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Directorate for Planning and Environmental Appeals

Appeal Decision Notice

[redacted]

The Scottish Government

Decision by Scott M Ferrie, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/210/2012
- Site address: Dunbar Landfill, Oxwell Mains, Dunbar
- Appeal by Viridor Waste Management Ltd against the decision by East Lothian Council
- Application for planning permission 08/00467/FUL dated 13 May 2008, refused by notice dated 6 November 2009
- The development proposed: erection of an energy from waste with combined heat and power facility and associated works
- Application drawings: listed in schedule at end of this notice
- Date of inquiry and hearing sessions: 21-24 September 2010
- Date of accompanied site inspection: 29 September 2010

Date of appeal decision: 14 December 2010

Decision

I allow the appeal and grant planning permission subject to the 17 conditions listed at the end of the decision notice. Attention is also drawn to the 4 advisory notes at the end of the notice.

Reasoning

1. The determining issues in this case are:

- whether the proposed development complies with development plan policy and national policy and guidance on the provision of waste management facilities, having regard to (i) the need for the facility and the suitability of the location, bearing in mind the proximity principle, (ii) the likelihood of waste other than residual waste being processed at the facility, (iii) the appropriateness of the Heat Plan; and
- the acceptability of the impacts of the proposal on (i) landscape and visual amenity (including cumulative impact), (ii) habitats and ecology, (iii) air quality and human health, (iv) road access and traffic generation (including impact on the trunk road junction), having regard to the provisions of the development plan and national policy and guidance.

Need for the facility and suitability of the location

2. Under this issue, I consider it necessary to first consider the general need for waste management facilities of the type proposed here, before moving on to consider in more detail the appropriateness of a facility of the size proposed in the location proposed.

3. The National Planning Framework for Scotland 2 (NPF2) states that the planning system has a crucial role to play in ensuring that installations are delivered in time to allow waste management targets to be met. A network of waste management installations should be facilitated by the planning system, in order to enable the movement of waste to be minimised and EU and national targets to be met, "taking account of opportunities to derive energy from waste and develop local heat networks". It goes on to state that the 25% cap on energy from mixed municipal waste, to be applied at the local and national level, will be a material consideration in development management decisions. Energy from waste (EfW) plants should be highly efficient in terms of energy recovery. Provision for the necessary additional waste management capacity must be made in strategic development plans.

4. Scottish Planning Policy (SPP) states that the Scottish Government has adopted 'zero waste' as a goal. Value should be recovered from products when they reach the end of their lives, either through recycling, composting or energy recovery, in accordance with the waste hierarchy. SPP repeats the statement set out in NPF2 that the planning system has a crucial role in ensuring that installations are delivered in time to allow waste management targets to be met. Reference is also made to the proximity principle, which requires that waste is dealt with as close as possible to where it is produced.

5. Referring more specifically to thermal treatment plants, SPP states that such technology is more beneficial if it delivers both heat and power. The siting of plants close to energy grids or users of heat is "an important factor in determining appropriate locations for installations capable of being run as combined heat and power (CHP) plants". As the operational control of such plants is regulated by SEPA, the planning system should focus on the development itself rather than on control of processes or waste streams.

6. Scotland's Zero Waste Plan (ZWP) sets a target of recycling 70% of all waste arising in Scotland by 2025, with only 5% of remaining waste being landfilled. Waste ought to be treated as high up the waste hierarchy as possible, by preventing, reusing or recycling where feasible. EfW "has an important role to play" and could contribute to 31% of Scotland's renewable heat target and 4.3% of its renewable energy target. To be truly sustainable though, it should only be used for waste streams which cannot offer greater benefits through reuse or recycling. It states an intention that the Scottish Government will introduce regulatory measures to ensure that EfW is only used in such circumstances. These measures will supersede the 25% cap which currently applies only to municipal waste, but is likely to result in similar amounts of resources being available for EfW treatment.

7. SEPA's *Thermal treatment of waste guidelines 2009* (TTWG) set out key principles relevant to the consideration of planning applications for thermal treatment facilities. The guidelines are particularly significant in this case as four of the council's five reasons for