

***Respondents: Shlomo and Josh Downen***

#### **Main Matter 4 – Strategic Policies**

**Issue:** Do the Strategic Policies reflect the Vision of the Plan and deliver the Strategic Objectives; and are they justified and consistent with national policy?

#### ***Policy SP5 - Climate Change***

#### **7. Should the justification text explain the relationship between the planning regime and the pollution control/permitting regime in relation to climate change?**

If additional supporting text is provided, this text should make clear that the GHG impacts of a waste development is a planning matter as the Environment Agency (EA) does not impose Emissions Limit Values (ELVs) on the total amount of GHG emissions as part of the Environmental Permit.

It should also be noted that it cannot simply be assumed, for the purpose of planning decisions, that Energy from Waste incineration is significantly better than landfill, and additional supporting text should therefore state that it is open to planning decision-makers to ascribe limited, neutral, or indeed negative weight to the overall GHG impacts of an Energy from Waste incineration scheme.

In a letter from the Environment Agency to Swindon Borough Council dated 7 July 2017 (EA Reference: WA/2016/122998/03-L02) the EA explained how: “Under IED [Industrial Emissions Directive] we [the EA] are not required to consider the relative CO<sub>2</sub> emissions compared with other disposal methods, for example a landfill where the carbon may be ‘stored in the ground’ as these are matters for the waste planning authority”.

The reference to carbon being stored in the ground relates to the fact that the carbon in plastic and around half of the biogenic carbon are ‘sequestered’ (stored) in landfill, but are released into the atmosphere as direct CO<sub>2</sub> emissions for waste that is incinerated. This means that when comparing incineration and landfill one is not simply looking at the methane emissions from the landfill, but at the difference in overall GHG impact that might make incineration and landfill equivalent, especially as grid energy is progressively decarbonised and food waste is increasingly collected separately (and therefore diverted from both landfill and incineration).

The EA set out their position that climate assessments considering the net GHG impacts of a waste treatment option should be made as part of the planning system rather than the permitting system.

Making determinations that no weight should be given to climate benefit claims made by incinerator applicants (including applicants for facilities where energy would be generated through the incineration/gasification of waste), or indeed arriving at a determinations that an incinerator proposal might have net adverse GHG impacts that should weigh against that proposal in the planning balance, are matters that fall squarely within the domain of the planning system and outside the EA's permitting process.

In the decision for the Consett incinerator (PINS Reference 3294182), the Secretary of State agreed with the Planning Inspector "that the climate change benefits should only be afforded limited weight in the overall planning balance" on the basis that "...there are inherent uncertainties, particularly regarding the biogenic carbon content of the waste and hence the extent of emissions savings, the extent to which the available heat and power would be taken up by existing and new businesses / residential developments and whether CCS may be installed; therefore while there would be some savings on CO<sub>2</sub> emissions over landfill, the extent of this cannot be determined with any degree of precision".

As noted in the Inspector's Report for the Consett proposal: "...there are inherent uncertainties particularly regarding the biogenic carbon content of the waste and hence the extent of emissions savings, the extent to which the available heat and power would be taken up by existing and new businesses/residential developments and whether CCS may be installed. Whilst I accept that there would be some savings on CO<sub>2</sub> emissions over landfill, the extent of this cannot be determined with any degree of precision. These uncertainties lead me to conclude that the climate change benefits should only be afforded limited weight in the overall planning balance".

The Wheelebrator Kemsley North decision (PINS Reference EN010083), where the Secretary of State agreed with the Examining Authority (ExA) in this respect, gave no weight to the applicant's claimed GHG benefits for the proposed waste incinerator on the basis that "the available evidence casts considerable doubt on whether the 'net [climate] benefit' can be ascertained with any great certainty, given it is highly sensitive to the assumptions applied" and that as such "the matter should carry little weight in the assessment".

The reference to the sensitivity of assumptions made covers a host of factors, including but not limited to the characteristics of the feedstock (in the short, medium, and longer-term) such as carbon content, moisture levels, combustibility, origin (including travel distances and modes of transportation), etc., alongside other factors such as the counterfactual(s) used as comparators, the marginal emissions factors applied as part of the assessment, the degree of pre-treatment prior to incineration or landfill, the level of biogenic carbon sequestration, the likelihood or otherwise of connection to a district heating scheme and/or to carbon capture and storage, and so forth.

In the Medworth decision (PINS Reference EN010110) the Secretary of State reached a different conclusion to the Examining Authority (ExA) who gave the climate impacts neutral weight, and instead decided to give the climate impacts “minor negative weight”. The basis for this was explained as follows: “The Secretary of State, based on the available evidence and taking into consideration the unavoidable uncertainty as to whether there will be an overall net benefit in terms of GHG emissions when comparing the Proposed Development to landfilling, and noting the inevitable net and gross emissions from the Proposed Development, ascribes climate matters minor negative weight overall in the planning balance”.