

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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Supplementary report by Karen Black, a reporter appointed by the Scottish Ministers

- Case reference: PPA-260-2055
  - Site Address: 865 South Street, Glasgow, G14 OBX
  - Appeal by W.H. Malcolm Ltd against the decision by Glasgow City Council
  - Application for planning permission 15/00549/DC dated 6 March 2015 refused by notice dated 29 February 2016
  - The development proposed: Alteration and diversification of existing waste recycling facility to incorporate an energy recovery facility and associated flue and infrastructure
  - Date of site inspection by Reporter : 6 July 2016
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- Date of this report and recommendation: 04 October 2017
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## 1.0 Background

1.1 Ministers recalled the decision on this appeal for their determination on 4<sup>th</sup> October 2016 because of the sensitivities of this particular type of development, the residential characteristics of the area and the significant level of public interest.

1.2 My report on this recalled planning appeal, recommending approval of planning permission 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 suitable alternative arrangement was submitted to Ministers on 20 January 2017.

1.3 This supplementary report results from Scottish Ministers' request on 21 June 2017 that further information should be sought, considered and reported on relating to 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.

1.4 In addition to the additional information requested by Ministers I sought further information and comments from the appellant, council and parties who made representations in response to the appeal on the implications of the approval of Clydeplan Strategic Development Plan (approved by Ministers on 24 July 2017) and the City Development Plan, adopted by the council in March 2017.

1.5 In accordance with regulation 11 of the Town and Country Planning (Appeals) (Scotland) Regulations 2013, the appellant, council, SEPA, community councils and residents have had an opportunity (through formal requests for further information) to make representations on these matters. The responses received from all parties are included in Appendix 2 of this report.

1.6 I also note that 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. These 2011 regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicant (now the appellant) submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. I have therefore determined the appeal in accordance with the 2011 regulations as they applied before 16 May 2017.

1.7 Thus, in accordance with my letter of appointment dated 17 June 2016, I have prepared this supplementary report on the implications of these additional matters, taking account of the information received from those consulted, and in the context of the information, reasoning, and conclusions reached in my original report.

## **2.0 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.**

2.1 In response to my request for further information on this matter, the appellant confirms that no further dialogue with the council has taken place on any specific aspect of the proposal since the planning appeal was lodged in May 2016 and there have been no recent discussions with the council on district heating or connectivity to potential end users.

2.2 The appellant also considers that it would not be appropriate to discuss a live or on-going planning appeal with any outside parties. The position, in their view, cannot change from the information that was submitted, assessed and determined by the council and now is subject to the on-going appeal. The appellant also emphasises SEPA's recognition that the proposed development may be potentially consentable through the PPC process. The appellant also highlights their increasing experience in the delivery and installation of district heating networks and that they were part of the consortium that delivered the underground infrastructure for the Commonwealth Games Athletes Village and other projects in the city.

2.3 The council confirms that it is not aware of any discussions between any council officers and the applicant since 2015 in relation to this matter.

2.4 In paragraphs 5.42 - 5.47 of my main report, I provided weblinks to, and summarised the comments from the appellant, council, regulatory authorities, local community groups and residents on these matters. I concluded that there is potential for the proposal to support the development of a district heating network in the city.

2.5 I referred in particular to the Heat and Power Plan and associated appendices submitted as part of the original planning application. The appellant also highlighted in the appeal submissions, that it is a requirement of the SEPA PPC process for the deliverability and implementation of the Heat and Power Plan to be demonstrated further. Overall, the appeal proposal cannot be operated without a PPC permit in place. The council do not dispute this matter and I note the council in the reasons for refusing the application make no reference to this issue.

2.6 The Heat and Power Plan which sets out the appellant's position on such matters remains unchanged from the original prepared in March 2015. Section 3 of the document provides an outline analysis of potential heat end users together with indicative timescales for providing heat to those potential end users. Table 6 in particular, identifies a number of potential end users, ranging from businesses close to the appeal site, to residential and public buildings in the wider area. The analysis concludes that some existing developments and businesses in the South Street and Whiteinch area have the potential to be linked directly to the appeal site facility with the possibility of some shared infrastructure to reduce the capital costs of the installations. Preliminary discussions have also taken place with the developers of a site at Harbour Terraces and a car dealership, both of which lie to the east of the appeal site. The document also highlights that further discussions on the feasibility of other nearby businesses connecting to the facility for heat off take are being planned. The applicant also states that an electricity grid connection to the distribution network has been agreed with Scottish Power Energy Networks.

2.7 Table 9 in the document also identifies a number of key potential off takers that may be more viable if a number of heat users in a particular area can be brought together, by linking into schemes being promoted by Glasgow City Council. The risks however, in developing these opportunities are that distribution networks for other potential outlets have not yet been established. The appellant also confirms in the Heat and Power Plan that discussions have taken place with council officers on current district heating developments in the city and the council are supportive of further discussions and negotiations to explore further opportunities to use the heat from the proposed facility.

2.8 On the basis of the information included in the Heat and Power Plan and subsequent appeal submissions it is evident that the appellant has undertaken significant preparatory work, 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. It is regrettable that no further discussions have taken place between parties on this element of the proposal since submission of the appeal, however on the basis of the responses from the appellant and the council, and as I stated in my original report it would seem to be appropriate to progress such detailed matters on the district heating element of the proposal as part of the licensing process. I also noted in my original report that Scottish Government advice in PAN 51 and Planning and Waste Management Advice published in July 2015 further confirms that planning authorities should not impose planning conditions on matters subject to regulation by SEPA under pollution prevention or environmental protection legislation. A valid planning consent must be in place, however, before a waste management licence or pollution prevention and control permit can be issued. I also agreed with the council that it is therefore difficult for the applicant to take the implementation of such a scheme any further until a planning permission is in place.

2.9 It may also be the case that future infrastructure provision may be subject to further applications for planning permission and are not subject to consideration as part of this appeal. Matters relating to the district heating element and connection to potential end users would not in my view provide an adequate basis to conclude that refusal of the proposal solely on this issue is justified at this time.

### **3.0 Current position in relation to heat mapping in Glasgow.**

3.1 In response to my request for clarification on this matter, the appellant acknowledges that the council continues to give strong support to district heating and heat networks through its recently adopted City Development Plan. The appellant remains of the view that there is strong potential for a heat network in the surrounding area of its facility in South Street due to it being a compact, linear industrial corridor (along a major street) with a variety of large businesses that may be potential users of heat. The natural strength of the location in regard to heat distribution is one of the main reasons why this location was chosen for the proposed development.

3.2 The council provided a copy of the Resource Management Supplementary Guidance dated March 2017 in response to my request for further information on this matter. The council advises that the guidance, which was adopted alongside the City Development Plan in March of this year, contains the current position in relation to heat mapping in Glasgow. The document provides further detailed guidance on policy CDP 5 of the adopted City Development Plan March 2017. Paragraph 5.12 of the guidance refers to areas within the city where district heating could be deployed based on heat mapping and analysis of energy

consumption. The guidance also includes a link to the Scotland Heat Map which is the main source for the council's heat mapping data and corporate Energy and Carbon Masterplan.

3.3 In the supplementary guidance, the council states "the council will support proposals to develop district heating networks based on low carbon and renewable sources, or that facilitate the more efficient use of heat from existing energy generation or other processes". Reference is made to figure 12 of the city development plan which provides an initial indication of the areas of the city with greatest potential for district heating networks based on an initial assessment of demand. The appeal site is located outwith identified 'zones' where the council identifies existing and planned installations, and where there is the greatest potential for district heating. The council also confirms that this position will be updated through heat mapping to more accurately identify the potential for co-locating developments with a high heat demand with sources of heat supply, and supplementary guidance will be brought forward to identify the areas with greatest potential. In these areas in particular, the council expects that the feasibility of delivering district heating/connecting to existing schemes, and the potential to extend such a system to adjacent uses/sites, as part of a local heat network, will be fully evaluated by the developer during the design of new development and incorporated into the design where viable.

3.4 The Energy and Carbon Masterplan also reflects the council's support for proposals by developers who wish to connect to existing district heating schemes. An integrated approach to the planning and development of the infrastructure is promoted. This includes sub-surface infrastructure such as utility services, district heating, energy and broadband infrastructure, transport, SUDS and water management infrastructure. The council intends to bring forward a strategy to support such an approach and confirm that updated supplementary guidance may be necessary to address any land use planning implications arising from such a strategy. This work will help highlight potential infrastructure opportunities and constraints across the city.

3.5 Additionally, the masterplan document emphasises that generating energy from waste is a proven, reliable technology and industrial waste heat recovery in the future could be used to ensure that district heating schemes have a sustainable, efficient and low cost supply of heat.

3.6 Looking at the heat mapping data provided by the council in its supplementary guidance, associated Energy and Carbon Masterplan and the Scotland Heat Map, it appears to me that the appeal site is located in an area where there are pockets of high heat demand from individual commercial businesses along South Street itself. The greatest concentration of demand arises from the individual businesses along South Street, residential areas to the north of the appeal site and at the Braehead shopping complex on the south side of the River Clyde. The Heat and Power Plan submitted by the appellant 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 - 2.8 above.

3.7 Taking this information into account I am satisfied that the proposed development has the potential to form the basis of a district heating network in the area. Although the appeal site is not identified as being within the identified district heating zones in the council's guidance, I consider that would not preclude development. There may also be

scope to incorporate further opportunities for district heating schemes in the updated supplementary guidance to be prepared by the council. The successful implementation of such a scheme, would of course be dependent on the cooperation of existing businesses and provision of the necessary infrastructure in the wider area. As noted by the council in the Energy and Carbon Masterplan, the benefits of district heating are maximised when a variety of customers connect to the scheme.

3.8 From the information submitted in response to my request it is clear that the council is supportive of district heating proposals and that work is progressing on developing such networks. However it is not, at present, a specific policy requirement. The current guidance indicates that supplementary guidance will be updated as and when more heat mapping information is available. As I outlined in my original report, the council officer in the planning application committee report acknowledges that a key benefit of the proposed development is the location of the proposed development, being within an existing waste recycling operation, in close proximity to potential end users of the recovered heat and the potential that it provides towards the establishment of a district heating network along the South Street corridor. The council report also acknowledged the submission of the Heat and Power Plan, the implementation of which, it was stated, requires to be developed further to be a commercial reality. Until planning permission is granted, the council acknowledged that it is difficult for the applicant to take it any further at this stage.

3.9 On this basis I am satisfied that the proposal, at this stage in its development, has the potential to contribute to any future district heating scheme in the area. There is no requirement in planning policy terms to include detailed measures associated with infrastructure provision for such a scheme at planning application stage. These details could be provided as part of the PPC application process and may also be assessed under the appropriate building regulations. I also consider that any future infrastructure provision which may require specific planning consent would be subject to a separate application for planning permission.

3.10 Given that the council's supplementary guidance provides amplification to policy CDP 5 of the adopted City Development Plan March 2017, I am satisfied that the appellant has undertaken a suitable evaluation of the potential for a future district heating scheme. 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 local development plan policy guidance. Any future network is however clearly dependent on the co-operation of, and future discussions with nearby businesses and the council.

#### **4.0 Updated version of the original March 2015 Heat and Power Plan**

4.1 In response to my request for an update of the original Heat and Power Plan, the appellant considers the conclusions from the information that was submitted to the council as part of the planning submission (and as forming a basis of their determination) remain unchanged, and that they consider there to be no need or basis for an updated Heat and Power Plan to be provided at this stage.

4.2 The appellant also confirms that the proposed development is a combined heat and power facility with a commitment in writing to deliver the heat outputs identified in the Heat and Power Plan as a minimum. The emphasis is on a commitment to work towards the

higher outputs/efficiencies in partnership with local businesses and groups and as required for the PPC process, which assesses the Heat and Power Plan as an on-going and long term consideration.

4.3 Given that no further discussions have taken place since submission of the original Heat and Power Plan, my comments in relation to the Heat and Power Plan in chapter 5 of my original report and sections 2 and 3 above apply.

## **5.0 Current position of discussions between the applicant and SEPA on the proposal and the scope of the Pollution Prevention and Control (PPC) permit application**

5.1 The appellant advises that they have not entered into any discussions with any associated organisation in order to not prejudice the appeal process. Therefore, no discussion has taken place with SEPA on the proposal since submission of the appeal. The appellant also points to SEPA's consultation response to the planning application in which SEPA raised no objection and confirmed that the proposed development was potentially consentable as a Pollution, Prevention and Control (PPC) activity. The appellant contends that there is no reason or benefit in discussing the scope of the PPC process further until a planning permission is secured. Again they emphasise their experience with heat network work with the Commonwealth Games Athlete's Village, and other projects.

5.2 Further to the response from SEPA on this matter, the appellant also reiterates that SEPA have already reviewed the Heat and Power Plan during the planning application determination process, and concluded that a future PPC process was potentially consentable. The appellant does not therefore see the need or benefit for SEPA to review that document again for the appeal. The appellant is committed to providing any further technical information that will be required by SEPA going forward but as part of the PPC process and by using the certainty of any positive planning decision to advance discussions with potential heat users.

5.3 SEPA met with the appellant and Wardell Armstrong (the authors of the Heat and Power Plan) in January 2015 at pre planning application stage to discuss the project and how the PPC regulations would apply. As the project was at a relatively early stage full technical details were not available at that time. SEPA advises that the proposed reconfigured materials recycling facility, new waste fuel storage area, and incineration/energy recovery activities including the associated utilities would fall under PPC and require a permit to be in place prior to the activities commencing. SEPA also confirms that there has been no further detailed discussion in respect of any PPC application for this proposal nor has an application been received by them.

5.4 SEPA add that for a PPC application for a new combustion plant of greater than 20MW thermal input (including energy from waste plants) the PPC 2014 Amendment Regulations may apply. These regulations would set out requirements to identify potential heat receptors within a defined radius from the heat source and need to complete a cost benefit analysis with any future PPC application.

5.5 A further response confirmed that SEPA offered no objection to the facility at planning stage and upon submission of an appropriate, robust and complete application, the proposal in principle, is potentially consentable in terms of the PPC.



5.6 On this basis therefore it is clear that further discussions on the proposal and the scope of the PPC permit application are likely to take place if Ministers are minded to allow this planning appeal. I have no further evidence to suggest that this position has changed.

## **6.0 Updated views of SEPA on the Heat and Power Plan/updated Heat and Power Plan with regard to energy recovery (heat) proposals.**

6.1 In response to my request for clarification on this matter, SEPA confirms that the original Heat and Power Plan is sufficient for the planning stage and that the facility is potentially consentable under PPC. The Heat and Power Plan provided predicts that the initial start-up energy efficiency on electrical energy only will meet the start-up criteria in SEPA's Thermal Treatment of Waste Guidance 2014. They also highlight that the 2014 guidance recognises that realisation of the necessary use of heat is complex and that it may take several years to deliver the necessary longer term energy efficiency. SEPA also confirms that significant potential heat use has been identified in the area including from WH Malcolm, local heat users and through future tie in to a wider heat distribution network. Realisation of this heat use would fulfil the longer term energy efficiency requirements of the guidance.

6.2 To satisfy the requirements of an application for a permit to operate such a facility under PPC, SEPA anticipates that the requirements of the Energy Efficiency Directive enacted in Schedule 1A of the PPC Regulations will require a more defined cost benefit analysis to be prepared to support the Heat and Power Plan. Users may also be identified across the River Clyde. SEPA also confirm that during determination of the permit application they would take account of that cost benefit analysis in deciding whether the activity may be permitted.

## **7.0 Updated views on Clydeplan and City Development Plan**

7.1 Since submission of my original report Clydeplan Strategic Development Plan was approved by Scottish Ministers on 24 July 2017. From this date the plan as modified is constituted as the strategic development plan for the Clydeplan development plan area. In addition, City Plan 2 has now been replaced by the adopted City Development Plan March 2017.

7.2 As a consequence, I requested comments from the appellant, council and interested parties who made representations in response to the appeal (through a formal request for further information) to provide updates to their previous submissions concerning the development plan.

7.3 In respect of Clydeplan, Policy 1- Placemaking and Policy 11- Planning for Zero Waste have been drawn to my attention.

7.4 The appellant highlights that in Policy 1 and the related table 1, reference to maintaining and improving air quality is now included as a policy principle.

7.5 The local MP, MSP, councillor, local community councils and local residents also provided further comments. The majority re-iterate previous concerns regarding the

location of the proposed development in relation to nearby residential properties, potential increase in traffic, air quality, health and environmental issues, the waste hierarchy and proposed technology.

7.6 Clydeplan Policy 11 generally replicates the policy criteria in Spatial Framework 4 and Strategy Support Measure 13 in the previous strategic development plan. It 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.

7.7 I also note that Policy 10 in Clydeplan supports the re-use of waste heat and the co-location of uses within business environments which support the integration of efficient energy and waste innovation. The policy also provides support for heat mapping in local development plans and a requirement to consider the scale and relationship of proposals to the surrounding area.

7.8 Paragraph 1.37 of my 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 my original report. I previously found the proposal is compliant in principle with the now superseded strategic development plan. Given that there have been no substantive changes to the relevant policies included in Clydeplan, I have no reason to alter my views and I find that the proposal complies in principle with Clydeplan.

7.9 Paragraphs 1.40 - 1.43 of my original report also included a summary of the relevant policies in the emerging city development plan as it was at that time. Following the formal adoption of the plan these policies remain largely unchanged and my assessment of the proposal in respect of these policies as set out in chapters 3, 4 and 5 of my original report therefore also remain unchanged.

7.10 Scotstoun Community Council and the appellant refer to a specific requirement in the council's supplementary policy guidance relating to buffer zones between dwellings and other sensitive receptors and waste management facilities. The community council argues that a 250 metre buffer is now a requirement, rather than guidance. The appellant however states that the existing waste management facility has operated adjacent to Harland Cottages for eleven years and the Environmental Statement submitted with the planning application provides evidence that the proposed development would have no significant adverse impacts on residential amenity. This is a matter previously addressed in chapter 4 of my original report in relation to Scottish Planning Policy matters. I note that the policy emphasis relating to buffer zones has now changed, however as I stated previously, the proposed new use would be no closer to the cottages and other residential properties than the existing waste recycling facility. I also concluded that subject to appropriate regulation by SEPA and imposition of reasonable planning conditions, the proposal would have no adverse impact on residential amenity.

7.11 I also noted that policy CDP 12 Delivering Development in the emerging city development plan as it was at that time, set out a requirement for all developments within specified zones to contribute to the Clyde Fastlink Proposed Route. This remains the case since adoption of the plan and as part of the site is located within the 'developer contribution' zone, appropriate levels of contribution may apply.

7.12 I do not depart from my previous recommendations and my view is that overall, the proposal would meet the requirements of the relevant development plan policies in both the approved Clydeplan and the adopted City Development Plan.

## **8.0 Reporter's overall conclusions and recommendation**

8.1 The council, in the reasons for refusal of the proposal focus solely on the visual and residential amenity aspects of the appeal proposal. These matters are addressed in my original report. The development plan position has since changed, however I note that the relevant policies, to a large extent remain unchanged. Where changes are made, and based on my previous assessment of these matters in my original report, the changes do not require me to depart from my earlier recommendation in respect of the development plan policies.

8.2 In response to matters relating to heat mapping and the proposed district heating element of the proposal, I agree with the council, who acknowledged in the original appeal submissions that it is difficult for the applicant to take the implementation of such a scheme any further until a planning permission is in place. SEPA's 2014 guidelines also acknowledge that such matters may take several years to realise. I also note that SEPA maintains the view that the proposal is still potentially consentable in terms of the PPC permit and the original Heat and Power Plan is sufficient for the planning stage. From the evidence before me it is clear that many of the technical aspects of the proposal would be considered as part of the PPC permit application process. I therefore remain of the view that approval of the appeal scheme should provide the basis on which to develop the Heat and Power Plan further and to continue discussions with the council, SEPA and potential end users in relation to any future district heating scheme.

8.3 For all the reasons outlined above, I find that the additional information provided on matters relating to the district heating element of the proposal, and the current development plan does not change the conclusions reached in chapter 7 of the original report.

8.4 I conclude that the additional matters on which I have been asked to report do not alter the balance of my previous conclusions. Accordingly I recommend 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 suitable alternative arrangement to address matters in relation to the Clyde Fastlink proposal.

*Karen Black*  
Reporter

## **APPENDIX 1**

### **Schedule of documents**

[Heat and Power Plan and appendices](#)

[Heat and Power Plan Drawings](#)

[Glasgow City Council Supplementary Guidance SG5 Resource Management](#)

[Approved Clydeplan July 2017 and Adopted City Development Plan March 2017](#)

## **APPENDIX 2**

### **Responses received to requests for further information**

[Scottish Environment Protection Agency \(SEPA\) 31 July 2017](#)

[Appellant 07 August 2017](#)

[Glasgow City Council 08 August 2017](#)

[Appellant 14 August 2017](#)

[Glasgow City Council 22 August 2017](#)

[Appellant 25 August 2017](#)

[Whiteinch Community Council 18 August 2017](#)

[Scottish Environment Protection Agency \(SEPA\) 25 August 2017](#)

[Appellant 28 August 2017](#)

[Jordanhill Community Council 31 August 2017](#)

[A. Parfery 03 September 2017](#)

[Carol Monaghan MP 07 September 2017](#)

[United Kingdom Without Incineration Network 11 September 2017](#)

[George McQuilkin & Catherine Macdonald 12 September 2017](#)

[Councillor Feargal Dalton 12 September 2017](#)

[Scotstoun Community Council 12 September 2017](#)

[Bill Kidd MSP 14 September 2017](#)