around 7 million tpa (2025–2035), the equivalent to around 20 mid-sized EfW facilities.

3.3.24 In conclusion, the publication of the Strategy sets new aspirational goals for increased recycling, albeit ones with a 'review clause'. When the targets within the Strategy, and the measures for their delivery, are reviewed in detail with empirical data and benchmarked against the factual position elsewhere in Europe, the reality is that there is a marked gap between political aspiration and reality.

3.3.25 Accordingly, at the present time, there is demonstrably a significant national capacity gap in terms of residual waste treatment capacity. Further, irrespective of aspirations of the Strategy and based upon detailed analysis, that capacity gap will remain significant unless further, new EfW capacity is delivered.

3.3.26 In conclusion, the Northacre Facility, as now proposed, would also make a material contribution towards the delivery of much needed UK infrastructure that would continue to drive sustainable waste management.

Response –

The above analysis provides the 'need' justification for the proposed development. It demonstrates through quantitative analysis by the leading advisers in this field that there is a 'capacity' gap between the present availability and capacity of facilities to manage residual waste and the actual quantities of residual waste to be managed, this both in Wiltshire and the wider sub-region.

The total amount of residual waste in Wiltshire requiring management has not changed at c. 273,000 tpa. Of this 60,000 tpa of household residual waste is processed at the Westbury MBT facility and a further 50,000 tpa is delivered to the Lakeside EfW facility at Slough, leaving 163,000 tpa outstanding. Further afield within the sub-region (which for viability reasons is defined as being within a 2hr drive of the application site), there is a capacity gap of 470,000 tpa. When this sub-region is reduced to an 'inner' market (where EfW competition is more likely to favour the application site), the figure reduces to c. 130,000 tpa. It follows that the total inner market gap is presently c. 293,000 tpa. The proposal is for a throughput of 243,000 tpa, of which 52,000 tpa would be SRF (solid recovered fuel) produced at the adjoining MBT plant. It follows that there is a demonstrable need for a facility in this sub-region to manage residual waste.

Looking at the wider national picture, and according to the research undertaken for the applicant, in 2019 11 million tonnes (40%) of residual waste (suitable for energy recovery) was sent to landfill. In addition, 2.6 million tonnes of RDF (refuse derived fuel, including SRF) was exported from England to EfWs in mainland Europe. This means that in 2019 the UK had an energy recovery (EfW) capacity gap of c. 13.6 million tonnes. According to the applicant, despite general aspirations to drive waste up the Waste Hierarchy, the national capacity gap is anticipated to remain significant, unless further waste management facilities, including EfW facilities, are delivered.

Considering this in the context of the Government Consultation on Environmental Targets, in the event that at some point a policy/law is introduced requiring a 50% reduction in residual waste by 2042, then at a national level (and in simplistic terms) it would reduce the total national level of residual waste to be managed to 6.8 million tonnes pa (based on the 2019 figures), and the local level (that is, within the 'inner market' of the sub-region in which the application site is located) to 235,000 tpa. This residual waste would still need to be managed, and the proposed facility would meet this need. And given the uncertainties over

the 20-year timeframe (to 2042), caution should in any event be exercised when considering the impact of what is an ambitious target. The uncertainties relate to both the residual waste supply, and notably the ability to reduce the amount of residual waste to these levels (note in the Planning Statement the very slow growth in recycling rates in countries with otherwise high recycling rates), and also projected EfW capacity (for example, by 2042 two of the EfW facilities in the sub-regional analysis will, if still operational, have operated for 40 years). Whilst it is not possible to accurately predict the operation life of EfW facilities, those constructed in the early 2000s were typically designed with a 30-year operational period in mind.

Tolvik's independent view is that, in the absence of any proposed additional/new actions to reduce residual waste tonnages, the new waste target, if adopted, is unlikely to materially impact on the prior projections for the residual waste market in England (and the sub-region).

The traffic impacts of the development, this in the context of the Bath Clean Air Zone and its implications for traffic levels on the A350.

In March 2021 Bath introduced a Clean Air Zone in the city centre. As a consequence buses, coaches, HGVs, vans, taxis and private hire vehicles that don't meet the Euro 6 standard for emissions are required to pay a charge to enter the Zone.

Response –

The Transport Assessment (TA) which accompanies the planning application is dated August 2020. As it pre-dates the Bath Clean Air Zone the TA does not take the Zone into account in assessing the impact of the proposed development.

The introduction of the Bath Clean Air Zone pre-dates the Strategic Planning Committee's consideration of the application in July 2021, and so it is not a new material consideration. This said the likely effects of the Bath Clean Air Zone on traffic movements and the capacity of the A350 are unlikely to be material at Westbury; and in any event the A350 is able to accommodate the traffic generated by the proposed development regardless of this. The A350 is a designated HGV route, intended to carry the traffic from sites including the Northacre Industrial Estate which is itself designated for further traffic-generating, industrial and/or waste related uses.

5. Further New Material Considerations since 20 April 2022

Implementation of planning permission 18/09473/WCM for an 'Advance Thermal Treatment Facility' at the site

Work commenced on this planning permission in May, comprising a section of grid connection in fields south of the facility, and the highway access and boundary fencing.

In July 2021 the Strategic Committee was advised that 18/09473/WCM was a lawful fallback position. But because the applicant had stated at that time that it was unlikely to be completed, it could be afforded only limited weight as a material consideration. The permission remains a lawful fallback position, and now it has been implemented it should be afforded slightly more weight than before.

Environmental Permit issued

The Environment Agency issued the Environmental Permit for the proposed facility on 15 June 2022 (appendix 4).

Environmental Permitting remains the robust system for application, approval, monitoring and enforcement of matters relating to waste and related emissions. National Planning Policy for Waste continues to advise that when determining waste planning applications, local planning authorities should –

“... Concern themselves with the implementation of 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”.

There have been no changes in circumstances with regard to Environmental Permitting since the Committee considered the application in June 2021 and April 2022.

6. Counsel’s Opinion

In view of the pending appeal against non-determination and the issues that will need to be considered, advice has been sought from Leading Counsel about this officer report and recommendation, prior to it being published. A full copy of the advice dated 12 July 2022 is attached to this report. Relevant points are set out below.

- a) The council has acted reasonably to date. It was entitled to delay issuing the decision until the Secretary of State had considered the issue of call-in. It was entitled to consider whether new matters as at March 2022 would alter its June 2021 decision. It was also entitled as at April 2022 to call for more information if it did not feel it had sufficient at that stage. As at July 2022, it may now consider the updated analysis of the officer’s report.
- b) Leading Counsel does not believe there to be any defensible grounds of appeal. The council would be at risk of a costs award if it refused planning permission now.
- c) No new considerations have arisen since the original resolution and there are no justifiable reasons for refusal.
- d) By making an early decision that the application would not have been refused, the council will reduce the risk of a cost award. To date, the council has not acted unreasonably to justify an award of costs.
- e) Leading Counsel has seen this draft report and considers it to be balanced in its reasoning and conclusions.

7. Conclusion

Changed circumstances / new material considerations since the Strategic Planning Committee considered the planning application in June 2021 are addressed in the April 2022 report and this report. This report focuses on questions raised by the Committee in April and on further new considerations since then. For the reasons set out, there have been no changes that should lead the Committee to conclude differently in its assessment of the

application. Accordingly, the Committee is recommended to endorse its original decision to grant planning permission subject to conditions.

In view of the appeal against non-determination that has now been lodged, Wiltshire Council is no longer the decision-making authority for the application; by appealing the applicant has passed this responsibility to the Secretary of State (administered by the Planning Inspectorate). Accordingly, the recommendation is for the Committee to delegate authority to the Head of Development Management to inform the Planning Inspectorate that had Wiltshire Council still been the deciding authority that it would have granted planning permission, subject to conditions.

RECOMMENDATION

That having taken into account all relevant new material considerations together with the environmental information previously considered, to delegate authority to the Head of Development Management to inform the Planning Inspectorate that had Wiltshire Council still been the decision-making authority that it would have granted planning permission, subject to conditions.