

Comments on relevance of NPPF to the Biffa Incinerator Application Appeal

Sustainable Development

The Government is focussing on growth as a means of achieving economic recovery. This is reflected in the NPPF through paragraph 14:

14. ‘At the heart of the NPPF is a **presumption in favour of sustainable development** which should be seen as a golden thread running through both plan-making and decision-taking.’

CHAIN is wholly in support of sustainable development programmes, **but a 300,000 tpa incinerator is not the answer**. It is too big, in the wrong location in respect of environmental degradation and health, and is not needed. Leicestershire County Council is already reaching excellent recycling targets which are continuing to improve, so amounts of residual waste are unlikely to be sufficient to keep such a large incinerator operational. Indeed, Biffa would have to source waste from a wider and wider area and there would be great pressure to incinerate recyclable waste. In short such a large incinerator would effectively compete with recycling and re-use initiatives – a move in the wrong direction and fundamentally unsustainable.

There are many alternative technologies available that would be more suitable for the Newhurst location and which would be congruent with the ultimate objective of restoring Newhurst Quarry back to a Greenfield site. For instance: Mechanical Biological Treatment (MBT) plus Aerobic Composting as at Cotesbatch (New Earth Solutions); Biffa’s own MBT plus Anaerobic Digestion at Wanlip; and other technologies are coming on stream all the time. All of these processes would provide the growth and diversion from landfill that Government seeks but without the negative environmental and health dangers associated with large-scale incineration.

The NPPF does not define **sustainable** development other than by quoting Resolution 42/187 of the United Nations General Assembly: ‘meeting the needs of the present without compromising the ability of future generations to meet their own needs’. The Newhurst incinerator proposal would not comply with these requirements. Incineration is increasingly being shown as **not** a sustainable strategy for waste handling. Improvements in waste recycling and re-use have rendered incinerators increasingly redundant and there are already examples of Councils facing significant financial penalties from incinerator contracts. The visual impact on the surrounding countryside would undermine future needs for an expanding National Forest, a blossoming Charnwood Forest Regional Park and a new Garendon Heritage Country Park. The future health of local communities would be put at risk by emissions from such a facility. The aim of a zero waste economy would also be compromised. In other words, constructing a huge incinerator at Newhurst would not represent sustainable development.

Visual Impact on the Surrounding Countryside

Under **Core Planning Principles**, paragraph 17 of the NPPF the following guideline is included:

- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

To quote David Cameron:

“We’ve got to keep what’s so great about rural Britain. Its part of our soul as a country, important not just for conservation, not just for tourism, nor just for sustaining our rural economy, but for our own sense of identity and well-being.

So for me – as Prime Minister, as a rural constituency MP, and as a private individual – our beautiful British landscape has always been, and will always be, a national treasure which should be loved, enjoyed and protected for everyone’s benefit. The beauty of our landscapes, the particular cultures and traditions that rural life sustains – for me, our countryside is what makes Britain great.”

Source: http://www.countryside-alliance.org.uk/ca/file/2012_Spring_Cameron.pdf

Chapter 11 of the NPPF reinforces these points with paragraph 109 stating that:

The planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes, geological conservation interests and soils;
- Recognising the wider benefits of ecosystem services;
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability

The incinerator project fails on almost all these points. The negative visual impact of a huge incinerator on the beautiful countryside within the National Forest and Charnwood Forest Regional Park is well described in CHAIN submissions to both the LCC consultations and the subsequent public inquiry. The impact on wildlife on Garendon Park and Estate were also emphasised as was Garendon’s setting as a heritage country park. Contamination of agricultural land and air pollution would also negatively impact on both the health of the local community and continued deterioration of 14 listed buildings.

We pointed out that the impact would be not only on views from within these rural areas, but also from outside. The incinerator would be built at J23 of the M1 motorway which acts as a gateway to both TNF and Charnwood Forest and would be

the first image that visitors and tourists would see. The facility would be out-of-scale with the surroundings and of much greater mass and height than other buildings and landscape.

Supporting a prosperous rural economy

Paragraph 28 of the NPPF includes the following guideline:

28. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Paragraph 92 of the NPPF is also relevant:

92. Community Forests offer valuable opportunities for improving the environment around towns, by upgrading the landscape and providing for recreation and wildlife. An approved Community Forest plan may be a material consideration in preparing development plans and in deciding planning applications. Any development proposals within Community Forests in the Green Belt should be subject to the normal policies controlling development in Green Belts.

The National Forest has been a highly successful project over many years, but it is still developing and needs to be supported in this. Junction 23 of the M1 is the main access route for tourists and other visitors and an incinerator at this location would have a significant negative impact. The same applies to Charnwood Forest which is applying to the Heritage Lottery Fund Landscape Partnership programme for help in establishing the area as a fully fledged Regional Park. The incinerator project would seriously undermine these initiatives.

By virtue of extant planning conditions requiring restoration of the quarries after mineral extraction, Newhurst and Longcliffe Quarries have Greenfield status. The County Council already has plans for the restoration of Longcliffe Quarry and discussions were taking place with TNF concerning regeneration of the area as a public amenity for recreation and wildlife. This would have provided opportunities for sustainable tourism and leisure developments. There are also important archaeological sites within the quarries which require further study. The incinerator project would extinguish all such aspirations.

Conserving and Enhancing the Historic Environment

Chapter 12 of the NPPF, *Conserving and enhancing the historic environment*, paragraphs 126, 131 and 132 are particularly relevant:

126. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage

assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- The desirability of new development making a positive contribution to local character and distinctiveness; and
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

131. In determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings, grade I and II registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Charnwood Borough Council is proposing to open up Garendon as a Country Park for tourists, visitors and local communities. The incinerator would dominate the landscape and setting of the Park and would certainly not 'respect the character of the countryside' (as included in paragraph 28).

Historic grade II listed Garendon Park has 14 grade II listed buildings which are on the English Heritage 'at risk' list. The incinerator would accelerate deterioration of the listed building as well as compromising the setting of this heritage asset. English Heritage has objected to the development and although the level of objection was modified as a result of promises from Biffa to fund changes to the layout of the Park,

they still maintain strong objections. In any case, Charnwood Borough Council's draft Local Plan includes a proposal to regenerate Garendon Park financed from developer contributions. So Biffa's offer of a financial contribution to undertake the regeneration is not necessary and certainly would not mitigate against the hugely negative impact of a 100M high industrial facility in a country park setting.

Renewable and Low Carbon Energy

Paragraphs 93, 95 and 97 of NPPF are of relevance:

93. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

95. To support the move to a low carbon future, local planning authorities should:

- Plan for new development in locations and ways which reduce greenhouse gas emissions.

97. To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- Have a positive strategy to promote energy from renewable and low carbon sources;
- Design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts

Incinerators do not provide renewable or low carbon energy. The main emissions from the flue stacks are carbon dioxide and carbon monoxide without carbon capture technology being incorporated. There will certainly not be 'radical reductions in greenhouse gas emissions' – in fact, the opposite. Incinerators do not help reduce emissions compared to conventional use of fossil fuels. This is one of the reasons that incineration is positioned right at the bottom of the waste hierarchy, alongside landfill (Government Review of Waste Policy in England; DEFRA 2011).

Mixed waste incinerators rely upon a notable fraction of fossil-based feedstock (eg plastic) and this is a finite resource that does not occur naturally and repeatedly in the environment. Furthermore, even the biogenic material is in a processed form that does not occur naturally and repeatedly in the environment. As such, energy from incinerators should not be consistent with the definition of a renewable energy provided within the NPPF. This understanding is consistent with the reasoning by the Inspector in the Ardley decision, with which the Secretary of State concurred, that "...electricity from EfW is not an energy flow which occurs naturally and repeatedly in the environment" (PINS ref 2119454, SoS Decision Letter Paragraph 25, and Inspector's Report Paragraph 16.84). Additional support for this comes in a statement

at Paragraph 1.8 of the UK Bioenergy Strategy (published on the 26th of April 2012) that “bioenergy is not automatically low carbon, renewable or sustainable”.

Although some electricity will be generated by the incinerator, because it does not incorporate Combined Heat and Power (CHP) this is minimal. Biffa refer to the incinerator as an Energy Recovery Facility (ERF) but this is disputed by the Environment Agency who classifies it as an Incinerator. In the Permit Document the EA states that *‘The current proposal is that the installation will generate electricity only and has been specified to maximise electrical output with little or no use of waste heat’* The Biffa Heat Plan does not include a feasibility study showing how a CHP system could be implemented though it recognises that ‘the exploitation of surplus heat from the electricity generation process can increase the overall energy efficiency of an ERF significantly, from approximately 22-25% to as much as 85% where CHP generation is incorporated. Biffa should not be allowed to waste 70 Mega Watts of Energy whilst producing only 20 Mega Watts of electricity.

It is clear that the energy generated is not maximised as expected under NPPF. Neither is the energy renewable or low carbon.

Air Quality and Health

There is regrettably little in the NPPF concerning the health and well-being of communities. Paragraph 7 includes under **a social role** – ‘supporting strong, vibrant and healthy communities’ Paragraph 17 includes a reference to ‘take into account and support local strategies to improve health, social and cultural wellbeing for all ...’

Perhaps paragraph 120 is the most significant:

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

Paragraph 171 also has relevance:

171. Local planning authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population (such as for sports, recreation and places of worship), including expected future changes, and any information about relevant barriers to improving health and well-being.

The incinerator project fails on all counts. The Health Protection Agency (HPA) has not undertaken any dedicated Safety Assessments to date, other than literature reviews, and although they state there is currently no evidence to link cancer with incinerator emissions they have since made an online statement saying *“The HPA will review its advice in light of new substantial research on the health effects of incinerators published in peer reviewed journals.”* The HPA themselves have recently commissioned a University Research trial to investigate the relationship between incinerator emissions and birth defects in human populations in the UK.

Nano toxicological studies are showing that toxicity of particulates is directly related to size and that nano-particulates, which are **not** filtered from incinerator emissions, may have increasing and cumulative negative effects on health. In other words the Authority designated to protect the health of communities does not know what the long-term risks are to public health. Neither will the proposed monitoring system be able to measure the level of nano-particulates in the emissions.

In this situation it is essential that a precautionary approach be taken when siting incinerators. Since the Newhurst facility is sited close to highly populated areas in both Shepshed and Loughborough, it is not an appropriate location for such a development. It has also been pointed out that the height of the stack would allow emissions to make landfall in the immediate vicinity due to the topography of the local landscape.

This argument is strengthened by the fact that air quality monitoring by Charnwood Borough Council shows that one of the worst areas in the whole of Charnwood is Ashby Road East on the A512, directly outside the incinerator site. Asthma and other respiratory diseases suffered by Shepshed residents are already well above the national average (as confirmed by Shepshed surgery doctors) and clearly incinerator emissions can only add to these problems. In addition there would be significant worsening of air quality standard with emissions from the hundreds of HGV vehicles entering and leaving the site everyday. The perception is widespread in the local community that the incinerator's emissions will have negative effects on health. Numerous representations to the planning application cited this fear and there is no doubt that the siting of an incinerator will have an adverse effect on the quality of life for the local population (previous appeal decisions have acknowledged the fact that fear due to public perception of the danger adversely affects quality of life).

An additional air quality problem relates to Loughborough University which is located just a few miles along the A512 in direct line of emissions from the incinerator. Loughborough is the Premier Sports University in the UK and has an enviable reputation internationally. It is hosting both the UK and Japanese teams for the forthcoming Olympics and attracts hundreds of sports men and women from around the world. There are already some air quality issues at the University resulting from traffic emissions on the M1, A512 and Epinal Way and clearly these would be exacerbated by emissions from an incinerator as well as the increased number of HGV vehicles on local roads. Even if it is claimed there are no negative air quality issues with incineration (which is hard to believe) this view is not shared by the general public and international sporting bodies. Loughborough would gain an unwanted reputation seriously undermining future development of the University.

Planning Role of Local Communities

The NPPF is weak on guidelines requiring local communities to be involved in planning decisions. [Paragraphs 150 and 155 under Local Plans](#) has some relevance:

150. Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities.

155. Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made.

The section on Neighbourhood Plans is also a useful guide, particularly paragraph 183:

183. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

- Set planning policies through neighbourhood plans to determine decisions on planning applications; and
- Grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order

Based on petitions and representations against the incinerator proposal and the County Council twice rejecting the application, this development certainly does not reflect the “vision and aspirations of local communities”.

Charnwood Borough Council has not yet published its Local Plan though it is expected in draft form later in the year. Shepshed Neighbourhood Plan is also in preparation with a local residents working hard on its completion. We therefore need to look elsewhere for guidance on the role of local communities with regard to the Biffa Planning Application.

The Localism Bill is intended to “radically reform the planning system to give neighbourhoods much greater ability to determine the shape of the places in which their inhabitants live”. In other words, the Bill will strengthen the role of local communities in planning decisions.

Paragraph 258 of the recently published National Planning Policy Statement on Energy notes that:

“Too many decisions, particularly for specific types of waste infrastructure, are still determined by Appeal which costs both developers and councils significant time and money while resulting in decisions being made by people remote from the affected communities rather than the communities and their elected representatives”

In fact, Biffa included this quote in a letter to Leicestershire County Council before the determination of their second Application. But once planning permission was refused they still went ahead with an Appeal. What cynicism!

Despite the absence of agreed Local and Neighbourhood Plans the community response to the Biffa Applications can be clearly discerned. Both Planning Applications were unequivocally refused by Leicestershire County Councillors, and Council Planning Officers recommended refusal. Charnwood Borough Council, Shepshed Town Council and Woodhouse Eaves Parish Council strongly oppose the Applications. The Conservative MP for Loughborough has consistently opposed the incinerator project in this location, as did both Labour and Liberal Democratic Candidates in the 2010 General Election. A total of 2,039 representations from 'affected communities' objected to the incinerator as well as 1,361 signatures on various petitions. Only three representations supported the Applications.

The views of the vast majority of local residents and communities are abundantly clear. Surely this will add significant weight to the decision by the Secretary of State on this unwelcome Planning Application?