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By email only to:
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Our ref: PPA-260-2055

24 March 2021

Dear [REDACTED]

DECISION NOTICE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 PLANNING APPEAL: ALTERATION AND DIVERSIFICATION OF EXISTING WASTE RECYCLING FACILITY TO INCORPORATE AN ENERGY RECOVERY FACILITY AND ASSOCIATED FLUE AND INFRASTRUCTURE, AT 865 SOUTH STREET, GLASGOW G14 0BX ('the Proposed Development')

1. This letter contains Scottish Ministers' decision on the planning appeal (ref: PPA-260-2055) submitted by W.H. Malcolm Ltd against the decision by Glasgow City Council on the above-mentioned development.
2. The application for planning permission (ref: 15/00549/DC) was made to the planning authority, Glasgow City Council, on 6 March 2015, and refused by the authority on 29 February 2016. Under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010, the appeal came into a class to be determined by a person appointed by Scottish Ministers, rather than by Scottish Ministers themselves. In exercise of the powers under paragraph 3(1) of Schedule 4 to the Act, Scottish Ministers directed, on 4 October 2016, that they would determine the case themselves. The direction was given because of the sensitivities of this particular type of development, the residential characteristics of the area and the significant level of public interest.

3. The appeal was considered, by means of procedure notices and an accompanied site inspection, by [REDACTED] a Reporter appointed by Scottish Ministers for that purpose.

4. A report with the Reporter's recommendation ('the Original Report') was issued to Scottish Ministers on 20 January 2017. A supplementary report by the Reporter ('the Supplementary Report') was issued to Scottish Ministers on 4 October 2017. The Supplementary Report resulted from Ministers' request on 21 June 2017 that further information should be sought, considered and reported on the following matters:

- The current position of discussions between the applicant and Glasgow City Council on the proposed district heating element of the proposal and connectivity to potential end users.
- The current position in relation to heat mapping in Glasgow.
- The current position of discussions between the applicant and SEPA on the proposal and the scope of the Pollution Prevention and Control (PPC) permit application.
- The updated views of SEPA on the Heat and Power Plan/Updated Heat and Power Plan with regard to energy recovery (heat) proposals.

5. Ministers requested this further information as they considered the potential for the Proposed Development to connect, and make heat available to, a district heat network (and the potential for indirect public benefits associated with this) was a main issue for the appeal.

6. Copies of the Original Report and the Supplementary Report are enclosed.

7. Further evidence, including on the issue of capturing the heat generated from the proposed energy from waste plant, was subsequently obtained by way of written submissions. This is explained further in paragraphs 58-60 below.

8. In June 2020, the appellant and planning authority were invited to provide comments on potential conditions regarding the implementation of, and connection of the Proposed Development to, a district heating network. Their responses were received at the end of July 2020.

9. The Reporter has recommended that planning permission should be granted, subject to conditions, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some other suitable alternative arrangement to address matters in relation to the Clyde Fastlink proposal. Scottish Ministers have carefully considered all of the evidence presented and the Reporter's conclusions in both the Original Report and the Supplementary Report.

10. On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 regulations continue to have effect for an application (and any subsequent appeal) for planning

permission where the applicant submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. This appeal will therefore be determined in accordance with the 2011 regulations as they applied before 16 May 2017.

The Reporter's Reports

11. The Original Report provides background information, including on the Proposed Development, consultation responses, representations, the council's decision, and the policy context in Chapter 1. Key development plan policies and guidance and national policy guidance are considered in Chapter 2. Matters relating to visual amenity are discussed in Chapter 3, and residential amenity matters are discussed in Chapter 4. Other matters, including traffic and parking, the location of the proposal, impacts on listed buildings and conservation areas, the waste hierarchy, gasification technology, and recovered energy, are discussed in Chapter 5. In Chapter 6, the matters of a planning obligation and conditions are discussed, and Chapter 7 contains the Reporter's overall conclusions and recommendations.

12. In the Supplementary Report, the Reporter discusses the implications of the additional matters listed in paragraph 4 above, and of the approval of Clydeplan Strategic Development Plan (approved by Ministers on 24 July 2017) and the Council's adoption of the City Development Plan in March 2017.

13. Unless otherwise stated, paragraph numbers referred to below relate to paragraphs in the Original Report.

The Proposal and Site

14. The appeal site is located on the north side of the River Clyde, and currently operates as a waste recycling and transfer station. The site is accessed from South Street.

15. The Proposed Development involves the provision of an energy recovery facility. In short, the existing residual waste currently sent to landfill would be used to generate heat and power. The existing warehouse shed currently used for recycling and processing waste materials on the site would house a fuel preparation plant and thermal treatment facility. The Proposed Development includes a single storey extension on the south elevation of the existing recycling building, and a 70 metre high flue stack erected on the roof of the existing building.

Development Plan Context, National Policy and Guidance and the Principle of development

16. Under the terms of section 25 of the Town and Country Planning (Scotland) Act 1997 ('the Planning Act') all applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the development plan consists of:

- The approved Strategic Development Plan ('Clydeplan') (2017)
- The adopted Glasgow City Local Development Plan ('City Development Plan') (2017); and

- Adopted Supplementary Guidance.

17. At the time of writing of the Original Report, the development plan comprised the Glasgow and Clyde Valley Strategic Development Plan 2012 and Glasgow City Plan (LDP) 2009. However, in the Original Report the Reporter highlighted that the proposed replacement Strategic Development Plan ('Clydeplan') was (at the time of writing) currently subject to examination (paragraph 1.36). The Reporter also highlighted (paragraph 1.40) that the emerging Glasgow City Development Plan was still to be adopted at the time of writing but that, given its advanced stage towards adoption, it was an important material consideration. In the Original Report the Reporter therefore assessed the Proposed Development in relation to relevant policies of the emerging Clydeplan and City Development Plan, in addition to the policies of the development plan current at the time.

18. The Reporter noted (paragraph 7.1 of Supplementary Report) that since submission of her Original Report, Clydeplan had been approved by Ministers on 24 July 2017, and that City Plan 2 had been replaced by the adopted City Development Plan in March 2017.

19. The Reporter notes (paragraph 7.6 of Supplementary Report) that Clydeplan Policy 11 generally replicates the policy criteria in Spatial Framework 4 and Strategy Support Measure 13 in the previous strategic development plan. Policy 11 states that proposals for waste management facilities will generally be acceptable (subject to local considerations) in land designated for industrial uses as well as on existing waste management sites. The Reporter states (paragraph 7.8 of the Supplementary Report) that her original report included a summary of the relevant policy framework in the Glasgow and Clyde Valley Strategic Plan, the approved strategic development plan at that time. Issues relating to air quality, recovered energy and the location of the Proposed Development are addressed in detail in the Original Report. The Reporter previously found that the Proposed Development is compliant in principle with the (now superseded) strategic development plan, and Ministers agree with this finding. The Reporter states (paragraph 7.8 of Supplementary Report) that given that there have been no substantive changes to the relevant policies included in Clydeplan, she has no reason to alter her views and she finds that the Proposed Development complies in principle with Clydeplan. Ministers also agree with this finding.

20. The Reporter highlights that Paragraphs 1.40-1.43 of the Original Report included a summary of the relevant policies in the emerging City Development Plan as it was at that time. Ministers agree that following the formal adoption of the City Development Plan, these policies remain largely unchanged and the Reporter's assessment of the Proposed Development in respect of those policies as set out in chapters 3, 4 and 5 of the Original Report therefore also remains unchanged.

21. Ministers consider that City Development Plan Policies CDP 1 *The Placemaking Principle*, CDP 2 *Sustainable Spatial Strategy*, CDP 3 *Economic Development*, and CDP 5 *Resource Management* are of particular relevance to the Proposed Development.

22. Policy CDP 1 *The Placemaking Principle* is described in the City Development Plan as an overarching policy, which is to be read alongside CDP 2 *Sustainable*

Spatial Strategy. The Policy states the Council will expect new development to be design-led, to contribute towards making the City a better and healthier environment to live in and aspire towards the highest standards of design while protecting the City's heritage, by achieving 15 stated requirements/ criteria. Those include 4: 'Delivering sustainable buildings, areas and spaces that are attractive and enhance the quality of life for everyone'; and 9: 'Providing high quality amenity to existing and new residents in the City'. Other criteria relate to matters including the historic and natural environment, infrastructure delivery, air quality, and noise.

23. Supplementary Guidance SG 1: *Placemaking* (June 2018) takes forward the aims of Policy CDP 1 and provides detail to explain how those policy aims will be achieved. The SG has two parts: Part 1 provides the context and approach of placemaking established in Policy CDP 1. It includes an outline of the site and context appraisal processes to be undertaken in preparing a development proposal and 'a Placemaking Toolkit' including information on six 'Qualities of Place' which include 'character + identity'; 'legibility + safety'; 'vibrancy + diversity' and 'adaptability + sustainability'. Under each of these qualities of place, a series of 'placemaking principles' are identified. These Principles reflect the desired outcomes for development and set out the standards for the quality of development that will be expected across the City (paragraph 3.7 of SG 1 Part 1). Ministers consider that many of these 'placemaking principles' (notably most that are listed under 'Successful Open Space', 'Legibility & Safety', 'Ease of Movement' and 'Vibrancy & Diversity') are of limited or no relevance to this case, given that the Proposed Development involves the alteration and diversification of an existing waste management facility and is confined to the existing waste management site which would not have public access. However Ministers consider that several of the principles set out under 'Character & Identity' and 'Adaptability and Sustainability' are of relevance.

24. SG 1 Part 1 also contains a 'Key Character Environments' section, which describes how the Character Environments have evolved, what they look like today and what the broad plans for them are. It provides the broad conceptual strategy as to how development should respond to the unique identity of these key areas. However, it also states that this section of the Guidance should be used as an informative resource and is not intended to be exhaustive or to apply to every single development project in exactly the same way. Each development site in Glasgow presents its own unique opportunity and as a result, an individual and tailored approach should always be taken in line with the Design Process described in Section 2.

25. SG 1 Part 1 sets out the following placemaking priorities for Economic Development Areas: a) Encouraging a mix of compatible uses and developments; b) Promoting high quality public realm and improved amenity; c) Creating adaptable and sustainable industrial/business areas; and d) Promoting active travel options for employees.

26. The placemaking priorities SG 1 Part 1 sets out for the Clyde Corridor area are: a) Successfully integrating the River with the rest of the City; b) Re-connecting the City and the River Corridor to capitalise on this significant and valuable asset; c) Providing a mix of opportunities to live, play, work, study and access the open space (the largest open space in the City); d) Activating the River itself by providing access

points for water based activities and marine facilities (e.g. accessible moorings); and e) Improving continuous walking and cycling connectivity along both banks of the River.

27. Part 2 contains detailed assessment criteria relating to physical design, and provides guidance in relation to cultural heritage, inclusive design, temporary uses, community facilities and energy efficient buildings.

28. Policy CDP 2 *Sustainable Spatial Strategy* states that the Council will continue to focus on the regeneration and redevelopment of the existing urban area to create a sustainable city. In doing so, the Council will support new development proposals that (amongst other things) accord with the current National Planning Framework and Clydeplan's Spatial Development Strategy; meet the requirements of relevant spatial supplementary guidance that supports the plan; support the regeneration of the River Clyde Development Corridor; and focus economic development in Strategic Economic Investment Locations, the City's Safeguarded Economic Development Area, town centres and other appropriate sustainable locations. The supporting text to the policy states that Spatial Supplementary Guidance will be prepared for priority areas. This includes Strategic Development Frameworks (SDFs) which will cover large areas of the City which span beyond neighbourhood level, including the River Clyde Development Corridor.

29. The River Clyde Development Corridor SDF sets out a 30 year vision for the Development Corridor. It was adopted by the Council in 2020, so was not considered in the Reporter's reports. It explains that a SDF provides a structure for the future development and regeneration of an identified area. It concentrates on strategic priorities, and focuses on key themes and principles rather than detailed policy issues or outputs. It sets out four key outcomes under the headings 'a vibrant river', 'a sustainable river', 'a connected river', and 'a green and resilient river'. It also identifies a number of areas of differing character as 'River Rooms'. The appeal site is located within the 'River Room' identified as 'The Working River: Yoker, South Street, Shieldhall & Linthouse'. This SDF recognises the diversity and value of these areas to the city, its economy and long term sustainability, and states that the City Development Plan seeks to ensure that preference is given to proposals for industrial and business uses.

30. Policy CDP 3 *Economic Development* states that the City Development Plan will support development proposals that (1) promote economic growth by (amongst other things) (b) directing industry and business uses to the city's Economic Development Areas (EDAs), and (6) locate low amenity industrial operations on sites that will minimise the environmental impact on surrounding areas. The appellant has stated that the policy is written in a way that meeting any of its individual criteria will provide overall support of the policy. Ministers disagree and consider that in order to receive overall support from the policy, the Proposed Development would need to comply with all relevant criteria listed in the policy, which include (1)(b) and (6) as noted above. The Council's Interim Planning Guidance IPG 3 *Economic Development* (February 2017) states at 7.1 that "Proposals for low amenity industrial operations will, generally, only be supported on relatively isolated and well screened sites, within designated EDAs. The potential environmental, amenity and transport impact on surrounding uses will be considered when assessing such proposals. Proposals for waste recycling will also be assessed against other relevant CDP

policies and Resource Management supplementary guidance.” Both the Glossary of the City Development Plan and the IPG3 confirm that waste recycling centres, incinerators and works required to be registered with SEPA are considered to be low amenity industrial operations.

31. Policy CDP 5 *Resource Management* states that “Proposals for new waste management/recycling operations will be considered against locational, design, amenity, transport, noise and air quality considerations and other environmental matters, including potential for energy recovery”. It also states that the “Council will support proposals that contribute to reducing greenhouse gas emissions and overall energy use and which facilitate the delivery of renewable energy and heat.”

32. Policy CDP 5 is supported by Supplementary Guidance SG 5: *Resource Management*. This SG states that proposals for waste management/recycling operations shall be located:

- (a) within Economic Development Areas, on well screened sites, where they will not result in conflict with neighbouring uses;
- (b) preferably on derelict and degraded sites or existing/previous waste management sites; and
- (c) to accord with sustainable transport principles.

33. SG5 also details other requirements for waste management/recycling operations, including that they shall “(c) not detract from the amenity of any neighbouring uses as a result of noise, traffic movements, air quality and/or dust”, “(d) have a minimal impact on the human, built and natural environments”; “(e) be designed so as not to adversely affect the amenity of the surrounding area, including views from nearby road frontages”; and “(f) provide for the recovery and reuse of energy and heat wherever possible. Where heat can be used as part of a wider Heat Network, a heat plan shall be provided by the applicant when planning permission is sought for energy from waste facilities. Sufficient space should be provided within the site for any equipment required to export heat, including space for pipe work taking heat off-site.”

34. SG5 also states that buffer zones between dwellings and other sensitive receptors and waste management facilities will be required as follows:

- (a) 100m between sensitive receptors and recycling facilities, small-scale thermal treatment or leachate treatment plant; and
- (b) 250m between sensitive receptors and operations such as outdoor composting, anaerobic digestion, mixed waste processing, thermal treatment or landfill gas plant.

35. The glossary of the SG defines ‘sensitive receptors’ as aspects of the environment likely to be significantly affected by a development, which may include for example, population. Ministers therefore consider that dwellinghouses should be regarded as sensitive receptors.

36. The Reporter identifies relevant national policy guidance and advice in paragraphs 1.44 to 1.50 of the Original Report. These include National Planning Framework 3, Scottish Planning Policy (SPP), the Zero Waste Plan, Scottish Government Planning & Waste Management Advice, and the Thermal Treatment of Waste Guidelines 2014 by Scottish Environment Protection Agency (SEPA).

37. The Reporter notes (paragraph 2.59) that SEPA confirms that the Proposed Development meets Zero Waste Plan objectives by reducing landfill waste generation; helping the delivery of waste infrastructure in accordance with the waste hierarchy principles; providing alternative waste management infrastructure and encouraging landfill avoidance.

38. The Reporter states (paragraph 2.61) that the Proposed Development would generate energy from residual waste materials which is clearly preferable to sending such material to landfill. Ministers agree with the Reporter (same paragraph) that the Proposed Development would be supportive of the waste hierarchy and in turn with the objectives of the Zero Waste Plan, given that the Proposed Development would maintain the current recycling function of the business and the residual waste would be used to generate power.

39. In paragraph 2.62, the Reporter states that National Planning Framework 3, SPP and the Zero Waste Plan all support the principle that energy from waste has an important role to play in meeting renewable energy targets. In addition, the Proposed Development also meets the terms of a number of SPP objectives in that it promotes the efficient use of secondary materials, re-uses secondary resources and supports zero waste targets. Ministers agree with these findings of the Reporter, and agree with the Reporter that (paragraph 2.64) there is national policy support for the Proposed Development *in principle*. Ministers' assessment of the Proposed Development against relevant development plan provisions is detailed below.

Main Issues

40. In paragraph 1.51, the Reporter identifies the main issues in this case as (i) the impact on the visual amenity of the area; in particular matters relating to the height of the proposed flue stack; and (ii) the impact on the residential amenity of the surrounding area and adjoining properties; in particular matters relating to air quality, odour, dust, noise, and traffic. Ministers agree that these are main issues, but consider that another main issue relates to the possible connection of the Proposed Development to a district heat network, and the associated indirect public benefits of this. The Reporter identifies a range of other relevant considerations in paragraph 2.64. Ministers agree that these are also relevant.

Visual amenity

41. Ministers agree with the Reporter that one of the main issues in this case is the impact of the proposed development on the visual amenity of the area, and in particular matters relating to the height of the proposed flue stack. This issue is dealt with in Chapter 3 of the Report.

42. The Reporter states (paragraph 3.25) that views of the proposed stack would be possible from the upper floors of some of the tenement properties on Earl Street, Fore Street and some properties at the southern end of Henrietta Street which lies between the two. Taking account of the existing industrial nature of the surrounding buildings, particularly for those residents who are south facing, visual impacts from these properties would not, in the Reporter's judgement, be any more than moderate. The Reporter states (at paragraph 3.29) that given its height, the stack would be

highly visible in the immediate vicinity of the Harland Cottages and on the skyline. Ministers agree with this and with her statements in the same paragraph that views of the stack would be limited to a certain extent for those residing in the more enclosed central courtyard areas and that residents in the blocks on the south gable properties would experience the visual impacts to a greater extent. Ministers also agree that it is necessary to take account of the industrial context within which the residents reside (paragraph 3.29).

43. The Reporter considers (paragraphs 3.25 and 3.29) that the above impacts would neither be significant nor harmful in visual terms and would not impact to any greater extent on the visual amenity of the residents as it exists at present. In coming to this conclusion, she has taken account of the existing industrial nature of the surrounding buildings, and (in the case of Harland Cottages) of the industrial context within which the residents reside. The Reporter's findings were informed by her site inspection (including visits to the viewpoints included in the landscape and visual amenity chapter of the environmental statement) and travel around the wider area. They were also informed by the environmental statement.

44. Ministers have carefully considered the Reporter's findings, the contents of the environmental statement, and the submitted photomontages. The photomontages include one from 'Viewpoint E' which is located on the elevated former railway embankment (now footpath/cycle path), close to and to the north/northeast of Harland Cottages. Ministers consider that the view of the Proposed Development (and specifically the proposed stack) from some upper floor south-facing windows of Harland Cottages and of properties on Earl Street, Fore Street and some properties at the southern end of Henrietta Street would be broadly similar to that illustrated in that photomontage. Having taken this information into account, Ministers disagree with the Reporter's conclusions set out in paragraphs 3.25 and 3.29, and consider that the stack would be a large and prominent feature, and that some residents' attention would be drawn to the stack and therefore to the function of the building, especially when the plume is also visible.

45. In the Reporter's view the proposed stack, although highly visible, would be no more dominant than the nearby crane and would be seen in the context of other large industrial buildings and structures in the vicinity (paragraph 3.29). Ministers consider that it is likely the proposed stack would be more dominant and more conspicuous, than the nearby crane, to residents in the above-mentioned properties. This is because it would exceed the height of the crane and be closer to the properties than the crane is; the crane is a very well-established feature in the area; and there are only oblique views of the crane from south-facing windows of those properties whereas there would be open and direct views of the stack from those windows. Some residents may have increased sensitivity to views of the Proposed Development given their awareness that thermal treatment of waste would be taking place within the building and, possibly, a concern about emissions from such activity. Ministers agree with and share Glasgow City Council's opinion that the existing facility is a low level building which, while industrial in appearance, is relatively unobtrusive to the visual amenity of the adjacent residences, and the stack would act to highlight the low-amenity industrial activity taking place in close proximity to residential properties, making the resultant development substantially more conspicuous in the residents' daily lives. Ministers conclude that the Proposed Development would therefore have a significant adverse impact on the visual

amenity and quality of life of some residents of Harland Cottages and of some of the properties on the above-mentioned streets.

46. Ministers' conclusions on the visual impacts of the Proposed Development are informed and supported by the findings of the submitted Environmental Statement which concludes that there would be significant substantial adverse visual impacts on Harland Cottages and properties between South Street and the A814 (Dumbarton Road). It states that there would be open and close views of the stack on the existing industrial skyline from the curtilage of the properties and oblique views from within the properties at Harland Cottages. Views from flats on the south side of Dumbarton Road would vary considerably depending upon which floor they are on. Views from ground floor flats would be screened by the railway embankment, trees and intervening industrial buildings, while top floor flats would have more open views. The Environmental Statement also identifies significant substantial adverse visual impacts on part of National Cycle Path Route 7 and a Core Path – namely, the raised former railway passing through Whiteinch and Scotstoun.

47. Ministers conclude on this basis that the Proposed Development fails to comply with City Development Plan Policy CDP 1 *The Placemaking Principle*, which states that new development should aspire to achieve six qualities of space (elaborated in Supplementary Guidance). The policy states that the Council will expect new development to be design-led, to contribute towards making the City a better and healthier environment to live in and aspire towards the highest standards of design while protecting the City's heritage, by (amongst other things): delivering sustainable buildings that are attractive and enhance the quality of life for everyone, and providing high quality amenity to existing and new residents. As Ministers consider that the Proposed Development would have a significant adverse impact on the visual amenity and quality of life of residents of some residential properties as explained in paragraphs 44 and 45 above, Ministers consider that the Proposed Development would not deliver an attractive building and would reduce rather than enhance the quality of life of some residents. The Proposed Development would also fail to provide high quality amenity to existing residents. It would therefore not contribute towards making the City a better environment to live in, as expected by the policy. Ministers also conclude that the Proposed Development does not fully comply with City Development Plan Policy CDP 5 *Resource Management* which lists amenity considerations as one of various factors against which proposals for new waste management/recycling operations should be assessed. In addition, the Proposed Development does not fully comply with the requirements of SG 5: *Resource Management*, because although the Proposed Development is within an Economic Development Area and on an existing waste management site, it is not on a well screened site and would adversely affect the visual amenity of the surrounding area to an unacceptable degree.

48. Ministers note that the Council's adopted Supplementary Guidance SG 5: *Resource Management* refers to a requirement (at paragraph 6.14) for a 250m buffer zone between dwellings and other sensitive receptors, and operations such as mixed waste processing and thermal treatment plant. The closest residential properties to the appeal site (Harland Cottages) are within 250m of the site. The Reporter reiterates in the Supplementary Report (paragraph 7.10) that the proposed new use would be no closer to Harland Cottages and other residential properties than the existing waste recycling facility. However, Ministers consider that the proposed stack

means that the visual impact of the proposed development would be greater than that of the existing facility. Ministers conclude that the proximity of the proposed development to the above-mentioned housing, combined with the height and industrial nature of the proposed chimney stack, would result in significant and demonstrable adverse visual impacts on those residential properties.

49. Ministers consider that the Proposed Development would not fully satisfy the relevant *placemaking principles* set out in SG 1 Part 1. Given its adverse impacts on residential visual amenity and quality of life as set out above, the Proposed Development would not add value to the individual's experience of an area (one of the requirements of principle (f) under Character & Identity). It would not, as far as possible, harmonise with the surroundings ('Character & Identity' principle (g)). Ministers also consider that the Proposed Development would not be of "an appropriate urban scale and townscape form to... respect neighbouring development" (as required by principle (e) under 'Adaptability & Sustainability').

50. With regard to the *placemaking priorities* set out in SG 1 Part 1 (as discussed in paragraphs 25 and 26 above), Ministers consider that there is limited scope for a development of this nature and location to actively contribute towards the achievement of many of those priorities. This is because the Proposed Development involves the alteration and diversification of an existing waste management facility, and is confined to the existing waste management site. However, Ministers also consider that the Proposed Development would not compromise the achievement of those placemaking priorities, other than hindering the promotion of high quality public realm and improved amenity.

51. Ministers consider that much of the SG 1 Part 2 is of limited relevance to the Proposed Development, given the nature of the existing waste management uses and activities on the site and the Proposed Development. SG 1 Part 2 provides guidance on 'tall buildings'. It defines a tall building as 'a building (including roof top structures and masts) that significantly exceeds general building heights in the immediate vicinity and which alters the skyline'. The extended and altered building forming part of the Proposed Development would fall within this definition by virtue of its proposed stack. The SG states that proposals for tall buildings "must fulfil the City's aspirations to be of excellent architectural quality in their own right, in order to enhance the City's skyline and international image". The guidance "seeks to identify opportunities for the development of tall buildings and establish the criteria to be observed in promoting their suitability". However, Ministers consider that this guidance is of limited relevance to the Proposed Development, and mainly intended to apply to tall office, commercial, residential or mixed use buildings: several of the assessment criteria listed (related to transport infrastructure, land values, and pedestrian accessibility, and long term adaptability of alternative uses) are not considered by Ministers to be relevant or appropriate for the assessment of the Proposed Development. This is in view of the nature of the Proposed Development, and particularly the function of the proposed stack. Ministers consider that there are no significant conflicts with any of the relevant criteria and guidance that are of relevance.

52. Ministers therefore conclude that as a result of its adverse visual impacts, the Proposed Development is contrary to City Development Plan Policies CDP 1 *The Placemaking Principle*, and CDP 5 *Resource Management* and associated

supplementary guidance SG 5. Whilst the Scottish Ministers do not consider that SG 1 is supportive of the Proposed Development, this is not to the extent that influences Ministers' overall conclusions regarding the Proposed Development.

Residential amenity

53. Ministers agree with the Reporter's conclusion (paragraph 4.31) that the Proposed Development is not likely to result in significant adverse air quality effects.

54. Ministers also agree with the Reporter (paragraph 4.35) that any identified increase in noise levels arising from the Proposed Development can be suitably controlled by licensing controls and by way of planning conditions, and (paragraph 4.38) that matters related to air quality, odour, dust and noise would be controlled and monitored under the Pollution Prevention and Control licence regime.

55. The Reporter concludes (paragraph 4.38 and reiterated in paragraph 7.10 of the Supplementary Report) that, subject to appropriate regulation by SEPA and imposition of reasonable planning conditions, the Proposed Development would have no adverse impact on residential amenity. Ministers agree with this conclusion insofar as this does not relate to *visual* impacts on residential amenity, which are dealt with separately in Chapter 3 of the Report and in paragraphs 41-48 above.

District heating issues

56. The Reporter states in the Supplementary Report (paragraph 2.8) that it is evident that the appellant has undertaken significant preparatory work in relation to the implementation of a district heat network, including provision of initial details of pipework and cable routing, together with an assessment of the potential end users of the heat likely to be generated by the proposed development. She agreed with the council that it is difficult for the applicant to take the implementation of a district heating scheme further until a planning permission is in place.

57. The Reporter notes (in paragraph 3.6 of the Supplementary Report) that the appeal site is in an area where there are pockets of high heat demand from individual commercial businesses along South Street itself. She also notes that the submitted Heat and Power Plan highlights the potential for a number of the adjacent businesses to connect to the proposed facility, and the potential for the residential and other commercial buildings to connect in the longer term, subject to infrastructure provision and matters outlined in paragraphs 2.6 to 2.8 of the Supplementary Report.

58. Ministers considered that it was important to understand the likelihood and scale of potential benefits associated with the possible connection of the Proposed Development to a new district heat network, and whether those benefits might outweigh the adverse impacts of the Proposed Development. A procedure notice was sent to the appellant and planning authority in February 2019 with a request for further information seeking clarification on whether connecting the Proposed Development to a specific local district heating network ('DHN') is feasible and has a reasonable likelihood of being delivered in the short to medium term. Ministers have considered the evidence and comments received in relation to these further written procedures.

59. In their response of March 2019, the appellant stated that additional discussions with potential operators about connecting to a DHN had not been required, as W H Malcolm (WHM) is best positioned to be the primary operator constructing, installing and delivering the proposed district heat network. WHM would co-ordinate the delivery of a DHN and related infrastructure within the South Street area. Detailed discussions regarding infrastructure and delivery options would take place upon receipt of the environmental permit and licensing paperwork. The appellant also stated that good practice usually dictates that planning consent and a PPC permit is secured before detailed matters relating to a HPP are progressed. Potential heat users are unable or unwilling to fully consider and commit to use of a DHN until the certainty of planning permission is in place. They stated however that WHM approached some local businesses in the South Street area who reaffirmed their interest in investigating the potential of connecting to a DHN. They further stated that in terms of the viability of a future DHN resulting from the development, WHM are able to use a large proportion of the heat for on-site industrial and commercial purposes. WHM's proposed on-site usage of the heat created could represent circa two thirds of that required to establish the basis of a viable and efficient DHN. Development of the DHN would then offer numerous opportunities for future connections.

60. Interested parties were invited to provide comments on the appellant's and planning authority's responses to the procedure notice, and a further round of consultation then provided parties an opportunity to comment on each other's comments. Amongst the points raised in interested parties' responses are (in summary):

- The appellant has not demonstrated that the facility would be connected to an appropriate DHN, and has little interest in building a DHN, having not further planned or assessed its feasibility, nor identified the multiple challenges to DHN implementation and how to overcome them.
- There have been no further discussions between appellant and potential operators.
- WHM has not done work on financial feasibility, design or planning of routes or types of installation, so cannot say whether nearby South Street businesses would be real candidates for a DHN, and have had no conversations with residents.
- The appellant has not conducted any cost analysis, feasibility study, assessment of permissions required, initial pipe routing assessment, or substantive discussions with end users of heat.
- The appellant has not analysed pathways to potential end users, nor how to overcome legal and practical hurdles of constructing heat networks outside their own property. The appellant has not discussed the challenges in retrofitting heating systems to schools and public buildings, nor the difficulties associated with high rise tower blocks which have no existing piping to accommodate such a system.
- There is no evidence that the proposed DHN would benefit domestic consumers and so help to reduce fuel poverty in the area.

61. Ministers have seen no persuasive evidence that the *on-site* infrastructure necessary for the Proposed Development to connect to a heat network cannot be accommodated and provided within the appeal site. There is also no evidence to indicate that the Proposed Development would hinder or prevent such a connection. Indeed, the appellants have confirmed that it is their intention to design and built the proposed energy recovery facility so that it makes provision for a district heat network to be established to reuse excess heat from the facility. Ministers consider that the evidence received indicates that the installation of district heat network infrastructure outwith the application site would face multiple challenges. The evidence also indicates that it is not certain that the developer W H Malcolm would obtain the necessary consents and permissions required in order to implement a district heat network. In the absence of conditions regarding this matter, the appellant would not be obliged (in planning terms) to implement, or connect to, a district heat network. Ministers therefore considered the degree to which the implementation of a heat network, the connection of the Proposed Development to that heat network (and the public benefits of this) could be appropriately secured by conditions.

62. In June 2020, the appellant and planning authority were invited to provide comments on potential conditions regarding the implementation of, and connection of the Proposed Development to, a district heating network. In response, the appellants stated that they have no difficulty in principle accepting a planning permission which includes conditions relating to a district heating network.

63. One of the potential conditions was a suspensive condition, prohibiting operation of the energy recovery facility until a scheme for the provision of a district heat network, connected to and supplied by the approved facility ('DHN scheme') had been submitted to and approved by the planning authority. Whilst the Council offered no comments on this condition, the appellant confirmed they would be happy to work with the Council in respect of the details required under that condition.

64. Another potential condition would have stated that in the event that an element of the district heat network as detailed in the approved DHN scheme is not completed by the relevant date specified in the approved DHN scheme, the approved energy facility shall not continue to operate until such time as that element is completed. The appellant expressed concerns as to both the reasonableness, and relevance to planning, of that potential condition. The appellant stated that controls to ensure the efficient use of heat should be dealt with via the Pollution Prevention and Control (PPC) permit, as is the case with similar facilities. They also stated that requiring the energy recovery facility to shut down (in every case and without exception) should there be a delay in delivery of the DHN is in their view an unreasonable and unnecessary sanction. They suggested an amended condition, which (in summary) would require the DHN to be constructed in accordance with the detail, including programme for implementation, in the approved DHN scheme. However, Ministers consider such a condition would not meet the tests for conditions as set out in Circular 4/1998 nor be within the powers set out in Section 41 of the Planning Act, given that it would in all probability require the carrying out of works (i.e. the construction of district heat network infrastructure) on land not within the control of the applicant.

65. The appellant also suggested amendments to a potential condition which would have required, in the event that the energy recovery facility was not

connected, and supplying heat, to a district heat network by the date specified in the DHN scheme, the facility to cease operation until such time as it was connected, and supplying heat, to the heat network. The appellant's suggested amended condition required (in summary) that where a DHN scheme is approved, heat from the approved energy recovery facility shall be made available to that approved DHN scheme. In the event the energy recovery facility failed to make heat available to the DHN scheme for a continuous period of at least 6 months, the energy recovery facility would be required to cease operation until such time as it was connected, and making heat available, to the district heat network.

66. The submitted heat and power plan, and the further information provided by the appellant in March 2019, include only indicative details of potential end users of heat generated by the Proposed Development and of principal pipeline routes. The evidence submitted by the appellant indicates that the appellant would not intend to progress with detailed planning and design of a heat network unless and until they obtain planning permission for the Proposed Development. Ministers agree with the Reporter that (paragraph 5.47) it is difficult for the applicant to take the implementation of such a scheme any further until a planning permission is in place. It would therefore not be practical nor reasonable to attach conditions specifying a particular design or extent of heat network to be implemented and to which the Proposed Development should connect. It would also not be reasonable or practical to specify end users of the heat generated. The nature and extent of a heat network would depend upon the details ultimately submitted by the developer and approved by the planning authority.

67. Ministers conclude that the nature, coverage, and implementation timescales, of a heat network connected to by the Proposed Development, and its possible resultant public benefit, all remain uncertain. This would be the case even in the event that planning permission for the Proposed Development were to be subject to conditions in relation to the matter, and as the above discussion indicates, it is questionable whether it would be possible to settle on appropriate conditions meeting all of the relevant policy and legal tests.

68. Ministers agree with the Reporter's conclusion that (paragraph 3.9 of the Supplementary Report) that the Proposed Development, at this stage in its development, has the potential to contribute to any future district heating scheme in the area. Ministers also agree that (paragraph 3.10 of the Supplementary Report) that the information included in the Heat and Power Plan provides the foundations on which to develop a district heating network at some point in the future, thus complying with the council's current City Development Plan policy guidance on this matter. However, Ministers consider that limited weight should be given to this as a potential benefit of the Proposed Development. This is because as noted above, the nature, coverage, and implementation timescales, of such a heat network, and its resultant benefits, all remain uncertain.

Other Matters

Traffic and Parking

69. The Reporter notes (in paragraph 5.13) that the transport authorities are satisfied that the Proposed Development would not generate a significant adverse

impact on the local road network. The Reporter also notes (in paragraph 7.11 of the Supplementary Report) that Policy CDP 12 'Delivering Development' in the City Development Plan sets out a requirement for all developments within specified zones to contribute to the Clyde Fastlink Proposed Route. As part of the site is located within the 'developer contribution zone', appropriate levels of contribution may apply.

70. Ministers agree with the Reporter's findings and conclusions in relation to traffic and parking, and consider that subject to the appropriate developer contributions, the Proposed Development would satisfy the transport-related requirements of Policy CDP 5 *Resource Management* and would accord with Policies CDP 11 *Sustainable Transport* and CDP 12 *Delivering Development*.

Listed Buildings and Conservation Areas

71. Ministers agree with the Reporter (paragraph 5.18) that the Proposed Development would result in no significant adverse impacts on the character and setting of either the nearby category A-listed listed former North British Engine Works or the category A-listed Barclay Curle Titan Crane, given the nature of the Proposed Development and the existing land use in the area, taken together with the structural dominance of the crane. Ministers also agree that (paragraph 5.19) due to the intervening topography, density of buildings and existing screening, there would be no significant adverse impacts on the Scotstoun and Victoria Park Conservation Areas, both of which are located approximately 250 metres from the appeal site.

Gasification technology

72. Ministers agree with the Reporter that (paragraph 5.32) the assessment of plant efficiencies would be undertaken as part of the detailed design of the technology, and would be one of the technical considerations for SEPA to examine as part of the licensing process. She also noted, and Ministers agree, that the Proposed Development should meet in full the requirements of the European Industrial Emissions Directive, and that the PPC Regulations also contain a requirement for permits to contain conditions to ensure energy recovery takes place with a high level of energy efficiency.

Location of Proposed Development

73. Whilst the previous SDP has now been replaced by Clydeplan, the Reporter notes in the Supplementary Report (paragraphs 7.8 and 7.6) that there have been no substantive changes to the relevant policies included in Clydeplan, and that Clydeplan Policy 11 generally replicates the policy in Spatial Framework 4 and Strategy Support Measure 13 in the previous SDP. Policy 11 of Clydeplan states that proposals for waste management facilities will generally be acceptable (subject to local considerations) in land designated for industrial uses as well as on existing waste management sites.

74. Ministers consider that the Proposed Development satisfies the relevant requirements of Policy CDP 2 *Sustainable Spatial Strategy*. With regard to the River Clyde Development Corridor SDF, Ministers consider that in view of the nature and location of the Proposed Development, on an existing waste management site, there is limited scope for the Proposed Development to make a positive contribution

towards the achievement of the priorities and actions set out in the SDF. However, Ministers also consider that the Proposed Development would not go against the aims of the SDF. Ministers therefore conclude that the Proposed Development is not in conflict with the SDF.

75. The Reporter concluded (paragraph 5.39) that the proposed site, being an existing waste management site located within an allocated industrial area adjacent to the River Clyde, in close proximity to other potential heat users and principal road networks, meets the locational criteria in both national guidance and the development plan policies.

76. Ministers however consider that the Proposed Development meets *most* but not all of the locational criteria set out in the development plan and national guidance. The locational criteria not satisfied are:

- Criterion 6 of Policy CDP 3 - that low amenity industrial operations should be located on sites that will minimise the environmental impact on surrounding areas. Ministers therefore disagree with the appellant that the Proposed Development complies with all relevant criteria of Policy CDP 3.
- Criterion 6.7(a) of SG 5 - that proposals for waste management / recycling operations shall be located within Economic Development Areas, on well screened sites, where they will not result in conflict with neighbouring uses (the site is not well screened, and the Proposed Development would result in conflict with neighbouring uses in terms of the visual impact on nearby housing).
- Paragraph 6.14 of SG 5 which sets out a requirement for buffer zones between dwellings and waste management facilities.

77. Ministers consider that the failure of the Proposed Development to satisfy these particular criteria should not weigh significantly against the development when considering the acceptability of the development overall. This is because the site is an existing waste management site within an Economic Development Area, and satisfies most of the locational criteria set out in the development plan and national guidance including those in Policy CDP 2 *Sustainable Spatial Strategy*. However, this does not negate the other relevant requirements of the development plan, including those of City Development Plan Policies CDP 1 and CDP 5 as summarised in paragraphs 22 and 31 above.

Natural heritage, water, flooding and aircraft safety

78. Ministers agree with the Reporter (paragraph 5.54) that the Proposed Development is acceptable in relation to the matters of natural heritage, water, flooding and aircraft safety.

Conclusion

79. Ministers agree with the Reporter (paragraph 7.7) that there is significant support for the Proposed Development in terms of national planning policy, and that (paragraph 7.9) the Proposed Development would contribute to Zero Waste Plan targets.

80. However, Ministers disagree with the Reporter (paragraph 7.12 of Supplementary Report) that overall, the Proposed Development would meet the requirements of the relevant development plan policies in both the approved Clydeplan and the adopted City Development Plan. As noted above, Ministers agree with the Reporter that the Proposed Development complies in principle with Clydeplan. However, for the reasons discussed above, Ministers consider that the Proposed Development is contrary to City Development Plan Policies CDP 1 *The Placemaking Principle* and CDP 5 *Resource Management* and its supporting supplementary guidance SG 5. As the Proposed Development is not located on a site that would minimise the environmental impact on surrounding areas, it also does not fully satisfy the requirements of Policy CDP 3, although as discussed above, this does not weigh significantly against the Proposed Development overall. The Proposed Development complies with the other relevant provisions of the development plan, including Policies CDP 2 *Sustainable Spatial Strategy*; CDP 7 *Natural Environment*; CDP 8 *Water Environment*; CDP 9 *Historic Environment*; CDP 11 *Sustainable Transport* and CDP 12 *Delivering Development*.

81. Ministers acknowledge that Policy CDP 1 *The Placemaking Principle* and Policy CDP 2 *Sustainable Spatial Strategy* are described in the City Development Plan as overarching policies which must be considered for all development proposals. Ministers therefore consider these policies should be given significant weight when assessing whether the Proposed Development is in accordance with the development plan overall.

82. Ministers conclude that the Proposed Development's non-compliance with the development plan provisions relating to placemaking and visual amenity (including Policy CDP 1) as a result of its adverse impacts on the visual amenity and quality of life of some nearby residents (as discussed in paragraphs 41-52 above) outweigh its compliance (as noted in the paragraph above) with other development plan provisions including those relating to spatial strategy, air quality, traffic, the natural environment, recovered energy (including heat), the waste hierarchy and the Zero Waste Plan. Ministers therefore conclude that the Proposed Development is not in accordance with the development plan overall.

83. Ministers have considered whether there are any material considerations which warrant granting permission as a departure from the development plan. While some considerations militate against the Proposed Development, others add to the case for granting planning permission. Considerations militating against the development are the adverse visual impacts of the development, contrary to City Development Plan policies as highlighted above. Considerations supporting the case for granting permission include the Proposed Development's contribution towards achieving Zero Waste Plan objectives, its compliance with many of the provisions of the development plan, and its potential to contribute to future district heating. As discussed above, the potential for the proposed development to contribute to future district heating in the area should be given limited weight as a potential benefit in terms of the application of the planning balance. Ministers conclude that the adverse visual impacts outweigh the benefits of the Proposed Development. Ministers also conclude that there are no material considerations of sufficient weight to indicate that permission should be granted as a departure from the development plan.

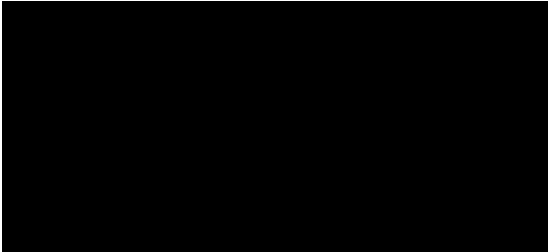
84. Ministers have considered all the other matters raised, including those made in representations to the council and to the Scottish Government and in written submissions, but consider there are none which would lead Ministers to alter their conclusions.

85. Accordingly, for the reasons explained above, Scottish Ministers hereby dismiss the appeal and refuse planning permission for the alteration and diversification of existing waste recycling facility to incorporate an energy recovery facility and associated flue and infrastructure, at 865 South Street, Glasgow G14 0BX.

86. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

87. A copy of this letter and the Reporter's reports has been sent to Glasgow City Council. Those parties who lodged representations will also be informed of the decision.

Yours sincerely



Chief Planner