

## ***Comments on Applicant's late submission***

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# **UKWIN COMMENTS ON APPLICANT'S FEBRUARY 2024 RESPONSE TO UKWIN**

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### **Proposed Development:**

**North Lincolnshire Green Energy Park**

### **Proposed Location:**

**Flixborough Wharf, Flixborough Industrial Estate,  
North Lincolnshire**

### **Applicant:**

**North Lincolnshire Green Energy Park Limited**

### **Planning Inspectorate Ref:**

**EN010116**

### **Registration Identification Ref:**

**20031828**

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## **FEBRUARY 2024**

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## INTRODUCTION

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1. On 26<sup>th</sup> February 2024 the Planning Inspectorate notified Interested Parties that The Secretary of State used their discretion to accept a late submission from the Applicant in response to UKWIN's response to the SoS letter.
2. Given that the Applicant's late submission included new evidence and new arguments, to better inform the determination of this application UKWIN has produced this brief response.

## POLICY POSITION IN NPS EN1 AND EN3 ON OVERCAPACITY

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3. The Applicant's reference, at paragraph 2.3.2 of their late submission, to the notion that if the Government was concerned about potential EfW overcapacity then EN1 and EN3 would not be supportive of EfW/ERF "as part of the wider energy mix" overlooks footnote 36 of EN1 (2024).
4. As set out in EN1 (2024) footnote 36: "A further exception to this [general presumption in favour of new energy generating capacity] is EfW plants where the primary function is to treat waste **and planning decision will be made on the demand for waste infrastructure**. See EN-3 for further detail". (**emphasis added**)
5. This footnote and other similar expressions of Government policy that contradict the Applicant's claim are addressed in UKWIN's January 2024 response to the SoS letter, in particular at paragraphs 7-16, and nothing that the Applicant now says provides any cogent reasons why UKWIN's interpretations of Government policy positions are not correct.

## POLICY REQUIREMENT TO DEMONSTRATE NO OVERCAPACITY

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6. The Applicant is simply wrong to imply, as they do at paragraph 2.4.1 of their late submission, that UKWIN is wholly reliant upon the UK Government's EN1 and EN3 concerns about EfW overcapacity when reaching our conclusion that the proposed new capacity for North Lincolnshire would result in creating or exacerbating EfW overcapacity at local and/or national levels.
7. UKWIN is not relying simply on the Government's clear concerns regarding the need to avoid EfW overcapacity at local and national levels to conclude that such overcapacity would be created or exacerbated by the proposed North Lincolnshire capacity.

8. UKWIN has provided a significant body of evidence showing flaws in the Applicant's local and national waste fuel availability assessments and UKWIN has provided our own evidence demonstrating EfW overcapacity at local and national levels were the proposed North Lincolnshire capacity to go ahead.
9. For the avoidance of doubt, having read the Applicant's late submission and accompanying 'Fuel availability' Appendix, UKWIN maintains our position that the North Lincolnshire proposal would give rise to local and national EfW overcapacity, and would prejudice the achievement of residual waste reduction and recycling targets.
10. UKWIN has already rebutted the various arguments put forward by the Applicant in this regard.
11. It would make no sense for the Government to place such an emphasis on the need to ensure new EfW developments avoid overcapacity if it could be assumed that existing EfW capacity will simply close down to make way for new capacity.

## **RDF AVAILABILITY ASSESSMENT**

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12. The Applicant is wholly incorrect to suggest that UKWIN relies on legally binding carbon reduction targets not being met.
13. This is an entirely baseless claim that flies in the face of the evidence UKWIN provided on the topic.
14. For example, at paragraphs 50-52 of REP2-108 UKWIN stated:
  - The Net Zero Strategy instead makes clear, that the Government expects the relevant (power) sector to reduce GHG emissions by 80-85% by 2035 (relative to 1990 levels). This means that the Government expects the power sector (which includes energy generated by waste incinerators) to continue to emit some GHGs.
  - Under the heading 'Key features of the delivery pathway to 2037' the Net Zero Strategy goes on to explicitly state that for the power sector the Government expects this 15-20% of residual power sector emissions to include EfW emissions, stating: "...residual emissions will be limited to CCUS plants, unabated gas, and **energy from waste...**" (**emphasis added**).

- If the Government intended to shut down all non-CCUS incineration plants by 2035, it is curious that they would expect those plants to continue to release residual emissions.<sup>1</sup>
15. At paragraphs 55-56 of REP2-108, UKWIN went on to explain how there is no guarantee that the Applicant's proposal will be hooked up to a genuine CCUS scheme and that the Applicant's carbon capture proposals only promise a small amount of carbon would be permanently captured.
  16. Indeed, UKWIN's evidence shows the North Lincolnshire proposal could have such poor carbon performance that during its lifetime it would have higher GHG impacts than landfill.
  17. Furthermore, matters would be even worse if the adverse GHG costs of EfW overcapacity that would be caused or exacerbated by the North Lincolnshire plant were taken into account, e.g. the adverse climate impacts of diverting material from waste reduction and recycling to EfW.
  18. While the Applicant is trying to cast doubt on the existing pipeline of projects, the Applicant's Deadline 3 Submission (9.17 Comments on Written Representations) [REP3-022] noted that: "Analysis of historic planning data suggest that approximately 50% of consented capacity is realised".
  19. UKWIN has already noted that Government policy advocates for the consideration of capacity in development, and we have explained how this includes plants that may not have entered construction.
  20. Furthermore, UKWIN's evidence shows how the proposed North Lincolnshire capacity would result in EfW overcapacity at local and national levels even without those other plants coming forwards.

## **RESPONSE TO EWC CODES**

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21. In paragraph 2.7.3 the Applicant cites the fact that some incinerators accept 19 12 12 waste as evidence that this waste is combustible, however this ignores the point made in the Medworth Technical Note that there are 2 types of 19 12 12 waste.
22. Generally speaking, 19 12 12 waste that is combustible already goes to existing incinerators meaning that 19 12 12 that is landfilled is sent to landfill because it is not combustible.

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<sup>1</sup> The Applicant subsequently said that businesses would voluntarily close, and we noted that this was speculative as businesses without CCUS would have the financial advantage of not having to introduce CCUS and that given they have already paid for the construction of the incinerator it would not make sense for these operators to close down their existing facilities as they would not wish to forego the revenue they could make from gate fees and electricity sales.

## WASTE HIERARCHY, OVERCAPACITY AND THE MARKET (INCLUDING APPENDIX 1)

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23. As UKWIN's evidence has shown, not only is there a significant level of EfW capacity currently under construction but the Government's various efforts to reduce residual waste arisings (including plastic and food waste) mean that existing EfW capacity will be increasingly freed up as volumes of waste fall.
24. It is necessary to consider both the future availability of waste for use as potential incinerator feedstock (or indeed for other processes, such as powering cement kilns or producing Sustainable Aviation Fuel) and future residual waste treatment capacity.
25. Such an assessment must consider the fact that much of what was historically sent for incineration or landfill could have been recycled and that much of the non-recyclable material sent to landfill is non-combustible.
26. As the Government set out in the Resources and Waste Strategy, at Section 2.3.1 on page 60: "...valuable recyclable material is being lost to landfill or incineration..." and at Section 8.1.6 on page 137: "Residual waste is the mixed material that is typically incinerated for energy recovery or landfilled. **Much of the products and materials contained in this waste could have been prevented, reused or recycled**". (emphasis added)
27. It is disingenuous to point to current recycling and landfilling rates without acknowledging that the various measures set out in the Government's Environmental Improvement Plan and elsewhere have yet to take effect.
28. Measures such as separate food waste collection, extended producer responsibility for packaging waste, and inclusion of EfW in the UK Emissions Trading Scheme, will all support the achievement of Government targets and ambitions.
29. As UKWIN's evidence has shown, EfW overcapacity could imperil the achievement of local and national recycling and residual waste reduction targets and ambitions.