



Appeal Decision

Site visit made on 21 October 2020

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd February 2021

Appeal Ref: APP/D0650/W/20/3251697

Former site of J Bryan (Victoria) Ltd., Pickerings Road, Halebank, Widnes, WA8 8XW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Veolia ES UK Ltd against Halton Borough Council.
 - The application Ref. 18/00285/WST, is dated 25 May 2018.
 - The proposal is described as proposed development of a waste transfer and treatment facility, including a new building for transfer station/treatment with an external construction and demolition waste processing area and storage bays for recyclables, weighbridge, welfare cabin and other ancillary uses.
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Decision

1. The appeal is dismissed and planning permission refused.

Procedural matters

2. Following the grant of planning permission Ref. 18/00285/WST by the Council on 30 January 2019, the decision was challenged by Hale Bank Parish Council by means of a judicial review. The effect of the associated judgement was to quash the Council's decision, due to a failure to properly apply Policy WM1 of the *Joint Waste Local Plan, 2013* (JWLP) and to make documents upon which the Officer's report to committee was based available, as required by the *Local Government Act, 1972*. The appeal before me is against the Council's failure to give notice within the prescribed period of a decision regarding the re-determination of planning application Ref. 18/00285/WST.

Main Issue

3. Whilst the Council supports the grant of planning permission in this case, I have also had regard to the concerns raised by other interested parties. I consider that the main issue in this case is the effect of the appeal proposal on the Council's spatial development strategy for waste management facilities.

Reasons

4. Veolia operates a local trade waste collection and management service across Halton and Merseyside. Following collection, the residual wastes sourced from within this area are currently taken direct to Veolia and/or third party transfer and disposal facilities. The appellant has indicated that its Ditton Road Depot, which has facilities to provide vehicle maintenance and waste collection fleet

overnight parking, is well placed to allow efficient access to its customers in the main population centres across Halton and Merseyside. The purpose of the appeal scheme is to allow Veolia to develop its own waste transfer facility to reduce its reliance upon third party facilities around its existing depot, which does not have the space itself to accommodate the proposed facility.

5. The appeal site, which is located on Halebank Industrial Estate and is currently vacant, was occupied by a demolition contractor in the past. In addition to the management of construction and demolition (C & D) waste at the site, the company also handled scrap metal. I understand that it held waste disposal licences and later environmental permits for both operations. The appellant has indicated that there are limited restrictions on the existing use of the site in terms of material storage and throughput. It estimates, with reference to a previous Environmental Permit, that the site had a permitted capacity of up to 100,000 tonnes of C & D waste plus vehicle breaking and scrap metal. Based on the aerial photographs provided by the appellant, it appears that those activities took up most of the site. Whilst there is a modest office/storage building close to the site entrance, it appears that the site otherwise comprised almost entirely of a large open area of concrete paving prior to the commencement of the appeal scheme.
6. Although the proposal subject of this appeal would also include an element of open-air storage and processing of C & D waste, it would only take up a small part of the site, as would a new area for the open storage of glass. The development proposed is principally a newly built waste treatment facility for the storage, sorting and processing of commercial and industrial (C & I) waste. Construction of that large new facility has commenced. The appellant's *Planning Supporting Statement* (PSS) indicates that the site would be expected to manage up to 85,000 tonnes of waste per annum, which is consistent with the planning application form and could be ensured by condition. This would include up to 40,000 tonnes per annum of C & D waste, according to the application form. The new facility would also handle C & I waste and while the PSS indicates a throughput of around 45,000 tonnes per annum, the application form indicates that it may be up to a maximum of the site capacity; 85,000 tonnes per annum.
7. In its February 2020 consultation response to the Council, Merseyside Environmental Advisory Service (MEAS), having reviewed JWLP Implementation and Monitoring Reports, has advised the Council that there is a shortfall in primary treatment/waste transfer station capacity which the proposed facility would help to meet.
8. Policy CS24 of the *Halton Core Strategy Local Plan, 2013* (CS) indicates that the Council will promote sustainable waste management in accordance with the Waste Hierarchy, to identify and safeguard (where appropriate) waste management sites in appropriate locations suitable for new and enhanced waste management facilities for the identified waste management needs of Merseyside and Halton. It confirms that the allocation of sites and detailed development management policies will be provided in the JWLP. The reasoned justification for JWLP Policy WM0 indicates that the JWLP is the principal planning document for waste planning issues in Merseyside and Halton.
9. The Spatial Strategy set out in the Council's JWLP is based on a Sub-Regional site approach. This includes: the allocation of one sub-regional site in each

district, which is suitable for sub-regionally significant facilities of more than 4.5 hectares in area (JWLP Policy WM2); the allocation of district sites suitable to accommodate smaller-scale local facilities taking into account specific local needs, such as proximity to waste arisings (JWLP Policy WM3); and, the identification of areas of search around existing clusters of waste management facilities (JWLP Policy WM5). The JWLP seeks to resist any change of use of existing operational and consented waste management sites from waste management use, unless, amongst other things, the lost capacity can be provided through existing site allocations (JWLP Policy WM7). JWLP Policy WM1 sets out a guide to site prioritisation and the reasoned justification for the Policy indicates that a considerable amount of time and effort has been taken to identify sites for allocation on the basis of spatial fit, sustainability and deliverability, and it is important that these sites are prioritised for waste management development built facilities compared with unallocated sites.

10. The underlying aim of the spatial strategy is to ensure that there are sufficient opportunities for new waste management facilities of the right type, in the right place and at the right time. The reasoned justification for JWLP Policy WM0 indicates that the approach taken is the most sustainable due to its robustness and flexibility to adapt to changing waste needs and the policies provide clear guidance on how the presumption in favour of sustainable development, supported by CS Policy CS2, will be applied to waste developments within the plan area. The appellant acknowledges that the aims and the approach of the Development Plan are consistent with the *National Planning Policy Framework* (the Framework).
11. JWLP Policy WM1 states that developers should develop sites allocated in the Waste Local Plan in the first instance, and should only consider alternatives to allocated sites if allocated sites have already been developed out, or are not available for the waste use proposed by the industry, or can be demonstrated as not being suitable for the proposed waste management operation. The Policy confirms that it will be for the applicant to demonstrate why allocated sites are not suitable for the specific use proposed as part of the justification for it.
12. In summary, the appellant argues: firstly, that the appeal site is an existing waste management site; secondly, as such it is subject to JWLP Policy WM7, which seeks to ensure that existing operational and consented waste management sites remain in waste management use; and thirdly, under these circumstances there is no need to comply with the sequential approach set out in JWLP Policy WM1.
13. With reference to Environment Agency 2012 data, JWLP Figure 4.2 identifies a number of existing waste sites in the district. Due to the limited size/definition of Figure 4.2, there is some uncertainty as to whether the sites shown include the appeal site. I consider that in relation to this matter the information provided by supporting document *PS-044: Areas of Search Development in the waste local plan*, which is referred to in the notes accompanying Figure 4.2, is of little assistance. Whilst the appeal site is not amongst the existing waste sites identified by that document, it appears to me that it does not identify all those shown on Figure 4.2 either. Furthermore, MEAS has confirmed that the existing waste site identified by PS-044 to the southwest of the appeal site, on the opposite side of Pickerings Road, is an Environment Agency data error.

14. Given the appellant's evidence that at the time the JWLP existing waste management capacity baseline was set, with reference to Environment Agency 2012 data, the consented waste management operation referred to above was taking place at the site, I consider that the provisions of JWLP Policy WM7 would apply to a proposed change of use of the site from waste management. However, that is not what is proposed in this case and so, to my mind, JWLP Policy WM7 is of limited relevance. JWLP Policy WM1 does not indicate that proposals involving the provision of a new waste management facility on a vacant existing waste management site falls outside the scope of its sequential approach. I consider that the provisions of JWLP Policy WM1 are applicable in this case and that my finding in this regard is consistent with the conclusions of Mrs Justice Lieven in the judgement referred to above. She found that JWLP Policy 'WM1 set out a site prioritisation hierarchy which needed to be undertaken properly before a wider planning balance was performed' and 'the proper application of the sequential test, after appropriate inquiries are made, is a critical step in the planning policy framework lying behind the determination of the application'.
15. The appellant has drawn attention to annual JWLP Implementation and Monitoring Reports for the period 2013/14-2017/18, which indicate that the Council did not require a number of applications for waste management development to demonstrate compliance with JWLP Policy WM1, as they related to the extension or upgrading of existing facilities. However, MEAS has confirmed that in all but one case the applications were associated with operational facilities, which the appeal scheme is not. It involves the development of a new waste management facility. In any event, the subject applications were determined before the judgement referred to above concerning the application of JWLP Policy WM1. Therefore, whilst I do not know the full circumstances of those other cases, it appears to me that they are not directly comparable to those in the case before me. I give them little weight.
16. The JWLP divides the allocated sites into sites for sub-regional facilities, capable of supporting the larger capacity and more complex facilities (greater than 4.5 hectares in area) and sites for district level facilities, suitable for smaller waste management operations (less than 4.5 hectares in area). However, to my mind, it does not automatically follow that a facility smaller than 4.5 hectares could not be accommodated on a sub-regional site. The reasoned justification for JWLP Policy WM2 indicates that the sub-regional sites are capable of supporting facilities which will be of strategic importance to Merseyside and Halton, and that this may be one large facility or a number of facilities co-located on the same site. In my view, given the proposed linkage to the appellant's Ditton Road Depot, it is reasonable to restrict the search to the district of Halton. In the district of Halton, site H1, with an area of 7.8 hectares, has been allocated to provide waste facilities to meet sub-regional strategic needs and site H2, with an area of 2 hectares, has been allocated to meet district needs.
17. As to availability, site H2 is already occupied and so is not available for the proposed facility. Site H1 has not been developed out. The appellant has indicated that at the time the decision was made to develop a transfer station, a standard property search was undertaken to identify sites which were being marketed for development. At that time site H1 was not being marketed for development and so was considered by the appellant to be unavailable. In my

view, this is not sufficient to rule the site out as unavailable, given that it has been allocated for waste management facilities in the JWLP. Furthermore, it would be reasonable to expect the appellant to have approached the owner to ascertain whether part of the site would be available for the proposed facility and this was not done. I consider that under these circumstances, it cannot be concluded with any certainty that the site is unavailable.

18. Turning to suitability for the proposed facility, the JWLP indicates that both allocated sites are suitable for a range of waste management uses and in the case of site H1 this includes 'waste transfer station, re-processor, primary treatment and resource recovery park'. The reasoned justification for JWLP Policy WM2 indicates the sub-regional sites are capable of supporting facilities which will be of strategic importance to Merseyside and Halton. Whilst the appellant's Appeal Statement indicates that the Ditton Road Depot serves principally the Halton area and adjoining boroughs in the south of the conurbation, its Planning Supporting Statement identifies that some waste associated with the proposed facility may be collected from businesses and household recycling centres across Merseyside. On that basis, it appears to me that it would be more appropriate to regard it as a facility to meet a sub-regional strategic need, as opposed to a local facility taking into account specific local needs, such as proximity to waste arisings, catered for by district level facilities.
19. I acknowledge that site H1 is much larger than the 1.1 hectares which would be occupied by the appeal scheme. However, contrary to the view of MEAS, to my mind this does not rule it out as unsuitable for the proposed use, as the reasoned justification for JWLP Policy WM2 indicates the sub-regional sites may be able to accommodate a number of facilities co-located on the same site.
20. I acknowledge that the reasoned justification for JWLP Policy WM2 also indicates that where several facilities are developed on a single site, integration between the operations is desirable to maximise synergies, reduce transport impacts and make best use of infrastructure. Nonetheless, there is no evidence before me to show that these aims could not be achieved in the event that other waste facilities were developed alongside the proposal at site H1 in the future. Even if there was evidence to that effect, integration is identified as desirable not an absolute requirement. Whilst MEAS indicates that some infrastructure works would be required at site H1, which may affect the viability of developing only a small proportion of the site, it acknowledges that the landowner may be willing to address some of those works. In the absence of any contact with the landowner to establish the extent of any constraints to development or any other evidence to show that it would be unviable, I give this concern little weight.
21. I consider it has not been demonstrated that site H1 is either unsuitable or unavailable for the proposed scheme.
22. JWLP Policy WM1 indicates that if allocated sites are not available, then the waste industry should seek sites within the areas of search, as set out in JWLP Policy WM5. Policy WM5 indicates additional sites that are required over and above those allocated for specific waste management uses will be considered favourably in the vicinity of identified areas of search, which include 'Halton: Industrial areas of Ditton/Widnes' (HIDW). The reasoned justification for the Policy indicates that areas of search have been selected to fit with the spatial

strategy, and are focussed in industrial areas where there are existing clusters of waste management activity and the broad areas of search are set out on JWLP Figure 4.2.

23. In its consultation responses MEAS has indicated that the appeal site falls within the HIDW area of search; a view echoed by the appellant and the Council in their Appeal Statements. However, in my view, that is not the case; this is a view shared by Hale Bank Parish Council. It appears to me that the appeal site falls well outside the 'fuzzy' boundary of the HIDW area of search shown on Figure 4.2. Furthermore, this spatial relationship is confirmed with reference to the areas of search boundaries shown in detail within supporting document *PS-044: Areas of Search Development in the waste local plan*, which is referred to in the notes accompanying Figure 4.2. The appeal site is situated towards the southwestern corner of Halebank Industrial Estate and, in my view, is well outside the boundary of the HIDW area of search, which at the closest point is a significant distance to the northeast towards the far side of Widnes Business Park. Contrary to the view of the appellant and others, in my judgement, the appeal site is not located in the vicinity of the area of search and so would not accord with JWLP Policy WM5.
24. Furthermore, the appellant has not demonstrated that the area of search is not suitable for the development proposed. In its Appeal Statement, the appellant has confirmed that at the time when the decision was taken to develop a transfer station, its standard property search identified a number of potentially appropriate sites in addition to the appeal site. However, based on the evidence presented, it is not clear whether any of those other sites were within, or within the vicinity of, the HIDW area of search.
25. JWLP Policy WM1 indicates that developers must clearly demonstrate that both allocated sites and areas of search are not suitable for the development proposed before unallocated sites will be considered. For the reasons set out above, I consider that this has not been done.
26. The JWLP indicates that unallocated sites will need to be justified with reference to, amongst other things, JWLP Policy WM13. It indicates that planning permission will only be granted for additional waste management facilities on unallocated sites where the applicant has provided written evidence to demonstrate that 4 criteria have been met. Criterion 1. is that a suitable allocated site is not available or suitable for their proposal. For the reasons set out above, I consider that this has not been demonstrated.
27. Criterion 2. seeks to ensure that the proposed site has been assessed against the criteria for built facilities used in the site selection process for allocated sites shown in Table 5.1 of the JWLP. This has been done. Applying the JWLP site selection scoring criteria, the appellant has estimated that the appeal site scores -1. The appellant suggests that the site scored poorly as the scoring mechanism uses distance from sensitive sites as a proxy for likely scale of effects and the site is located close to a number of nature conservation sites associated with the Mersey Estuary. This contributed -40 to its score. Against that background, the appellant proposes a different scoring mechanism for this element of the assessment, dispensing with distance as a proxy and reflecting instead Natural England's planning application consultation response, which indicated it is likely that there would be no significant adverse effects on statutorily protected nature conservation sites. The appellant indicates if that

approach was followed the score for the site would increase by 40 to +39, higher than the score of +18 for site H1. However, I give that comparison little weight, as it would be comparing outcomes based on different scoring mechanisms.

28. In its appeal consultation response dated 31 July 2020, MEAS has identified a number of corrections to the appellant's JWLP based assessment, the justifications¹ for which appear reasonable and have not been disputed by the appellant. It results in a score of -44 rather than -1. On that basis, even if the appellant's 'Natural England' adjustment of 40 were to be applied, the score would be around the value acknowledged as poor by the appellant.
29. Criterion 3. of JWLP Policy WM13 seeks to ensure that the proposed site will be sustainable in terms of its social, economic and environmental impacts and that this has been demonstrated through Sustainability Appraisal and Habitats Regulations Assessment at the project-level.
30. Box 1 associated with JWLP Policy WM12 indicates that a Habitats Regulation Assessment will be required for any development which may lead to a likely significant effect on an internationally designated site. The appellant has indicated that, given Natural England's consultation response to the effect that there would be no such significant effect in this case, an HRA is not a requirement; a view shared by the Council.
31. Whilst interested parties have raised some concerns with respect to the potential environmental impacts of the scheme, such as in relation to noise and traffic, they are not well supported by evidence, as indicated below.
32. In support of the planning application subject of this appeal, the appellant commissioned Noise & Vibration Consultants Limited to undertake an *Environmental Noise Assessment, 2018* (ENA). It identifies Shore House on Mersey View Road as the closest residential property to the appeal site and that the nearest commercial offices are opposite the site on the other side of Pickerings Road. Based on noise monitoring and analysis, the ENA confirms that noise levels generated by site operations would be within relevant noise standards and guidelines at the nearest sensitive receptors and the impact would not be significant. I have not been provided with any compelling evidence to the contrary and consider that the scheme would not conflict with CS Policy CS23 or Policy MW1 of the *Halton Unitary Development Plan, 2005* (UDP) insofar as they seek to ensure that development does not exacerbate pollution, including noise emissions, or have an unacceptable impact on dwellings in terms of noise.
33. The planning application's *Transport Assessment* indicates that typical weekday traffic movements associated with the proposal may include around 119 heavy goods vehicle (HGV) movements and there would be a small number of vehicle movements associated with staff. In addition, the appellant has provided a *Technical Note, November 2018*, by Mode Transport Planning, which made an assessment of traffic levels which could potentially be associated with the previous use of the site by a demolition contractor/scrap metal processing company; in part a Sui Generis use. It was agreed with the Council the assessment would be made on the basis of a B2/B8 use class being the nearest to the previous use. I consider that, in the absence of historic records for the

¹ Appendix 9c of the Council's Appeal Statement.

- site, that was a reasonable approach. The Technical Note concluded that the proposed use would be likely to generate a lower number of vehicle movements than the extant use.
34. Furthermore, the appellant has indicated that there are limited restrictions on the existing use of the site in terms of material storage and throughput. It estimates, with reference to a previous Environmental Permit, that the site had a permitted capacity of up to 100,000 tonnes of C & D waste plus vehicle breaking and scrap metal. To my mind, it is not unreasonable to expect that the 85,000 tonnes/annum appeal proposal would generate less traffic than such a previous use and this adds weight to the finding of the Technical Note.
35. In addition, the Council has indicated that previous traffic model data it commissioned shows that the highway network operates well within capacity. I conclude that the effect of the appeal scheme on the operation of the highway network would be acceptable, a view shared by the Council and the Highway Authority. The scheme would not conflict with UDP Policy MW1 insofar as it seeks to ensure that development would not have an unacceptable effect on highway safety or highway capacity. However, in the absence of any compelling evidence to show that the previous use would be likely to cause significant harm to the operation of the highway network, the potential traffic impact of a fallback to the previous use does not weigh in favour of the appeal scheme. Furthermore, in my view, it is not clear that such a fallback position would cause greater harm to the local environment. I give the fallback position referred to by the appellant little weight.
36. Whilst the appellant's Appeal Statement indicates that its existing Ditton Road Depot serves principally the Halton area and adjoining boroughs in the south of the conurbation, its Planning Statement indicates that some waste associated with the proposed facility may be collected from businesses and household recycling centres across Merseyside. Furthermore, vehicles from the depot currently complete their collection rounds and then travel to a range of out of area Veolia facilities or third party transfer stations or disposal points, before then returning to the depot. The appellant has estimated that, in comparison with off-loading at the appeal site, delivering to site H1 would add in excess of 30,000 vehicle miles per annum. This weighs in favour of the appeal scheme, which would gain some support in relation to this particular matter from JWLP Policy WM11 and CS Policy CS24 insofar as they seek to reduce the impact of transport on climate change and carbon emissions. However, although site H1 is further from the depot than the appeal site, I saw that the additional distance is not large. Given the area serviced by the depot, I consider that the saving is unlikely to represent a significant proportion of the vehicle miles associated with the overall operation and so I give it limited weight.
37. Nonetheless, the appellant has provided a Sustainability Appraisal, with reference to sustainability objectives used in the Council's *Site Assessment-Strategic Sites* completed by URS in 2012. It takes account of a range of factors, such as those referred to above as well as others, such as employment likely to be associated with the scheme. As indicated by the appellant, against those objectives the overall results for the appeal site are broadly comparable with the 2012 URS results for site H1. However, the appellant acknowledges that there are some areas where precise knowledge of the appeal scheme has led to a higher score than a general approach may have done. To my mind, it is possible that the sustainability appraisal for the use of site H1 for the

proposed facilities would score higher if a similar level of precision were applied to the assessment of that site. Therefore, whilst the appellant has provided a sustainability appraisal for the proposed use of the appeal site, consistent with the requirement of criterion 3, it is uncertain whether the sustainability credentials of the scheme would be broadly comparable to the use of site H1 as the location for the proposed facilities.

38. Criterion 4. of JWLP Policy WM13 seeks to ensure that the proposal complies with the vision and spatial strategy for the Waste Local Plan and satisfies the criteria of Policy WM1 and WM12. It appears to me that an adequate assessment of the likely environmental effects of the proposal can be made in this case and in this respect the scheme would not conflict with the aims of JWLP Policy WM12 and UDP Policy MW2 as regards the provision of information. Furthermore, the proposal would contribute towards meeting the need for primary treatment/waste transfer station capacity and so would assist in moving the management of waste up the Waste Hierarchy. In this respect, it would be consistent with the Waste Local Plan Vision. However, irrespective of criteria 2 and 3, I have found that it conflicts with criterion 1 and JWLP Policy WM1. I conclude overall that the proposal would conflict with JWLP Policy WM13.
39. I consider that it would be possible to make sure that the construction of the scheme would employ measures to ensure the efficient use of resources, in keeping with the aims of JWLP Policy WM8, through the imposition of a suitable condition. The appellant acknowledges that the proposed building would not meet the requirements of JWLP Policy WM10 and CS Policy CS19 as regards the achievement of the BREEAM Excellent rating. This results from the nature and use of the proposed building. For example, it would not be artificially heated or cooled and so the provision insulation required by the standard would appear to serve no useful purpose. In the particular circumstances of this case, I consider that the conflict with those 2 policies would not be sufficient to justify withholding planning permission, a view which is shared by the Council.
40. However, I conclude overall that the appeal scheme would conflict with and seriously undermine the Council's spatial development strategy for waste management facilities, with particular reference to JWLP Policies WM1, WM5 and WM13.

Other matters

41. The proposal would make use of a previously-developed site, located on Halebank Industrial Estate, which is one of the local employment areas identified by the CS and has links to the local and from there wider strategic highway network. As such the scheme would be well supported by existing infrastructure, in keeping with the aims of CS Policy CS7 and would be consistent with CS Policy CS4 insofar as it seeks to maintain existing employment areas.
42. Under the terms of the UDP, the appeal site falls within 'Action Area 5- Halebank' to which Policy RG5 applies. The reasoned justification for the Policy indicates that Halebank is an isolated residential area adjoining a mixed quality employment area, home to a variety of small businesses. Furthermore, there is a need for regeneration within the area, particularly in relation to the redevelopment of vacant and derelict sites. The Policy identifies a number of

uses which will be acceptable in the Halebank Action Area, none of which include waste management facilities. However, the Council has indicated that it is not intended to be a closed list and this appears to me to be supported by the reasoned justification for the Policy, which indicates that uses acceptable in the area are those appropriate to a mixed residential and employment area. In the absence of any convincing evidence to show that the proposal would harm residential amenity, I consider that the appeal scheme, which involves the redevelopment of a vacant site, would not conflict with UDP Policy RG5.

43. The appeal site is situated within an environmental priority area and Developed Coastal Zone designated by the UDP. However, the appeal proposal is unlikely to be a prominent feature of any views from a main road or rail transport route. Insofar as parts of the site have been visible in the past from local minor roads, the proposed building would be likely to curtail such views and it would enclose some of the proposed waste management operations. In those respects, it would enhance the character and appearance of the area, albeit to a small extent, in keeping with the aims of UDP Policies BE3 and GE30.
44. Insofar as the proposal would redevelop a vacant employment site, I understand that it would also be consistent with the aims of Policy ED2 of the emerging *Halton Delivery and Allocations Local-Proposed Submission August 2019*, which gives encouragement to the retention of employment uses. However, given its early stage towards adoption, I give this limited weight.

Conclusions

45. The appeal scheme would accord with the aims of a number of Development Plan policies. However, given the waste management nature of the proposal, I consider the policies of the JWLP to be of most importance for the determination of the planning application subject of this appeal. Contrary to JWLP Policy WM1, the appellant has failed to demonstrate that allocated site H1 is either unsuitable or unavailable for the proposed scheme. The reasoned justification for Policy WM1 indicates that planning consent will not normally be given unless this Policy is complied with in full. This is a compelling reason for withholding planning permission in this case. The appeal site is not located in the vicinity of the HIDW area of search and so is not supported by JWLP Policy WM5. Furthermore, the appellant has not demonstrated that that area of search is not suitable for the development proposed, contrary to JWLP Policy WM1. With particular reference to these matters, the scheme would also conflict with JWLP Policy WM13.
46. I acknowledge that JWLP Policy WM7 seeks to resist any change of use of existing operational and consented waste management sites from waste management use. However, that is not what is proposed in this case; the appeal scheme involves new waste management development on the site. Furthermore, the circumstances in which a change of use from waste management is not resisted by JWLP Policy WM7 include where the lost capacity can be provided through existing site allocations. On the face of it that may be possible; the appellant has not met the requirement of JWLP Policy WM1 to demonstrate that allocated sites are unsuitable and unavailable. I consider that limited weight is attributable to the alignment of the appeal scheme with the aims of JWLP Policy WM7.
47. With particular reference to JWLP Policies WM1, WM5 and WM13, the proposal would conflict with key policies of the JWLP. As a result, it would seriously

undermine the Council's spatial development strategy for waste management facilities, which is the most sustainable approach according to JWLP Policy WM0, and greatly compromise the Council's ability to implement it. I conclude on balance therefore, that the scheme would not accord with the aims of JWLP Policy WM0 and CS Policy CS2 and would conflict with the Development Plan taken as a whole.

48. The proposal would be beneficial in a number of respects, such as moving the management of waste up the Waste Hierarchy, contributing towards meeting the need for waste management facilities and providing new employment, albeit limited. Furthermore, in comparison with the use of site H1, road mileage and the related emissions associated with the use of the appeal site would be likely to be lower. In these respects, it would gain some support from the Framework, the *National Planning Policy for Waste* and the Government's *Our Waste, Our Resources: A Strategy for England*. Nonetheless, I conclude on balance that the circumstances in this case do not indicate that a decision other than in accordance with the Development Plan would be justified.
49. Notwithstanding that the Council previously found in favour of the proposal, for the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR