

Rationale for the proposed course of action

Defra want to ensure that additional waste infrastructure development does not pose a risk to government's ambitious programme of resources and waste reforms and review whether our objectives – including wider decarbonisation and environmental obligations - and approach to waste infrastructure remain aligned.

Since the Resources and Waste Strategy was published in 2018, government has driven forward far-reaching programmes that have an impact on our waste infrastructure needs.

These reforms include:

- simpler recycling – ensuring food waste and a consistent set of dry materials will be collected across every local authority and business in England, including new collection regimes for flexible plastics (not current routinely collected or recycled)
- the plastic packaging tax
- a deposit returns scheme for drinks containers
- extended producer responsibility for packaging

We have also set out that our strategic objective is to maximise the value of resource use; and minimise waste and its impact on the environment – with a number of future actions the government will take published in July 2023. This spans waste electricals, batteries, textiles and plastics.

It is therefore reasonable to put in place a short-term pause in the determination of environmental permits to consider whether a full review into the alignment of new permitted waste incineration facilities with our strategic objectives is required.

There are questions as to whether the assessment that underpins waste incineration infrastructure is undertaken by the correct authority.

The assessment of proposed waste incineration infrastructure is undertaken through both the planning and environmental permitting regimes:

- planning authorities (local or national depending on whether the waste incineration facility is considered a Nationally Significant Infrastructure Project) determine planning applications in accordance with Local Plans, unless material considerations indicate otherwise, and take account of the likely impact, including cumulative impacts, on the local environment, communities, and the economy
- the Environment Agency issues environmental permits for regulated activities carried out at permitted sites. The Environment Agency can only issue a permit based on the merits of the permit application

Given the Environment Agency's remit to "protect and improve the environment and make it a better place for people and wildlife" there is a question as to whether the scope of the assessments undertaken by planning authorities and the Environment Agency is properly allocated. It is reasonable for ministers to test this.

There are legitimate concerns regarding the over-provision of waste incineration facilities. This issue needs to be fully examined.

We are in the process of finalising our assessment of residual waste treatment capacity needs. This analysis will consider forecast waste arisings as a result of our Collection and Packaging Reforms alongside existing, under construction and approved residual waste treatment capacity. We will consider these figures alongside our commitment of sending no more than 10% of municipal waste to landfill by 2035.

As of the end of 2023, there were 66 consented energy recovery facilities that are not yet under construction, representing a total potential treatment capacity of 17.2 million tonnes, although not all of these facilities will be built and some may replace existing facilities.

Considering our long-term target to halve residual waste (excluding major mineral wastes) by 2042 from 2019 levels shows that this level of residual waste treatment capacity aligns with our long-term objectives and that provided we meet our target we will not require residual waste treatment capacity in excess of c.17.2MT. Our currently committed policies are forecast to get us approximately half-way to achieving this target. Further policies are however required, including those set out as future actions in Maximising Resources, Minimising Waste.

As municipal residual waste volumes decrease in response to the Government's Resources and Waste policies it is plausible that this will free-up treatment capacity in existing waste incineration facilities, thus allowing for appropriate non-municipal residual wastes currently being sent to landfill to instead be sent for energy recovery activities in accordance with the waste hierarchy. This could be achieved without the need for excessive waste incineration capacity.

However, there are significant volumes of non-municipal residual waste that are being disposed of in landfill. Data for these wastes is not as robust as that for municipal wastes and there may be a legitimate need for additional waste incineration capacity to manage these wastes.

Given the evidence of residual waste capacity is not conclusive, it is legitimate to pause pending decisions on new waste incinerators while we take stock of our existing evidence, identify any gaps and consider where further work may be required as part of a fuller review.

Our waste infrastructure needs and the capacity being developed may not be aligned.

In terms of recyclable material, there are examples where long-term contracts for waste incineration have 'locked in' recyclable materials under minimum tonnage guarantees. This prevents technological advances from maximising recycling and minimising residual wastes in the future. It is reasonable to test this risk and consider what government might do to mitigate it.

Furthermore, there are a range of forms of waste infrastructure where there may be significant gaps in capacity. We are in the process of finalising the first part of our waste infrastructure roadmap which will set out anticipated waste arisings to 2035 as a result of our Collection and Packaging Reforms and mapping this modelling against known waste management infrastructure for various waste streams, including organic wastes, and dry recyclables (paper and card, glass, metals, and plastics). This will identify where there is forecast under or over-provision of recycling infrastructure.

This short-term pause will allow us to scope a review that may then ultimately enable us to take stock of our infrastructure needs and ensure our efforts, both in government and for investors, are supporting our ambitions to maximise resource use and to minimise waste and its impact on the environment.

The pause will provide the time and space for Ministers to take stock of the need and scope of a potential wider review of our waste infrastructure needs – but will not prejudge any conclusions or future actions.

During the ‘pause’ period, Defra will work with the Environment Agency and other government departments with an interest in this issue (for example Department for Levelling Up, Housing and Communities (DLUHC), Department for Business and Trade (DBT), Department for Energy Security and Net Zero (DESNEZ)) to undertake a scoping exercise and determine whether a full review and longer-term action is required to ensure we have the right waste management infrastructure, in the right places, through which we will deliver our strategic ambitions.

The scoping work will not prejudge whether a review is in fact needed and, if needed, what its conclusions would be. However, it would consider all feasible levers to address issues identified. For example, this may include potential future legislative or regulatory changes or changes to guidance relating to permitting.

Following the scoping period, ministers will have the evidence and understanding to determine whether a more substantive review is merited. This will enable ministers to make an evidence-based judgement about whether a longer-term pause is justified, or whether those permit applications currently within the Environment Agency’s systems can be processed as per their standard processes.