

OFFICER REPORT

03/11/09

App No. 08/00467/FUL

Application registered on 13th May 2008

Target Date 12th July 2008

Proposal	Erection of an energy from waste with combined heat and power facility and associated works	SDELL	N /N
		CDEL	N /N
Location	Dunbar Landfill Oxwell Mains Dunbar East Lothian EH42 1SW	Bad Neighbour Development	Y/ N

APPLICANT: **Viridor Waste Management Ltd**

Is this application to be approved as a departure from structure/local plan? ~~N~~/N

c/o RPS Group Plc
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DECISION TYPE: **Consent Granted**

BACKGROUND

The application site, which has an area of some 6.9 hectares, forms the western part of the existing waste landfill site at Oxwellmains, Dunbar. The landfill site is operated by Viridor Waste Management Ltd under the terms of planning permission P/0867/91 granted in June 1993. It occupies a countryside location 4.5km to the south east of Dunbar, 2km to the northwest of the village of Innerwick, and 3.5km to the west of Torness Nuclear Power Station. The landfill site is bounded to the north by the main east coast railway line, to the east by farmland, to the south by the A1 trunk road and to the west by the Lafarge cement works.

The application site originally formed part of the Oxwellmains South Quarry, from which limestone was quarried for use in the adjacent cement works. This part of the quarry was partially infilled as part of those quarrying operations. The majority of the site is currently in agricultural use as a field. The remainder of the site contains some limited areas of scrub planting and hedgerows on its outer edges. The land of the site is on a lower level than the adjoining land to the north, east and west of it. The land is designated landfill cells 9 and 10 of the landfill site approved by the grant of planning permission P/0867/91 and were it to be infilled, as so approved the ground level of it would be raised by some 25m AOD.

The closest residential properties to the site are the farms of Little Pinkerton, Meikle Pinkerton, and Easter Meikle Pinkerton, which are each located approximately 500m to the southwest.

The application site itself is not covered by any nature conservation designations. However there are three sites of special scientific interest (SSSI) located within 4km of the site. The closest of these SSSIs, the Barns Ness Coast SSSI forms part of the Firth of Forth Special Protection Area.

DESCRIPTION OF APPLICATION

This application seeks planning permission for the erection on the application site of an energy from waste with combined heat and power facility (EfW) and for associated works.

The proposed EfW is intended to convert non-hazardous household, commercial and industrial waste into energy. It would have the capacity to process up to 300,000 tonnes per annum, based on two lines with a capacity of 150,000 tonnes each. The EfW would be operational 24 hours a day, 7 days a week.

The processing of waste by the proposed EfW would create a total of 25.6MW of electricity. Of this, 22.7MW would be available for export to the local electricity network, with the remainder used by the EfW itself. The EfW would also be capable of supplying heat to suitable external users, subject to demand. A heat plan has been submitted by the applicant, which sets out how the heat could be used by suitable external users.

The proposed EfW process would be contained within a large new building, to be centrally located on the northern half of the application site. In total the proposed building would be some 151 metres in length and 54.8 metres wide, and would have a broadly rectangular footprint. It would consist of four main components, aligned on a principal north/south axis. The four components would contain a reception hall, a residue bunker hall, a turbine hall, and a boiler house. They would each be of a different height, thereby giving the building a stepped appearance. The largest component, the turbine hall, would be one of the two central components. The roof of this component, at its highest point, would be some 47 metres in height. The walls of the proposed building would be finished in horizontally laid profiled cladding, which would be differently coloured for the different components of the building. The curved roofs of the building would be clad in profiled metal sheeting. A white coloured flue stack, some 80 metres in height, would be positioned adjacent to the northern end of the proposed building.

Also proposed is an air cooled condenser building, which would be erected to the east of the northern end of the proposed main building. The condenser building would be some 38 metres in length and 26.2 metres wide, and would have a rectangular footprint. It would have a pitched roof that would have a height at its highest point of 31.6 metres. The lower walls of the condenser building would be finished in horizontally laid profiled cladding overlaid with metallic silver aluminium louvers. The upper walls of the building and its roof would be clad with metallic silver aluminium louvers. A small visitor centre building would be positioned to the south of the main building. It would have a rectangular footprint and a flat roof. Its walls would be primarily clad in horizontally laid profiled cladding, although there would be a large expanse of glazing on its front, south facing elevation. The building would feature a white coloured canopy, which would protrude approximately 3.5 beyond the eastern half of its front elevation.

Access to the EfW would be taken from the existing site access road that serves the existing landfill site at Oxwellmains. A new junction would be formed to provide access to the site from the existing landfill access road. The existing landfill access road extends eastwards from the access road to the Lafarge cement works. That access road links to the west with a roundabout on the A1087, a short distance to the north of the junction of the A1087 with the A1 trunk road. Areas of landscaping would be provided along the boundaries of the application site.

The applicant has submitted an Environmental Statement (ES) with the planning application. The Environmental Statement contains chapters on planning policy, air quality and health risk

assessment, archaeology and cultural heritage, aviation, ecology, hydrology and hydrogeology, land contamination and ground conditions, landscape and visual, need, alternatives and best practicable environmental option, noise and vibration, traffic and transport, socio-economic impacts, amenity issues, and cumulative impacts.

In that an Environmental Statement has been submitted with it the application, which was registered by the Council as a valid application on 13 May 2008 has been dealt with in accordance with the relevant provisions of the Environmental Impact Assessment (Scotland) Regulations 1999. In accordance with those Regulations, public notice was given on the 13 June 2008 of the submission of the Environmental Statement and of the public's right to make representation to East Lothian Council about the Environmental Statement.

A design statement and supporting planning statement have also been submitted by the applicant.

BACKGROUND INFORMATION

In January 2008, through application 08/00010/FUL, planning permission was sought for the erection on the application site of an energy from waste with combined heat and power facility. The site the subject of planning application 08/00010/FUL was identical to the one the subject of this planning application. The proposed facility would have been capable of dealing with 450,000 tonnes of residual waste each year. The proposals focussed on three process lines deploying latest technology, each capable of handling up to 150,000 tonnes. Application 08/00010/FUL was withdrawn without it having been determined. The current application is a substitute for that previous application.

Waste thermal treatment plants are generally subject to environmental licensing requirements under the requirements of the Pollution Prevention and Control (Scotland) Regulations 2000 (PPC), as amended. The Scottish Environment protection Agency (SEPA) is the environmental licensing authority that determines such license applications for waste thermal treatment plants. An application has been submitted to SEPA by Viridor Waste Management Ltd for a permit under the Pollution Prevention and Control (Scotland) Regulations 2000 in respect of the proposed EfW. No decision on that permit application has yet been taken.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies ENV1A (International Natural Heritage Designations), ENV1B (National Natural Heritage Designations), ENV1F (Environmental or Biodiversity Assessments), ENV1G (Design of New Development), ENV3 (Development in the Countryside) and ENV11 (Waste Management) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies W1 (Oxwellmains, Dunbar), DC1 (Development in the Countryside and Undeveloped Coast), NH1a (Internationally Protected Areas), NH1b (Sites of Special Scientific Interest), NRG2 (Torness Consultation Zone), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design), DP17 (Art Works- Percent for Art), DP18 (Transport Assessments and Travel Plans) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is Scottish Planning Policy 10: Planning and Waste Management, Scottish Planning Policy 15: Planning for Rural Development and Planning Advice Note 63: Waste Management Planning.

Scottish Planning Policy 10 states that the Scottish Ministers are committed to improving Scotland's waste management record. Policy on waste management is driven by a range of initiatives and EC Directives including new targets and improved standards set out in the National Waste Plan and in the Pollution Prevention and Control (Scotland) Regulations. The preferred options in the waste hierarchy are to prevent, reuse and recycle or otherwise recover value from waste before disposal. To help meet some of our domestic and EU targets, there is support for local authorities' efforts to reduce municipal waste, to recycle and to divert waste away from landfill. Despite efforts to reduce waste however, it is clear that new waste management installations will still be needed to meet statutory requirements set out in the Waste Management Licensing Regulations 1994, by the Landfill Directive targets and the Landfill (Scotland) Regulations 2003. Higher standards at landfill sites and the UK Government's Landfill Tax, are encouraging the move away from landfill. That increases the need for other forms of waste management infrastructure to treat commercial, industrial and municipal waste. A new generation of installations is needed to manage waste; much broader than that necessary to support the established tradition of collection and final disposal of mixed waste to landfill. Thermal treatment plants represent one of the principal options to meet future needs. The challenge for planning is to identify locations for the required installations - crucial to Scotland's prosperity and environmental record. With operational control regulated by SEPA, development planning issues should focus on aspects such as location, visual impact and transport.

In paragraph 12 of SPP10 it is stated that ensuring that waste is recovered or disposed of without endangering human health is effectively a function carried out by SEPA. Appropriately located, well-run and well-regulated waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health. Where concerns about health are raised, planning authorities should ensure, through their consultations particularly with SEPA and in avoiding duplication with the provisions of other legislative regimes, that they consider the locational implications of any advice on health that requires to be controlled by a planning condition, for example on amenity.

Paragraph 20 of SPP10 states that the case for consideration of a buffer zone of about 250 metres between sensitive receptors (in most cases dwellings) and operations may arise where certain types of waste treatment operations, including large scale thermal treatment facilities are to be located. However, that depends on each site and separation by about 100 metres or less may be sufficient for a small scale thermal treatment plant.

Paragraph 33 states that all planning applications should be assessed against the development plan and material factors arising from SPP10 and the National Waste Plan/ Area Waste Plan family of policies. Paragraph 34 states that the National Waste Plan indicates that municipal solid waste diverted from landfill could be converted to energy by thermal treatment, for use in district heating, in industrial processes or to generate electricity. SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' should be used by planning authorities in assessing development proposals. Thermal treatment technology is more beneficial if both heat and electricity can be recovered or if it delivers combined heat and power (CHP). Siting of plant close to energy grids or users such as manufacturers and processors using heat from their waste will be consistent with SPP10's model policy. It is unlikely that thermal treatment of waste without some form of energy recovery would be granted a permit. All energy from waste plants will comply with the Waste Incineration (Scotland) Regulations 2003, which implement the Waste Incineration Directive. These new regulations ensure a higher level of technical compliance under Pollution Prevention and Control (PPC).

Paragraph 50 states that waste operations are normally contained in industrial buildings. Those of a larger scale, with more than a local visual impact can make use of mass, shape, colour and materials to mark rather than hide their presence.

Scottish Planning Policy 15 is supportive of appropriate development in rural areas, but states that new development must be carefully planned if the character and quality of the countryside is not to be undermined.

Planning Advice Note 63 provides more detailed advice on integrated waste management and on the issues that require to be taken into account when considering planning applications for different types of waste management facilities.

CONSULTATIONS

The Health and Safety Executive make no comment on the application.

Historic Scotland raise no objection to the proposed development.

With regard to the Torness Consultation Zone, British Energy have not provided any comments on the application.

Transport Scotland do not object to the proposed development, on the basis that existing site access arrangements are to remain the same.

In a further response submitted on behalf of Transport Scotland, JMP consultants advise that the proposed development represents an intensification of the use of this site, however the percentage increase in traffic is likely to have no impact on the A1 trunk road.

The Council's Head of Transportation raises no objection to the proposed development.

Scottish Water raise no objection to the proposals.

The Scottish Government's Climate Change & Water Industry Directorate have no comments to make on the proposed development.

The Council's Landscape and Countryside Manager advises that the development would have no impact on biodiversity interests.

The Council's Policy & Projects Manager advises that the principle of a commercial waste management system/facility at the location proposed is consistent with the development plan on the basis that it is an infrastructure installation to be operated as a business on a site already identified as suitable for waste management and disposal.

The Policy & Projects Manager also provides advice on the matter of landscape impact. He is satisfied that the lower parts of the proposed EfW facility would be screened to a significant degree by their surroundings and by the proposed bunding and planting. However the upper parts of the facility, in particular the proposed chimney, would be more visible. He raises no objection to the visual impact of the proposed facility, advising that it would be visually associated with the existing cement works and that its cumulative visual impact in the context of other large and high buildings and structures in the coastal plain would be limited.

The Scottish Environment Protection Agency provide detailed advice on the environmental impacts of the proposed development and they do not object to it.

The Council's Senior Environmental & Consumer Services Manager advises on matters relating to the environmental impact of the proposed development.

Scottish Natural Heritage do not object to the application, provided that conditions are imposed in relation to minimising the impacts of the built development, pollution control, and habitat and species management.

East Lammermuir Community Council have the following concerns over the proposed development:

- * The evidence of health effects from incinerators is far from clear cut. There are serious questions to be answered regarding emissions and the effects it will have on the health of members of the local community over the coming years.
- * It would appear that the proposal breaks the proximity principle as a huge quantity of waste will be transported for disposal many miles from where it was produced.
- * The huge capacity of the proposed incinerator would still potentially lead to waste being brought to East Lammermuir from the whole of Lothian and Borders, other parts of Scotland, and Northumbria, the majority of this by road. Approving an incinerator would be a disincentive to local communities having to improve their performance in recycling.
- * The proposed incinerator would be inefficient in terms of the energy that would be produced. There will be no useable heat energy from the waste, as there are no towns or businesses close enough to the plant.
- * Road traffic accidents associated with the increased road transport are inevitable.
- * The proposal will lead to serious degradation of the local environment through increased industrial activity, emissions, and litter. The cumulative effect of having an incinerator alongside a landfill site, a cement works and a nuclear power station will destroy the beautiful coastline that East Lothian is famous for.

Dunbar Community Council raise the following concerns over the proposed development:

- * The size of the plant is excessive.
- * The distance of the plant from the bulk of the waste it will be incinerating is unacceptable. It would be more practical to locate it closer to Edinburgh as the environmental impact of transporting the waste would be lessened. This would also mean that the residual heat generated by the plant could be better utilised.
- * Viridor's current proposals for the use of the residual heat are unsustainable.

REPRESENTATION

A total of 70 written representations to the planning application have been received, 50 of which make objection to the proposed development and the other 20 express support for it. A copy of each written representation has been made available to the Members of the Committee.

10 of the 50 written representations are based on the following pro forma type:

- * It is on a monstrous scale, requiring vast quantities of waste to be transported many miles from where it is produced. This is against Government and SEPA recommendations.
- * The cumulative impact on the local area will be massive, taken along with existing industrial plant. Creeping industrialisation will destroy this beautiful coastline.
- * The proposed incinerator offers a quick alternative to landfill but will discourage recycling and reuse, since it does not make clear how it will segregate waste prior to incineration, a key Government requirement.

- * There will be very heavy emissions from the plant, with serious question marks over the effects on our health over the years ahead.
- * It will increase road traffic, as East Lothian becomes the destination of all the rubbish from Edinburgh, the Lothians, the Scottish Borders and, more than likely, the north of England.
- * The visual impact will be truly shocking, with a massive chimney 80 metres high.
- * There will be no useable heat energy from waste, as there are no towns or businesses near enough to make use of it, another key Government requirement.
- * Viridor are trying to cash in on local councils who wish to avoid swinging EU penalties for failing to reduce landfill use; but a single massive plant like this will make the councils the victims of a monopoly, a real hostage to fortune.
- * There is no case made for Dunbar as the best location for this plant, and plenty of evidence that it fails all the Government's criteria.
- * It is bad value-for-money for local councils, who will be locked into long-term contracts with financial penalties attached.

The other main grounds of objection are summarised as follows:

- * The proposed development does not meet Government requirements on size, efficiency and location
- * The proposed development would destroy natural habitats that are vital to the survival of wildlife
- * Proposals to bury toxic fly ash or transport it by road to a disposal site are not safe
- * Proposed incinerator does not make use of best available technology
- * Approval of this application would seriously compromise the Council's aim of increasing tourism in the area
- * The additional traffic will increase pollution and the risks of serious road accidents.

The 20 written representations in support of the application are made on the grounds that the proposed energy from waste facility meets both national and local planning policy, that it would include a generation of green jobs for local people, that it is the right design in the right location (being rail linked), that it would include significant community benefits including a dedicated visitors centre for use by local schools, and that it would contribute £2 million each year in local rates.

PLANNING ASSESSMENT

The existing landfill site at Oxwellmains is a well established waste management use in its countryside location with planning permission and supported by Policy W1 of the adopted East Lothian Local Plan 2008. Policy W1 states that Oxwellmains, Dunbar is supported as a site for waste treatment and disposal and that development that restricts its continued operation will not be permitted.

Energy from waste is the process of creating energy in the form of electricity and/ or heat from the incineration of waste. The EfW proposed in this planning application would occupy the western part of the Oxwellmains site and would remove two, as yet un-worked, cells from the approved landfill site. It would be a waste management use that would be a substitute for the landfilling of those two cells with waste and by being an alternative to landfill it would enable an operational continuation of waste treatment and disposal at Oxwellmains. Such principle of alternative use is not at odds with the support Policy W1 of the adopted East Lothian Local Plan 2008 gives for an operational waste treatment and disposal use there. With the operation of waste treatment and disposal well established on the site and supported by Policy W1 the continuation of such operational use, albeit in the alternative form of an energy from waste facility does not conflict with Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, or Policy DC1 of the adopted East Lothian Local Plan 2008.

The Scottish Government's policy on Waste Management is set out in SPP10. It is a material consideration in the determination of this planning application. It supports a wide range of waste management technologies. SPP10 does not presume against the use of energy from waste facilities, although it states that SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' should be used by planning authorities in assessing such development proposals.

A more recent statement of Scottish Government's policy on Waste Management was given in a Statement to Parliament in January 2008 by the then Environment Secretary, Richard Lochhead. In that statement Mr Lochhead advised that "Dealing with waste sustainably is fundamental to the future of Scotland... Central to our waste policy are our tough targets on cutting landfill and increasing recycling... There is a role for energy from waste that is compatible with sustainable development, as well as our energy and climate change policies. However the Government is rejecting the need for large, inefficient, "white elephant" incinerators. Last month's sustainable Development Commission supported the use of smaller, more efficient plants such as combined heat and power plants or district heating".

The Council's Corporate Legal Adviser has advised that this Parliamentary Statement is a material consideration in the determination of this planning application.

SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' 2009 provides more detailed guidance on the Scottish Government's policy on the requirement to recover energy from waste in an efficient manner and in such a way that it does not impede waste prevention, reuse, or recycling. A key principle of these guidelines is delivery of efficient energy recovery in thermal treatment of waste developments. The guidelines set out the following 6 criteria that require to be addressed in the determination of any planning application for an energy from waste facility:

1. Compliance with the proximity principle.
2. Demonstration of 'need'.
3. An explanation of the site selection process based on national planning guidance.
4. demonstration that only residual waste will be treated with details provided of any facilities required.
5. Demonstration of how energy recovery will be maximised and that the location of the site is such that this can be achieved.
6. Demonstration that the proposal represents the best practicable environmental option for the waste stream.

In respect of criterion 1, the proximity principle is ensuring that waste is dealt with as close to source as possible, in order to avoid the adverse environmental impacts of unnecessary transport.

The applicant informs that the proposed EfW would process 300,000 tonnes of waste per annum. Of this, 150,000 tonnes per annum would be sourced from municipal waste arisings from East Lothian Council, Midlothian Council, and the City of Edinburgh Council. Another 150,000 tonnes per annum would be sourced from the commercial and industrial waste arisings from those three local authority areas. On the basis of this information, SEPA advise that the proposed EfW would treat waste arising from a relatively local area and so would meet the proximity principle.

The applicant has also provided information in relation to how waste could be transported to the proposed EfW and in this regard confirms that it would be their intention to retain the existing railhead near to the site, in order to enable transport of waste to the EfW by rail from Edinburgh, as happens for the current operation of the landfill site at Oxwellmains. However, in appraising this case SEPA recognise that the use of rail is dependent on the customer, a matter outwith the applicant's control. In the absence of rail transport the waste would have to be transported by road. Notwithstanding, and on the basis that there would be the retention of the existing railhead to enable

rail transportation of waste by a customer then SEPA maintain that the proposed EfW would comply with the proximity principle. If the Committee are of a mind to grant planning permission for the proposed energy from waste facility, then a condition could reasonably be imposed requiring retention of the existing railhead.

The Scottish Government's presumption is against large scale inefficient energy from waste facilities. In SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' a size hierarchy of energy from waste facilities is, on a measure of capacity defined as:

- Small scale < 100,000 tonnes per annum
- Medium scale 100,000 - 300,000 tonnes per annum
- Large scale > 300,000 tonnes per annum

According to such definition the proposed EfW would not be a large scale facility. With a capacity to process up to 300,000 tonnes of waste per annum it would be a medium scale facility, albeit of that largest size.

Thereafter, in respect of criterion 2 SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' explain that SEPA can provide information to assist in establishing and verifying need. In this regard, SEPA holds waste data information on the capacity of existing waste management operations and existing waste arisings in an area. This type of information helps to establish whether the capacity of a proposed energy from waste facility will help support sustainable waste management and not impede recycling and waste prevention.

The applicant has submitted detailed information in respect of existing waste management facilities within the Lothian and Borders area along with details of what is currently happening with waste arisings in order to demonstrate that there will be potentially around 104,000 tonnes per annum of residual municipal waste and 407,000 tonnes of residual non-municipal waste (i.e. commercial and industrial waste) available in 2025, based on 75% recycling rates. This gives a total of 511,000 tonnes per annum of residual waste which is substantially in excess of the capacity of the proposed energy from waste facility.

This case has been appraised by SEPA, who do not contest such findings. They are satisfied that the estimates given by the applicant are based on the Scottish Governments 75% recycling rates and a cap of 25% on the amount of municipal waste to be treated by energy from waste facilities. They recognise that they are also based on a sensible approach of the applicant in applying a 25% cap on the amount of residual commercial and industrial waste that might be treated by energy from waste facilities. SEPA therefore conclude that there is a demonstrable case for the amounts of waste arisings estimated by the applicant and that there are no significant existing waste facilities for the treatment of such amounts of residual waste in the area which offer an alternative to landfill. Consequently, in order to move away from reliance on landfill, SEPA accept that there is a need for other sustainable waste management solutions, and that there is a justifiable case in needs terms for the proposed EfW.

In respect of criterion 3, the applicant has advised that an initial site selection review was undertaken during 2006, which narrowed an initial 143 identified sites down to 59 sites across the Edinburgh, Lothians and Scottish Borders area. Through more detailed review, the applicant then narrowed the number of potential sites down to 8, and then to 3, these being the application site, the Millerhill Marshalling Yards, and the Marine Esplanade in Leith. The final conclusion of the applicant's review was that the application site was the most suitable when it was assessed against a range of environmental parameters and planning considerations.

This case has been appraised by SEPA, who advise that the process of site selection employed for the energy from waste facility is satisfactory. In their consultation response, SEPA do not advise that

there is any more suitable a site for the type of medium scale energy from waste facility proposed in this planning application.

In respect of criterion 4, SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' requires that only residual waste is treated within energy from waste facilities. Residual waste is the waste that remains after all efforts have been made to extract recyclable and compostable materials. SEPA recommend that a condition be imposed on a grant of planning permission for the proposed development ensuring that only residual waste is treated within the proposed energy from waste facility. The applicant has confirmed that this will be the case and that they are willing to suggest the imposition of the condition that SEPA recommend. This matter can be controlled through a conditional grant of planning permission.

In respect of criterion 5, both SPP10 and SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' emphasise that thermal treatment technology is more beneficial if both heat and power can be recovered, or if it delivers combined heat and power. In this regard a heat plan should be submitted with a an application for planning permission for a proposed energy from waste facility detailing how the operator of the facility would utilise the energy produced by the facility.

Through their 'Guidelines for Thermal Treatment of Municipal Waste' SEPA has adopted and set targets under the Quality Assurance for Combined Heat and Power (CHPQA) standard (as published by the Department for the Environment, Food and Rural Affairs), as the appropriate approach to establishing the required energy efficiency for energy from waste facilities. This standard includes a requirement that an energy from waste facility meets energy efficiency levels at three key stages; at the commencement of its operation, during the implementation of the heat plan, and at the end of the heat plan period.

The applicant has submitted a heat plan, which advises that the proposed processing of waste will produce steam, which is then used to generate electricity. It informs that the proposed EfW will be capable of generating approximately 26 MW of electricity in total, of which 3MW will be needed for plant requirements. The remaining 23MW would be exported to the National Grid. This, the heat plan advises, correlates to a net electrical efficiency of 23.3%. In addition to the electricity output, the proposed EfW would also be capable of exporting heat. Depending on any heat customer's requirements, it would be possible to export heat from the facility as either low pressure steam or hot water. The proposed facility would be capable of providing approximately 17MW of heat, which the heat plan advises correlates to a net plant efficiency of 38%.

There is no evidence to suggest that the electricity generated from the proposed EfW could not be used by the plant itself or exported to the National Grid. In this regard, therefore, the proposed facility would recover and use the electrical energy derived from the processed waste efficiently by generating sufficient electricity to operate the facility itself as well as generating a significant amount of additional electricity that would be exported to the National Grid.

Both Dunbar Community Council and East Lammermuir Community Council and some of the public objectors to the application express concerns that heat energy generated by the proposed EfW will not be utilised, as there are no towns or businesses close enough to the proposed facility to make use of it.

This issue is addressed in the applicant's heat plan, which acknowledges that there is no single existing development in the area that is of a sufficient size to accept all of the heat that would be generated by the energy from waste facility. It further advises that the adjacent cement works would not be able to utilise any of the exported heat, due to the high grade of heat it requires to manufacture cement. Instead, the heat plan identifies a number of other potential heat users within the local area, including a supermarket, a fish farm, and a number of Council owned buildings. The heat plan also suggests that the exported heat could potentially be used by businesses developed on land to the south of the existing Spott Road Industrial Estate, which land is allocated in the adopted East Lothian

Local Plan 2008 as an extension to the existing industrial estate. Moreover it could be used by local agricultural/ horticultural developments, which the applicant suggests are currently being considered by local landowners. The applicant advises that a number of these potential heat users have expressed a firm interest in utilising heat generated by the proposed facility. However unless and until the applicant has gained planning permission for the development, then these potential heat users are unwilling to enter into a commercial agreement with them in relation to the exportation of heat.

In their consultation response, SEPA note that the applicant's heat plan appears to rely upon the development of agricultural/ horticultural uses which are not yet in operation and which would be on land not designated for development. SEPA advise that the decision on the feasibility of this option rests with the Planning Authority. If the Planning Authority are satisfied that this is a realistic, deliverable option, then SEPA confirm that the development is capable of complying with their 'Guidelines for Thermal Treatment of Municipal Waste'. If the agricultural/ horticultural developments are not a feasible option they advise that the applicant's case would appear to rest on heat being taken up by a range of public buildings with a much lower heat demand and hence reduced efficiency which would not comply with their Thermal Treatment Guidelines.

No details of the agricultural/ horticultural developments outlined in the applicant's heat plan have been submitted with the planning application. Moreover, the Council have not received any planning applications seeking planning permission for any such type of development. At this time the Planning Authority cannot take a decision on whether or not any such developments are feasible.

However, SEPA do advise that the operation of the proposed EfW would be capable of delivering energy and heat outputs to an acceptable standard of energy efficiency at both the initial start and longer term stages. With such potential for delivery of energy and heat outputs the proposed EfW could be made to be compliant with the Quality Assurance for Combined Heat and Power (CHPQA) efficiency standard set out in SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' and with SPP10. On this a decision to grant planning permission for the proposed EfW can be taken but with the requirement that a heat plan detailing the means of delivery of combined heat and power to appropriate receptors be submitted to and approved by the Planning Authority, in consultation with SEPA prior to the commencement of operation of the proposed EfW.

In respect of criterion 6, SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' advise that at present, area waste plans are a means by which to identify the 'best practicable environmental option' for treatment of municipal waste.

The Lothian and Borders Area Waste Plan 2003, updated in 2007 recognises the need for the provision of new waste treatment facilities as a viable alternative to landfill and that this could be met through the operation of a range of different residual waste treatment technologies as best practicable environmental options.

In their Environmental Statement, the applicant summarises alternative technologies for residual waste treatment, and assesses the best practicable environmental option of them. The assessment was undertaken using eleven decision criteria, covering environmental, social and practicability issues. The assessment concludes that the energy from waste option is the best general performer in terms of the 11 decision criteria.

SEPA advise that the methodology applied in the applicant's assessment of the best practicable environmental option mirrors that of the best practicable environmental option review undertaken in 2007 for the Lothian and Borders Waste Strategy Area. SEPA further advise that overall the best practicable environmental option put forward in the ES (i.e. the energy from waste option) does represent the best practicable environmental option as stated in the 2007 review of the Lothian and Borders Area Waste Plan.

As a principal consultee on this planning application SEPA advise that overall the proposed EfW satisfies the tests of their six criteria that require to be addressed in the determination of any planning application for an energy from waste facility. It can therefore be concluded that the proposed EfW complies with SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' 2009, Scottish Planning Policy 10 and Policy ENV11 of the approved Edinburgh and Lothians Structure Plan 2015.

Paragraph 20 of SPP10 states that the case for consideration of a buffer zone of about 250 metres between sensitive receptors (in most cases dwellings) and operations may arise where certain types of waste treatment operations, including large scale thermal treatment facilities are to be located. However, that depends on each site and separation by about 100 metres or less may be sufficient for a small scale thermal treatment plant.

According to the size hierarchy of energy from waste facilities defined in SEPA's 'Guidelines for Thermal Treatment of Municipal Waste' the proposed EfW would not be a large scale thermal treatment facility. With a capacity to process up to 300,000 tonnes of waste per annum it would be a medium scale facility, albeit of that largest size. Thus and based on the policy advice given in SPP10 a considered buffer zone for the proposed EfW might be somewhere between 100 metres and 250 metres. The closest dwellings to the site are at Little Pinkerton, Meikle Pinkerton, and Easter Meikle Pinkerton, which are each located approximately 500 metres to the southwest of the application site. The village of Innerwick is some 2km away and the town of Dunbar some 4.5km away.

Nonetheless, both SEPA and the Council's Senior Environmental and Consumer Services Manager have considered this application in respect of the environmental impacts that might arise from the operation of the proposed EfW. SEPA are satisfied that emissions into the air from the proposed EfW would not have an adverse impact on ambient air quality.

SEPA are also satisfied that the proposed EfW would not give rise to any adverse noise impact. SEPA confirm that noise from the operational process of the proposed EfW could be adequately controlled through conditions attached to a permit that may be granted by them under the Pollution Prevention and Control (Scotland) Regulations 2000. Such regulatory control takes away the need to control by a condition(s) of a grant of planning permission noise emissions from the operational process of the proposed EfW.

SEPA state that there has been a history of odour complaints arising from similar energy from waste operations elsewhere in Scotland. SEPA do not explain whether or not those complaints were investigated or whether or not they established that the facilities did generate offensive odours. If planning permission is to be granted for the proposed EfW it would be prudent for the Council, as Planning Authority to require the submission of an odour management plan detailing any measures necessary to prevent offensive odour from the operation of the EfW, as well as a proposed system of odour abatement and destruction in the event of offensive odours being identified. These preventative measures should include the installation of fast closing/ opening doors on the unloading hall, which should be kept shut at all times when a vehicle is not entering or leaving. The requirement for the submission of an odour management plan can be secured through a conditional grant of planning permission for the proposed EfW.

The Council's Senior Environmental and Consumer Services Manager does not raise any concern in relation to the potential impact of the proposed EfW.

The applicant has not provided full details at this time of how the end residues of the energy from waste operational process would be treated. However SEPA advise that this matter is controlled under the Pollution Prevention and Control (Scotland) Regulations 2000 and would be considered by them as part of their determination of an application to them for a permit for the operational process of the proposed EfW.

In his consultation response, the Council's biodiversity officer welcomes the proposals to enhance existing habitats within the application site through additional tree and shrub planting as well as the creation of ponds. Scottish Natural Heritage are also in favour of the creation of wetland habitats and the planting of native shrubs and trees on land within the application site and that the aims of such habitat enhancement should be incorporated into a management habitat plan that, they recommend should be made conditional of a grant of planning permission for the proposed EfW.

SNH note from the applicant's Environmental Statement that several habitats are present within the wider locality of the application site supporting breeding bird populations of 28 species, including locally important populations of skylark and a regionally important sand martin colony. They advise that any disturbance to those breeding bird populations is minimised by ensuring that initial construction works and site preparation such as soil stripping on the application site shall not take place between the 1 March and the 31 August.

Subject to the imposition of these conditions, the proposed energy from waste facility would not result in a net loss of the identified biodiversity resource. On this count the proposal is consistent with Policy DP13 of the adopted East Lothian Local Plan 2008.

SNH raise no concerns about the impact of the construction and subsequent operation of the proposed EfW on the three Sites of Special Scientific Interest that are within 4Km of the application site or on the Firth of Forth Special Protection Area. Thus it may be concluded that the construction and subsequent operation of the proposed EfW would not have a harmful impact on the integrity of those protected nature conservation sites. On this matter the proposed development is consistent with Policies ENV1A and ENV1B of the approved Edinburgh and Lothians Structure Plan 2015 and Policies NH1a and NH1b of the adopted East Lothian Local Plan 2008.

Of the proposed EfW development the main elements of its built form would be the proposed EfW building and its associated flue stack. They would be positioned on land that at present forms a depression relative to neighbouring land, particularly to the higher land to the west that is occupied by the Lafarge cement works and the higher land to the south that borders the A1 trunk road and, where in parts, that land forms a raised embankment with the road. There is also an existing belt of tree planting between the existing landfill site and the A1 trunk road. Consequently it would mainly be the upper parts of the proposed EfW building and its associated flue stack that would be visible in views from around the site.

The proposed EfW building and its associated flue stack would be located within the industrial setting of the group of large and tall industrial buildings, plant and flue stacks comprising the Lafarge cement works and which occupy a higher ground level than would the proposed EfW building and its associated stack. In such a landscape character setting the proposed EfW building and its associated flue stack would not appear as unduly incongruous, dominant or intrusive features.

Whilst the proposed EfW building has principally been designed for the functionality of its intended use, the articulation of its proposed architectural form, the use of curved roofs and a variety of external finishing materials would give it some architectural interest. In certain weather conditions a plume of water vapour would be visible from the top of the stack. However given that this would not be a constant feature and the fact that when visible the plume would be seen in relation to the energy from waste building and the adjacent flue stack, it would not have an adverse impact on the visual amenity of the area. For all of the foregoing reasons, it is concluded that the main building and its adjacent flue stack would not have an unacceptable landscape or visual impact.

The other built elements of the proposed development, including the visitors centre and the air cooled condenser building would, in their positions and due to their markedly smaller size and lower height would be subservient to the proposed EfW building and would not in their relationship with that building be harmful to the landscape character or appearance of the area.

In their consultation response, Scottish Natural Heritage do not oppose the proposed development, noting that the local landscape and its visual character are already heavily influenced by the proximity of other large scale features, including the cement works and its associated quarry workings.

Similar advice is given by the Council's Policy & Projects Manager who additionally is content with the proposals for the landscaping of the application site, which he considers would help reduce the impact of the development on the visual amenity of the area. He raises no objection to the landscaping proposals, although he recommends that a detailed landscape and planting scheme should be submitted to and approved by the Planning Authority, a requirement that can be made a condition of a grant of planning permission for the proposed EfW development.

The proposed development by its positioning, design and the proposed landscaping of the site is consistent with Policies ENV1G and ENV3 of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DP1, DP2 and DC1 (Part 5) of the adopted East Lothian Local Plan 2008.

The Council's Head of Transportation recommends that during construction works, advanced warning signs should be displayed on the public road to inform public road users of construction traffic in the vicinity, particularly at the existing access junction with the public road network. Moreover a cycle/ pedestrian path should be provided on the north side of the existing landfill access road to connect up to the proposed footway/cycleway which runs along the western side of the site access road. These matters can both be controlled through conditions on a grant of planning permission.

It is the applicant's intention to retain the existing railhead near to the application site to enable transportation of waste to the proposed EfW by rail. However the use of that existing facility would be dependent on customer agreement, a decision, as already stated in this report, that would not be in the control of the operator of the proposed EfW. However retention of the railhead, a requirement that can be made a condition of a grant of planning permission for the proposed EfW, would at least give the facility to enable transportation of waste by rail. Neither the Council's Head of Transportation nor Transport Scotland raise concerns over the use of the existing road network, including the A1 trunk road for the transportation of waste to the proposed EfW and they make no case for the need to limit the amount of waste being brought to the EfW by road. On this advice the proposed EfW does not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

It is demonstrated on the application drawings that an adequate standard of turning and parking space for service vehicles and for cars and other vehicles can be provided within the application site. On the matter of parking provision the proposed EfW development is consistent with Policy DP22 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development, it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This can be achieved by means of a condition on the grant of outline planning permission. This is consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

There is no requirement under the provisions of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 to notify the application to the Scottish Ministers.

The concern raised by some of the objectors that a single energy from waste facility will make Councils the victims of a monopoly and will represent bad value-for-money is not a material consideration in the determination of this planning application.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The development shall begin before the expiration of 3 years from the date of the grant of this planning permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997

- 2 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 3 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 4 No lighting units shall be installed on any of the buildings hereby approved or on the land within the application site unless with the prior approval of the Planning Authority.

Reason:

To safeguard the character and appearance of the area.

- 5 Prior to the commencement of operation of the energy from waste facility hereby approved a scheme shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency (SEPA) to demonstrate that all practical and reasonable efforts will be made to ensure that only residual waste (i.e. waste remaining after all practical and reasonable efforts have been made to extract recyclable and compostable material) shall be treated at the energy from waste facility hereby approved. Thereafter a bi-annual review of the scheme shall be submitted to and approved by the Planning Authority following consultation with SEPA. The energy from waste facility hereby approved shall be operated in strict accordance with the approved scheme and any subsequently approved amendments.

Reason:

To ensure that the operation of the development accords with Scottish Government waste policy and with the principles of sustainable waste management.

- 6 Unless otherwise approved in writing by the Planning Authority, following consultation with SEPA, the total amount of municipal waste treated in the energy from waste facility hereby approved shall not exceed applicable Scottish Government waste policy on the amount of municipal waste that can be treated by energy from waste facilities.

Reason:

In order to comply with Government waste policy and the principles of sustainable waste management by ensuring that recycling and composting is not compromised.

- 7 Prior to commencement of operation of the energy from waste facility hereby approved a heat plan detailing the means of delivering of energy and heat outputs from the facility and the timetable for such deliveries shall be submitted to and, following consultation with the Scottish Environment Protection Agency, approved by the Planning Authority. Unless otherwise approved in writing in advance by the Planning Authority the approved heat plan shall thereafter be implemented in accordance with the details and timetable so approved.

Reason:

In order to ensure that the energy from waste facility is efficient in accordance with Scottish Government planning policy and SEPA's relevant thermal treatment guidelines.

- 8 Prior to the commencement of development of the energy from waste facility hereby approved, details of the off takes for export of heat and power as well as the potential way leave routes to accommodate pipe work required for the future export of waste heat from the energy from waste facility to the edge of the applicant's land holding shall be submitted to and, following consultation with the Scottish Environment Protection Agency approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved and to enable compliance with the heat plan approved under the terms of condition 7 above.

Reason:

In order to ensure that the physical measures required to enable heat to be exported are implemented and so ensure that the energy from waste facility is efficient in accordance with Scottish Government planning policy and SEPA's thermal treatment guidelines.

- 9 Surface water from the application site shall be treated in accordance with the principles of the SUDS Manual (C697), which was published by CIRIA in March 2007.

Reason:

To ensure that the drainage scheme complies with best SUDS practice to protect nearby watercourses and groundwater.

- 10 Prior to the commencement of development a site waste management plan shall be submitted to and approved in writing by the Planning Authority following consultation with SEPA. The plan shall outline the measures for the minimisation and management of waste during the construction of the development. The development shall thereafter be constructed in accordance with the plan so approved.

Reason:

In order to minimise waste production and maximise resource efficiency at the construction stage of the development.

- 11 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 12 Prior to the commencement of development a habitat plan detailing the provision on the application site of wetland habitats and the planting of native shrubs and trees, a timetable for the provision of such habitats and the means of their future maintenance shall be submitted to and approved by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 13 No initial construction and site preparation works such as soil stripping shall take place on the application site between the 1 March and the 31 August, unless otherwise approved in advance in writing by the Planning Authority following consultation with Scottish Natural Heritage.

Reason:

To avoid disturbance to breeding birds during the initial phase of construction and site preparation works on the application site.

- 14 Prior to the commencement of development an odour management plan for the energy from waste facility hereby approved shall be submitted to and, following consultation with the Scottish Environment Protection Agency approved in writing by the Planning Authority. The plan shall outline details of measures necessary to prevent offensive odour, as well as a proposed system of odour abatement and destruction in the event of offensive odours being identified. These preventative measures shall include the installation of fast closing/ opening doors on the unloading hall, which shall be kept shut at all times when a vehicle is not entering or leaving. The energy from waste facility shall be operated in strict accordance with the odour management plan so approved.

Reason:

In the interest of the amenity of the area.

- 15 During construction works advanced warning signs shall at all times be displayed on the public road to inform public road users of construction traffic in the vicinity. Prior to their display, details of the proposed signs and their locations shall be submitted to and approved in writing by the Planning Authority and the signs shall thereafter be displayed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 16 Prior to the operation of the energy from waste facility hereby approved a cycle/ pedestrian path shall be formed on the north side of the Viridor access road to connect up to the proposed footway/cycleway that runs along the western side of the site access road. Details of the footway/ cycleway shall be submitted to and approved in advance by the Planning Authority and the footway/ cycleway shall thereafter be formed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 17 Unless otherwise approved in writing by the Planning Authority, the existing railhead at Oxwellmains shall be retained and kept available for use.

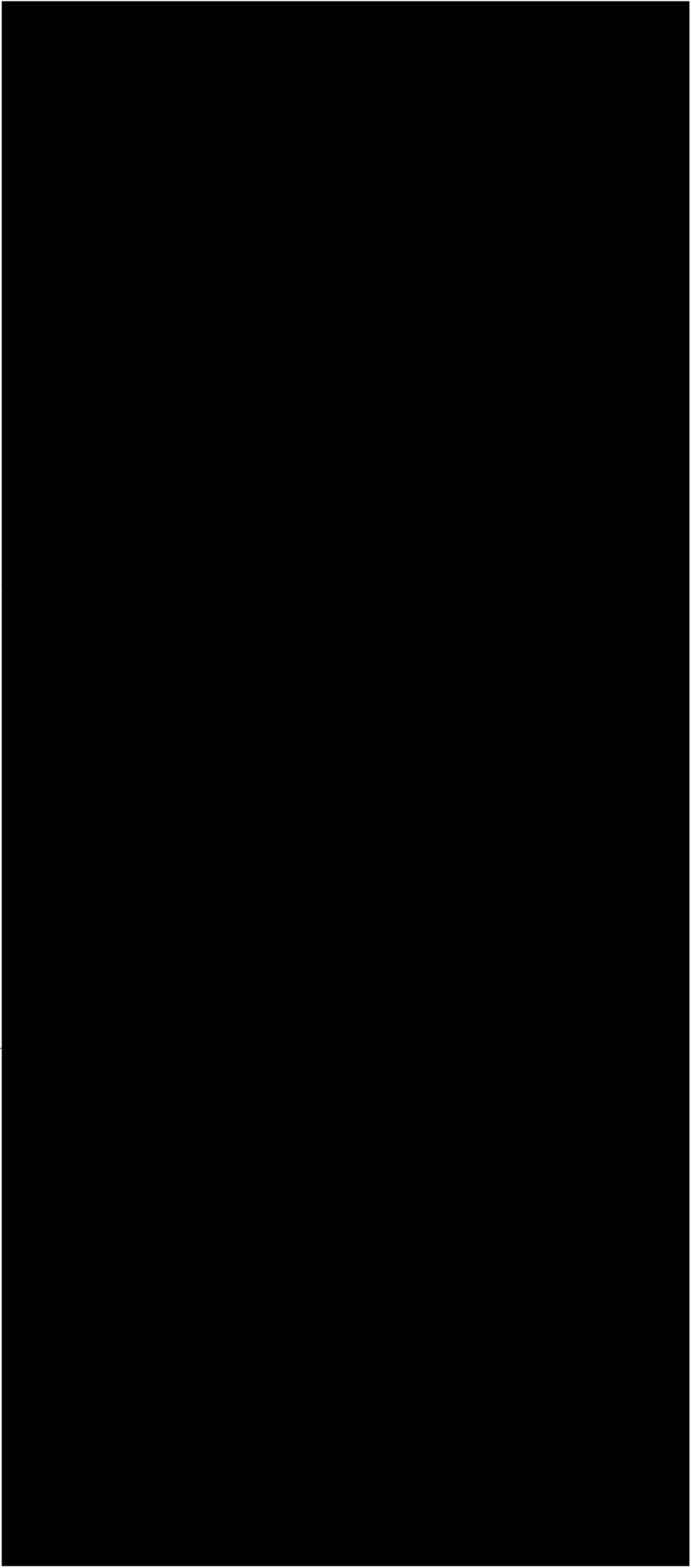
Reason:

In the interest of the promotion of sustainable modes of transportation of waste to the energy from waste facility.

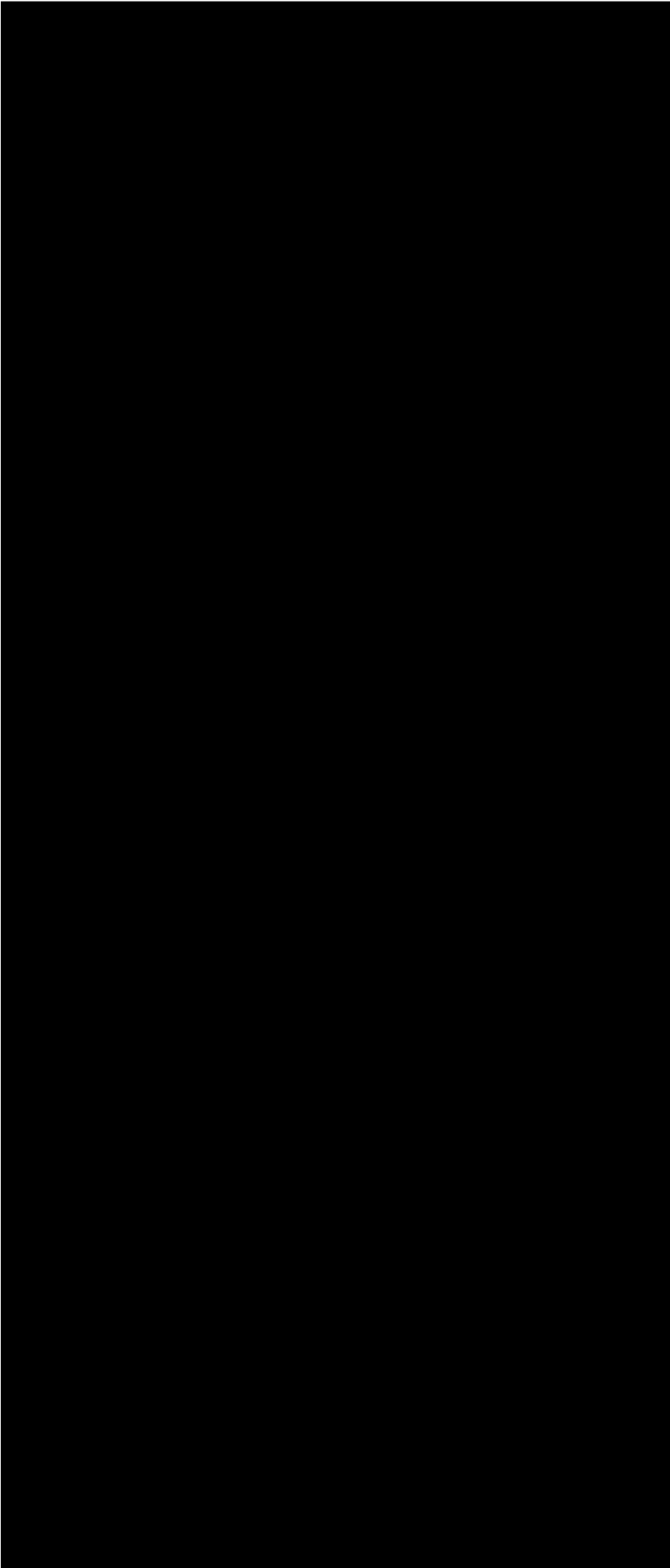
- 18 Prior to the commencement of development details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the operation of the energy from waste facility.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

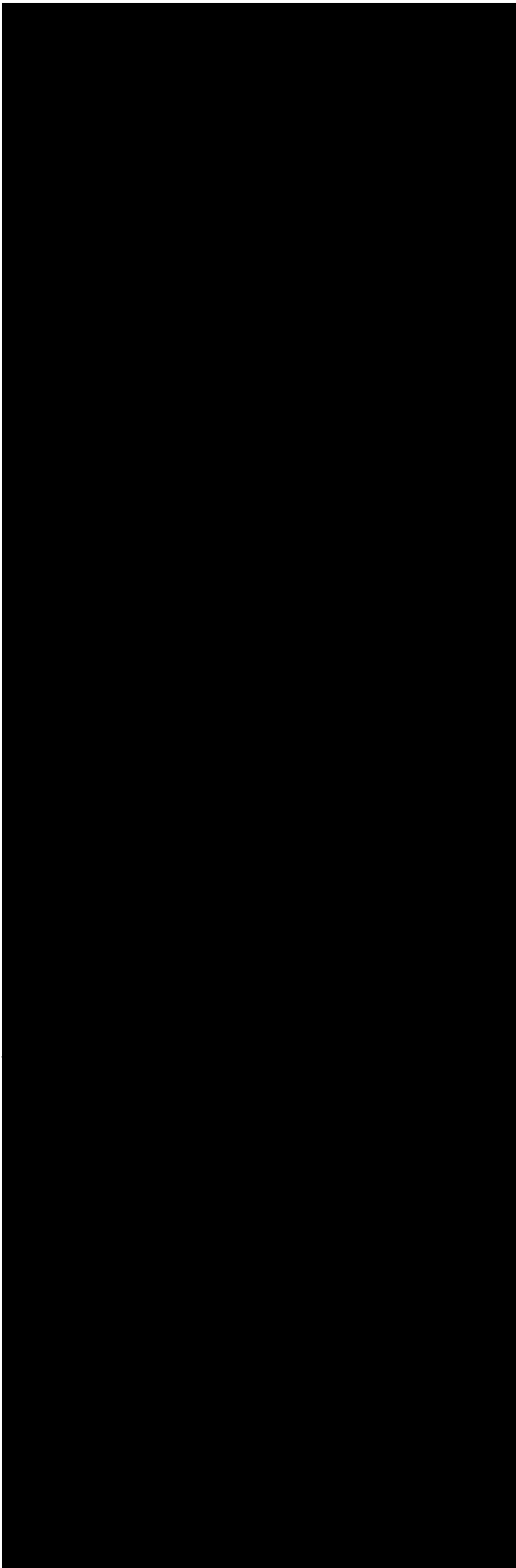


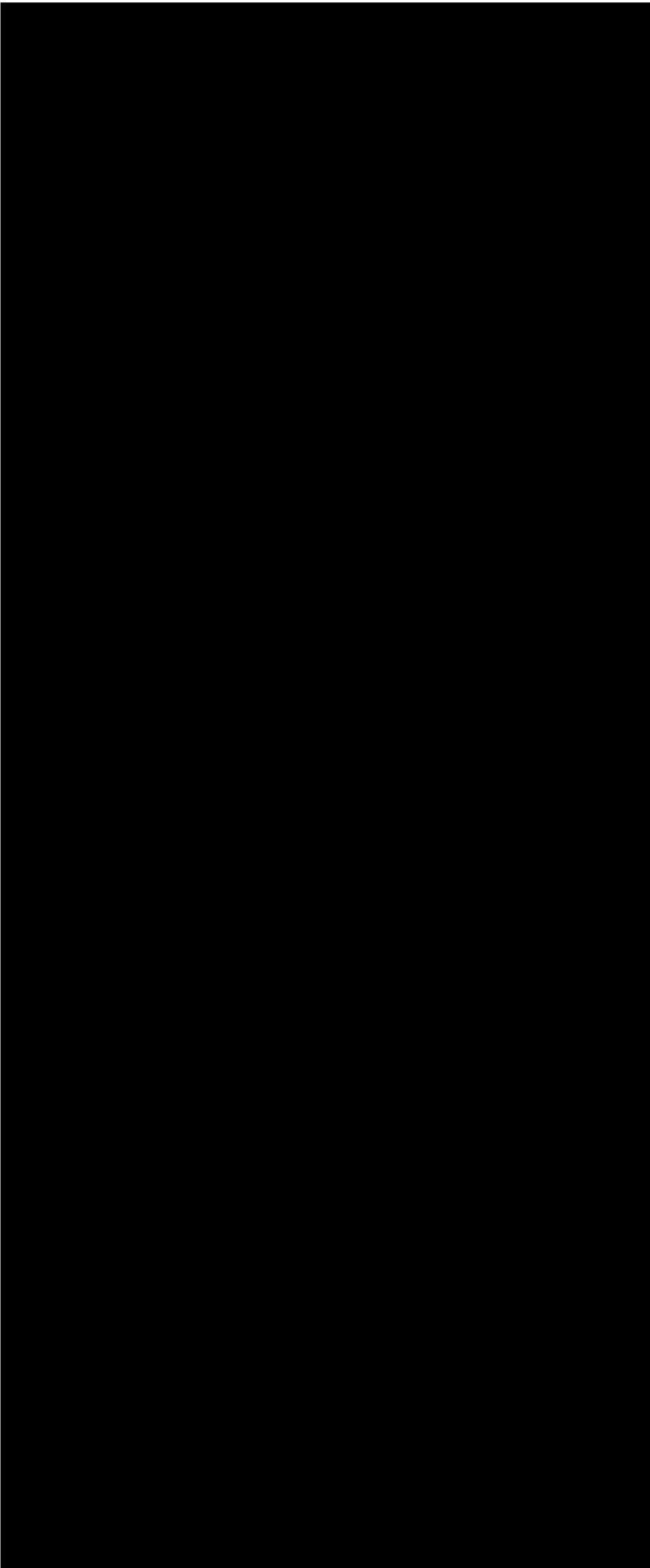




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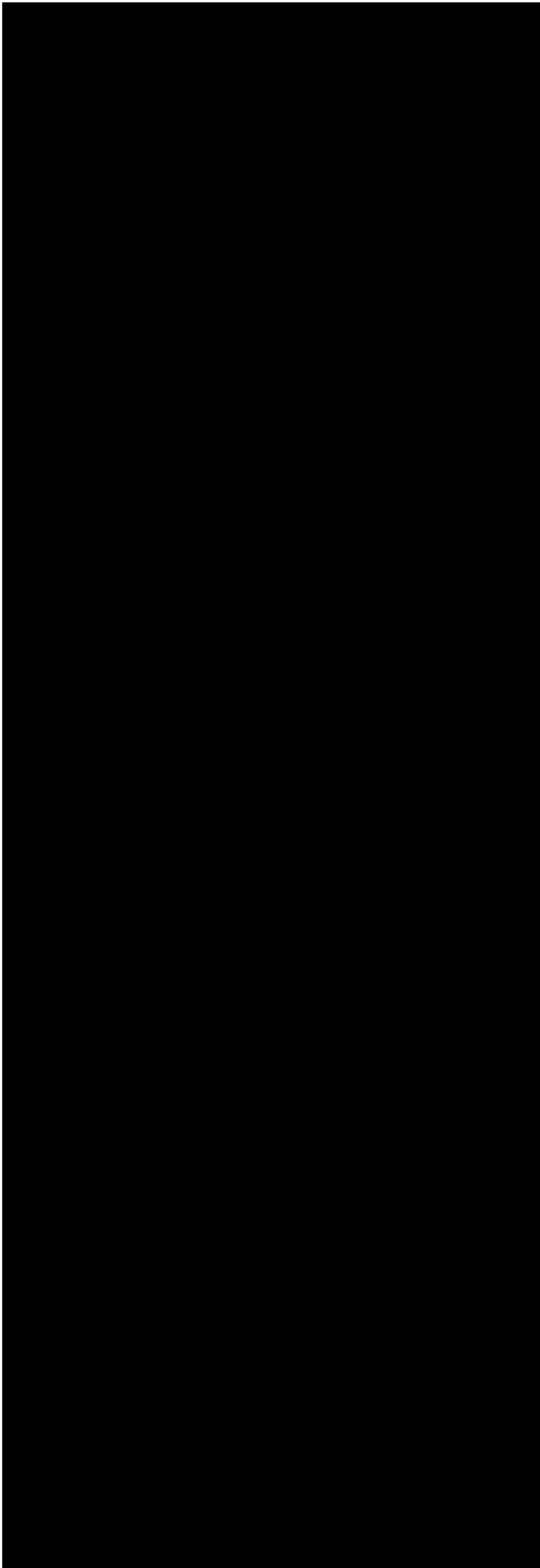
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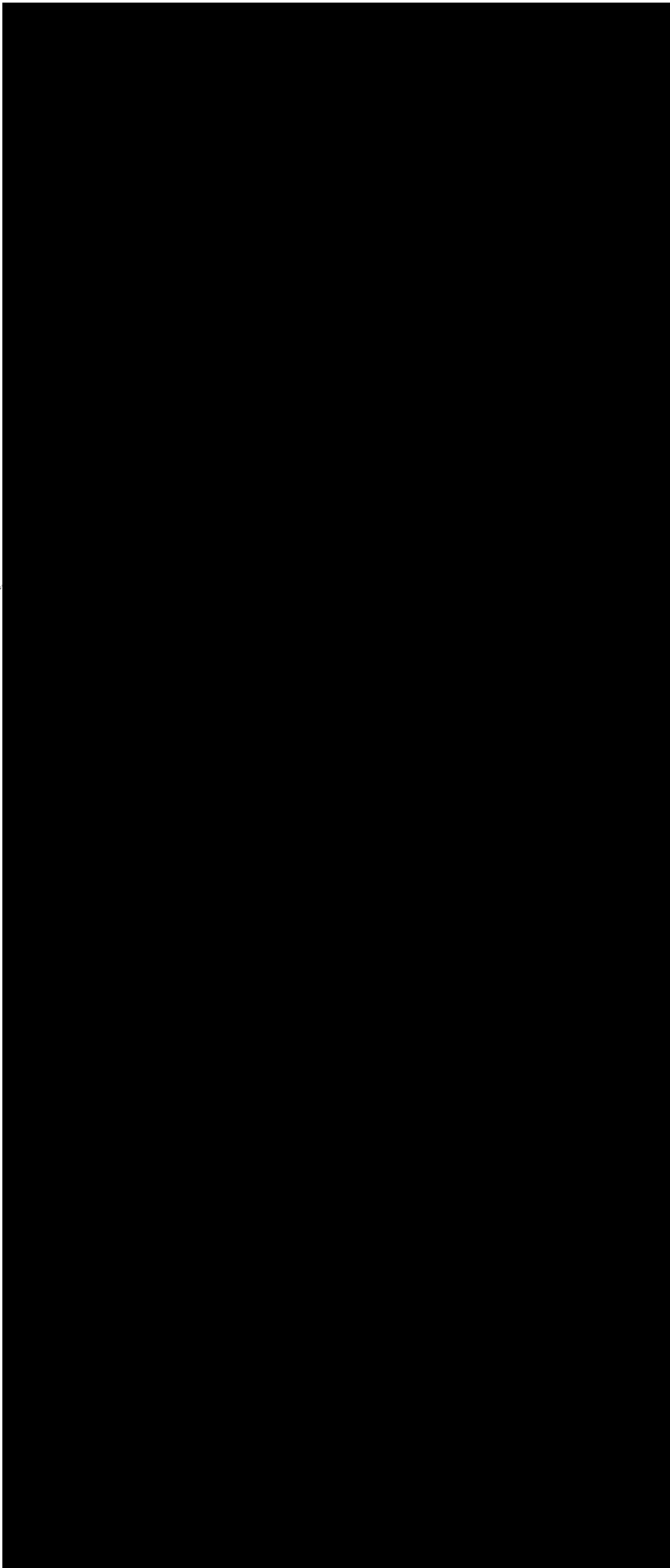


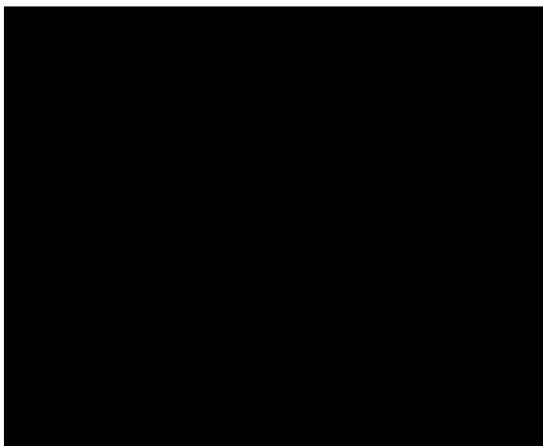


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