

## **ADEQUACY OF CONSULTATION**

### **RESPONSE BY**

### **FENLAND DISTRICT COUNCIL**

#### **1.0 Background**

- 1.1 During a Council Meeting in September 2020, a Motion was agreed to oppose the principle of the proposal for an energy from waste facility in Wisbech. It is important that we are able to separate this particular technical response, from the wider objection to the proposal.
- 1.2 Notwithstanding the very clear stated position of the Borough Council (motion to oppose the proposal) the council should still engage meaningfully in the technical / legal stages, and it should be noted that we may be disadvantaged at later stages if we do not.

#### **2.0 Description of Proposal**

- 2.1 Medworth CHP Ltd (the Applicant) is applying to the Secretary of State for a Development Consent Order to construct, operate and maintain an Energy from Waste (EfW) Combined Heat and Power (CHP) Facility on the industrial estate, Algores Way, Wisbech, Cambridgeshire, together with associated grid connection, CHP connection, access improvements, water connections and a 3 temporary construction compound.
- 2.2 The EfW CHP Facility site area is approximately 5.3 hectares, and is located within Wisbech, in the administrative areas of Fenland District Council and Cambridgeshire County Council. It is located predominantly on land currently occupied by a waste and aggregates recycling facility and waste transfer station. However, the south-east section of the site (1.3 hectares) is undeveloped scrubland allocated for development.
- 2.3 The EfW CHP Facility would be designed to allow the export of steam and electricity to surrounding businesses via dedicated pipelines and wire cables located along the disused March to Wisbech railway.
- 2.4 A grid connection route comprises a 132KV electrical connection using underground cables. It would run from the EfW CHP Facility underneath New Bridge Lane, before heading north within the verge of the A47 to the Walsoken Substation on Broadend Road. Much of the cable route and the substation is within the Borough of King's Lynn and West Norfolk.
- 2.5 The composition of residual waste received by the EfW CHP Facility and consequently, the energy generated will vary. However, there is a design limit on the amount of waste that could be processed; this is 625,600 tonnes per year.

- 2.6 Once operational, the facility would be capable of processing waste 24 hours a day, up to 365 days a year. Operational hours for the delivery of waste would be limited to 7a.m. to 8p.m. each day.
- 2.7 The proposal is a Nationally Significant Infrastructure Project as it would have capacity of over 50 megawatts. It therefore requires an application for a Development Consent Order to be submitted to the Planning Inspectorate (PINS). PINS will consider the application and make a recommendation to grant or refuse consent. The Secretary of State will then make the final decision on whether to grant the proposal.
- 2.8 The Planning Inspectorate (PINS) has notified Fenland District Council that the submitted Consultation Report cannot be shared with third parties. This is a decision for the applicant, and is part of the process that the council has no control over. However, previous consultation material is available to view on the Applicant's website: [REDACTED]

### **3.0 Purpose of the Adequacy of Consultation Representation (AoC)**

- 3.1 Under Section 55 of the Planning Act 2008 (as amended) (PA), certain local authorities must be consulted about whether an applicant has complied with their duties under sections 42, 47 and 48 of the Act. These duties are as follows:
- A) Duty to consult – Section 42
  - B) Duty to consult the local community – Section 47 4
  - C) Duty to publicise – Section 48
- 3.2 The Planning Inspectorate's (PIN's) letter dated 8th July 2022 notified the Council of the submission of the application for an Order granting development consent on 7 th July 2022 for the EfW and CHP Facility. The letter invites the Council to submit a representation by Thursday 21st July 2022 relating to the adequacy of the Applicant's pre-application consultation.
- 3.3 The Applicant has undertaken three main stages of pre-application consultation. Two of these are non-statutory consultation, followed by a statutory consultation.

#### **A) Duty to consult – Section 42 – NO OBJECTION**

- 3.4 So far as is relevant to this application, the Applicant must consult the following:
- Such persons as may be prescribed.
  - Each local authority that is within section 43, and
  - Each person who is within one or more of the categories set out in section 44.

- 3.5 Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 provides a list of prescribed consultees required under Section 42 (1) (a) as amended. The applicant has considered this list and has consulted all of the prescribed bodies.
- 3.6 The following parish councils were included in the prescribed consultees list: Elm Parish Council, Emneth Parish Council, Marshland St James Parish Council, Walpole Parish Council, Walsoken Parish Council, West Walton Parish Council and also Wisbech Town Council. The applicant is therefore considered to have carried out its duty in this regard.
- 3.7 It should be noted that additional Parish Council's were included within the wider consultee list, such as Outwell Parish Council and Wisbech St Mary Parish Council.
- 3.8 In terms of consulting Local Authorities, the Applicant has provided a consultation list of the Local Authorities where the proposed development would be located, along with a list of the Local Authorities adjoining these. The compiled list therefore includes Local Authorities falling within Groups A to D as identified under Section 43 (2) of the PA.
- 3.9 In relation to Section 44, the Applicant has identified how they have sought to identify persons with an interest in land, which includes an owner, lessee or occupier of the land, a person interested in the land or has power to sell and convey the land or to release the land. There are not considered to be any issues in this regard.

## **B) Duty to consult the local community – Section 47 – NO OBJECTION**

- 3.10 The Applicant must in summary prepare a statement:
- Setting out how the applicant proposes to consult, people living in the vicinity of the land.
  - Before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.
  - The deadline for local authority's consultation response is the end of the 28 period.
  - In preparing the statement, the applicant must have regard to any response to consultation (above) received before the deadline.
  - Once the statement has been prepared, the applicant must:
    - Make it available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,
    - Publish, in a newspaper circulating in the vicinity of the land, a notice stating where and when the statement can be inspected,
    - Publish the statement in such manner as may be prescribed and
    - The applicant must carry out consultation in accordance with the proposals set out in the statement.

- 3.11 The applicant is therefore required to prepare and publish a statement with regard to how it would consult local people. A Statement of Community Consultation (SoCC) was prepared by the applicant. This was published on 24th June 2021. The statutory consultation took place between 28 June 2021 and 13 August 2021.

The Applicant twice invited the District Council to comment on the consultation strategy and the Council made the following comments:

Aug 2020

- a) With regard to the timing and length of consultations, regard should be had to the dates of town and parish council meetings so as to ensure they have the ability of fully participate
- b) In 5.3, the 'relevant' councils to be consulted should be identified in the document
- c) Should face to face consultation events not be feasible due to covid restrictions, the alternatives should be discussed with an preferably agreed with the local authority
- d) A consultation event should take place at the Rosmini Centre
- e) In the event that the manned consultation events do not take place you should liaise with this council in order to discuss and agree suitable alternatives
- f) At the consultation events people should be supported in submitting their written comments

March 2021

- a) It is considered that it would be helpful to list in an appendix all the organisations that are due to be consulted. Whilst implied that you will be consulting town and parish councils as before, this should be confirmed.
- b) The waste authorities in the region should be identified and be consulted
- c) It should be made clear that in the event that the face to face events can't be held at any of the future statutory consultation stages, the alternative arrangements should be agreed with the stakeholder local planning authorities
- d) The changes that may arise following the publication of the early EIA results should be shared with the stakeholder local planning authorities
- e) Provisions should be made for the discussion of the scope of the DCO with the stakeholder local planning authorities ahead of submission.
- f) With regard to the timing and length of consultations, regard should be had to the dates of town and parish council meetings so as to ensure they have the ability of fully participate
- g) A consultation event should take place at the Rosmini Centre
- h) At the consultation events people should be supported in submitting their written comments

- 3.12 The preliminary results of the Environmental Impact Assessment (EIA) were also published and consulted on as part of the Stage 2 Statutory Consultation. The Preliminary Environmental Information Report (PEIR) and supporting documents set out the environmental assessments undertaken and explained what is proposed. Views were sought on the information contained in the PEIR and its supporting

documents. The council responded to the PEIR following input from its planning committee on the 13th August 2021.

- 3.13 Prior to preparing the SoCC, the Applicant undertook non-statutory consultations with the relevant local authorities within section 43(1) i.e. Borough Council of King's Lynn and West Norfolk, Fenland District Council, Cambridgeshire County Council, Norfolk County Council as well as authorities that bordered these. Stage 1 non-statutory Consultation took place between 16 March to 4 May 2020 and 6 Stage 1B non-statutory Consultation was between 18 September to 29 October 2020.
- 3.14 The authorities were given at least 28 days to respond to the consultations. The applicant considered the feedback given at the consultation stages, which helped inform subsequent stages.
- 3.15 The Applicant has consulted in a variety of ways as detailed here. Two consultation zones were set up through the non-statutory and statutory consultation stages. During the non-statutory stages Zone B included a two kilometre buffer around the potential Grid Connection options. For the Statutory Consultations they were defined as:
- Zone A – includes all properties within a two kilometre radius of the main site boundary and grid connection, plus the full extent of residential areas in Wisbech and Elm. At the start of Stage 2 statutory consultation, invitation flyers notified consultees about the consultation and provided a summary of information about the Project and details of the consultation, including how to get involved and where more information can be found.
  - Zone B – This covered a five kilometre radius of the main site boundary and grid connection. These did not receive direct mail but were notified of the consultation through a combination of online and printed advertisements.

Press release and newspaper adverts were undertaken. These included newspaper advertisements detailing consultation dates, exhibition event dates and Document Inspection Locations. Consultation details were published in the Lynn News, Cambs Times, Eastern Daily Press, Fenland Citizen and Your Local Paper. Two advertisements were displayed in each paper in either/and June/July 2021 for the statutory consultation. Additionally, a press release was issued to various publications and organisations including television and radio operators, and MPs. A project website contains the consultation documents. Hard copies of the documents were located at exhibition venues and document inspection locations. The document inspection locations were in Wisbech, Wisbech St Mary, Marshland St James and Walton Highway. A project email address, phone line and freepost address were set up as part of the consultation process. Posters/banners were used to publicise public exhibition events and document inspection locations, and consultation booklets were produced. Due to the Covid-19 pandemic and associated social restrictions, the public exhibitions proposed as part of Stage 1 non-statutory consultation were postponed. Therefore, an additional stage of non-statutory consultation took place prior to Stage 2 statutory consultation (known as Stage 1b non-statutory consultation). This gave a further opportunity for consultees to comment on the

proposals. Public exhibitions took place during the final statutory consultation in Wisbech, Wisbech St Mary, Walton Highway, Marshland St James, and Friday Bridge. Covid-19 restrictions were in place e.g. social distancing and use of masks. The Applicant's project website also included an interactive exhibition webpage. The Applicant made consultation documents available in large copy print, audio, or Braille on request. Upon request, a translation service made documents available in alternative languages. The exhibition locations used were Disability Discrimination Act (DDA) compliant. Members of the applicants project team were in attendance to facilitate access and assist the public.

- 3.16 The Applicant has explained how they complied with the consultation methods set out in the SoCC. It also highlights where alterations occurred. For instance, the venue times for the exhibition event at Walpole Community Centre had to be altered to enable cleaning at the venue required by Covid 19 health and safety guidelines. The Applicant notified the host local authorities of the change, updated the project website and displayed updated posters at the event. Additionally, due to Covid 19 restrictions and the consequent reduction in customers attending the club, Walton Highway Village Club advised that the opening hours advertised did not match current arrangements. The Applicant notified the host authorities and displayed a poster at the club. The opening hours were also updated on the project website. Although a few amendments took place as set out above, it has been demonstrated there was overall compliance with the consultation methods set out in the SoCC.
- 3.17 The Council responded to the Summer 2021 consultation and a copy of the report agreed by Committee is attached.

#### **Duty to publicise – Section 48 – NO OBJECTION**

- 3.17 The legislative requirement is for the applicant to publicise the proposed application in the prescribed manner and make provision for a deadline for receipt of responses to the publicity.
- 3.18 Details of publications containing the Section 48 notice have been provided. They were published in June 2021 in the:
- Cambs Times
  - Daily Mail (England & Wales and Scotland editions)
  - Eastern Daily Press
  - Fenland Citizen
  - Lynn News
  - London Gazette
  - Metro
  - Your Local Paper

3.19 The Applicant is therefore considered to have satisfied their Section 48 duties by including a deadline for responses to the consultation.

#### **4.0 Wider consultation issues**

4.1 The Council has received a number of representations from local Parish Councils on behalf of their communities, via WisWIN, the Wisbech Without Incineration Community Action Group. It has been noted that some parish councils have canvassed the opinion of their residents as to the quality of the statutory consultation. A number of the points and community concerns raised are summarised in the list below. Please note that the headings have been reproduced directly from WisWIN's report, and as such the wording and views expressed are their own and do not reflect the views of the Council.

- Lack of opportunity for public, two-way discussion during the consultation period;
- Exclusion of Eastern European population from the consultation process;
- The consultation zones did not encompass all the communities that would be severely affected;
- Communities within the agreed consultation zones were ignored

The full report from WisWIN is attached and the Parish Council comments can be found in Appendix 1.

#### **4.0 The Next Steps**

4.1 As noted above the Planning Inspectorate (PINS) is currently seeking consultees' comments on the Adequacy of Consultation for the Medworth EfW and CHP Facility. PINS will have regard to the comments received during the statutory consultation, in their determination over whether to accept the application for Examination.

#### **5.0 Adequacy of Consultation Conclusion**

5.1 PINS is seeking the Council's opinion as to whether the Adequacy of Consultation representation is acceptable. The Council has 14 days to respond to this request.

5.2 Officers consider that no objection should be raised to the Section 42 , Section 47 or Section 48 elements. IT is important to note the views expressed about compliance with these statutory duties will not prejudice the council's objection in principle to the application, or any future views. Local authorities are not being asked for views on the merits of the application at this stage.

**Cllr Chris Boden – Leader and Chairman of Cabinet**

**Fenland District Council**

**21 July 2022**

## APPENDIX 1

### **Wisbech Town Council Concerns over Adequacy of Consultation**

"...the Town Council has deep concerns that the consultation is inadequate. It is unreasonable to expect people with limited understanding of such a proposal or with little/no expertise or technical experience in such matters to read a 3,000 pages document and to be able to provide a meaningful response. A Non-Technical Summary of the development has been provided; however, this fails to include key information which would help to inform consultation responses. It would also appear that conclusions drawn within the reports are superficial and cannot be relied upon, given that significant amounts of baseline data and surveys are missing and reported. This further demonstrates the flaws in the development proposal"

Terry Jordan, PSLCC

Town Clerk

Town Hall

1 North Brink

Wisbech PE13 1JR



### **WizWin Concerns over Adequacy of Consultation**

Dear All,

You will be aware, we attended every location where MVV undertook their consultations and discussed with residents their views after they left the events.

(1) Wisbech has a large proportion of East Europeans where English is not their first language. (We believe it's overall in the region of 10,000 but perhaps FDC can give a more accurate figure?) Waterlees Village, a ward of Wisbech has over 30% as one area alone. So around 1/3rd of the Wisbech town population were not consulted. MVV held a consultation at The Rosmini Centre (which provides advice and guidance and where staff and volunteers are multi-lingual offering support in English, Russian, Lithuanian, Latvian, Bulgarian and Romanian) . As no information was provided in any other language other than English before the event, how were residents supposed to know about the event? We had a pop up stall at the annual Wisbech Rock Festival (attended by many hundreds of local people). We became more aware of the lack of awareness of the project from the East European community during this event.

(2 ) Several Parishes within the agreed consultation zone were not consulted. Letters from some of these parishes responded to my query. I will forward these under separate cover due to the variety of responses.



(3) The consultation failed to explain in adequate detail how MVV would mitigate the damaging impact, this Nationally significant Infrastructure Project, would have on the local community.

a) Roads and infrastructure within and around Wisbech are totally inadequate for a Nationally Significant Infrastructure project of this size and all the lorry movements that come with it and yet no proposals for the construction phase or the operation phase, were included in the consultation to address this.

b) The plant is too large and too proximal to such a small town as Wisbech (the main building would be 30 metres higher than the current highest building in Wisbech, with two chimneys 60 metres higher) and will carry with it a significant negative visual impact on the area. No plans to mitigate this negative impact were included in the consultation.

c) It will have a negative effect on jobs in the area with firms threatening to move away, particularly those food factories as they advise they will no longer meet the standards required by their customers,

(4) The project would generate a significant amount of CO<sub>2</sub> in its lifetime (25 million tonnes) which is in contradiction of Local (County) and National targets to be net carbon neutral by 2050 and yet no detail was given describing what measures would be put in place to capture this carbon or its efficiency in doing this.

( 5) The 2km and 5km zones failed to take into account communities just outside of these zones but who could be dramatically affected by transport issues. Outwell/Upwell and Guyhirn, both communities who would potentially encounter large tranches of these excess HGV movements were not consulted. Emneth, within the zone, was just ignored.

Finally, the project proposal has now been changed by doubling the size of its land size.

Kind regards.

Ginny Bucknor

Campaign Co-ordinator

WisWIN - Wisbech Without Incineration

### **Wisbech Ward Councillor Concerns over Adequacy of Consultation**

As the Ward Member for the site where this is proposed, I would appreciate some comment from me in our response.

The public events, held during a pandemic, were poorly-advertised and clearly took place at a time when many people, particularly elderly people, were worried about leaving their homes.

Regards

Cllr Steve Tierney

### **Wisbech St. Mary Parish Council Concerns over Adequacy of Consultation**

Good Morning Mrs Bucknor,

The Councillors of Wisbech St Mary Parish Council are very concerned about the prospect of this incinerator being built in the heart of the Fens, namely in the idyllic town of Wisbech.

They feel that there has NOT been sufficient consultation, although there has been a public consultation undertaken in the Wisbech St Mary Community Centre, this was not well advertised and therefore not well attended.

There has been no attempt to consult with the Parish Councils and nobody has attended a Parish Council to explain what is happening nor to take into consideration their views.

Can I point out that Wisbech St Mary Parish Council covers the villages of Wisbech St Mary, Guyhirn, Murrow and Thorney Toll. All these villages will suffer from increased traffic on the A47 as commuters and travellers look for alternative routes, which is just one of many concerns.

Kind Regards,

Sarah Bligh

Parish Clerk & RFO Wisbech St. Mary Parish Council

### **Parson Drove Parish Council Concerns over Adequacy of Consultation**

Dear Ginny,

Please see below draft minute extract for you.

Kind regards,

92/22. To agree planning comments and inadequacy regarding the Mega Incinerator planned for Wisbech

The Council deliberated what had been received from MVV or the planning inspectorate, which councillors felt was little to no contact. It was **agreed** that the consultation for the incinerator in Wisbech was not adequate and the Councillors felt they were not properly consulted.

David Boyce  
Parson Drove Parish Council Clerk

### **Upwell Parish Council Concerns over Adequacy of Consultation**

Thank you for enquiring about the level of consultation Upwell Parish Council had about the proposed incinerator in Wisbech. The company did not consult us at all . The only consultation has been from groups opposed to the proposal and our local county councillor.

Dr Paul Williams

Chair Upwell Parish Council

### **Sutton Bridge Parish Council Concerns over Adequacy of Consultation**

Dear Ginny,

My apologies for not replying sooner. I understand from the Planning Inspectorate website that the application has yet to be submitted and is currently expected in this quarter (Q2 2022).

Regarding a lack of consultancy about the mega incinerator development in Wisbech, Sutton Bridge Parish Council (SBPC) was sent a 'courtesy email' 30/06/2021 informing the Council about consultation events taking place in the immediate Wisbech area between 13 July and 22 July 2021.

As it was believed that that the residents of Sutton Bridge would be affected by the development, the Parish Council requested that a consultation event take place in Sutton Bridge and/or that the Parish Council was provided with a presentation about the project.

The Medworth Team replied that they would not hold any more exhibitions than those advertised but would be prepared to make a presentation to SBPC members at a suitable date and time. The Parish Council then offered two nearby dates. if the dates were not convenient the Parish Council stated that it would be willing to accept a video or PowerPoint presentation that could be circulated to members. No proper reply to these suggestions was received from the Medworth Team, only an automatic response relating to the statutory consultation period.

Given that both the request for a consultation event in Sutton Bridge was rejected and that the request for a presentation to councillors (physical or otherwise) was ignored, Sutton Bridge Parish Council believes that there was insufficient consultancy provided to the Parish.

If you would like any further detail, or copies of correspondence relating to the above, please let me know.

Kind regards,

Robert Smith

Clerk to Sutton Bridge Parish Council

### **Clenchwarton Concerns over Adequacy of Consultation**

Good afternoon Virginia

Clenchwarton Parish Council is happy to confirm that the village was not adequately consulted by MVV regarding the incinerator at Wisbech. Parish councillors, reflecting the view of their electorate, are strongly opposed to the incinerator, and believe that the whole village should have been given a much greater chance to put forward their views and ask questions of MVV representatives, given the exceptionally severe health, and other, consequences likely to affect residents.

Yours sincerely

Judith Taylor

Acting Clerk to the Council

### **Walsoken, West Walton and Walpole Ward Cllr Concerns over Adequacy of Consultation**

*Thank you for your email.*

*The Planning Inspectorate is required to notify all Host Authorities that the application for the MVV EfW CHP Facility has been submitted and gives 14 days for the Host Authorities to comment on whether they consider the community consultation undertaken is adequate. To date, no such consultation has been received. However, once received, the Council will make a thorough assessment of the statement of community consultation which will be presented to and considered by Planning Committee and final comments will be submitted to the Planning Inspectorate within the 14 day period. Notwithstanding this, I draw your attention to the Council's Notice of Motion of 25<sup>th</sup> February 2021 which clearly states:*

- 1. This Council recognises the democratic mandate given to it by the people of West Norfolk in their overwhelming opposition to the King's Lynn incinerator proposal. In keeping with this position and in recognition of this Council's principled opposition to that scheme, this Council does not support the construction of a waste incinerator in*

*Wisbech.*

- 2. This Council supports Wisbech Town Council, Fenland District Council and Cambridgeshire County Council in their stated opposition to the Wisbech waste incinerator.*
- 3. That in doing so we do not negate the need for a technical or planning response, that we will make to the Secretary of state as part of the formal consultation process.*

*I attach the link to the minutes for ease: <https://democracy.west-norfolk.gov.uk/documents/g4435/Public%20minutes%2025th-Feb-2021%2016.30%20Council.pdf?T=11>*

Regards

Councillor Richard Blunt

Walsoken, West Walton and Walpole Ward

### **West Winch Concerns over Adequacy of Consultation**

West Winch PC is very surprised to suddenly find that there are plans for an incinerator in Wisbech. We have not heard anything from your planning department.

We would like to be formally consulted as we are not many miles away from the proposed site and we do have strong views regarding this matter.

Not giving parish council's the opportunity to reply to formal consultations would be ridiculous.

We look forward to our formal consultation letter or written reasons as to why we will not be consulted.

Regards

Mrs Sarah Watts

Clerk to West Winch Parish Council

### **Lack of Consultation Event South Lynn & South Lynn**

Dear Ginny,

South and West Lynn ward has no Parish Council, it is unparished and is part of King's Lynn.


I can confirm it had no consultation from MVV.

I asked MVV to hold consultation events in the Community Centre in South Lynn and West Lynn but they refused.

Alexandra.

County Councillor Alexandra Kemp

County Division: Clenchwarton and King's Lynn South

Agenda Item No:	4	
Committee:	Planning Committee	
Date:	11th August 2021	
Report Title:	<b>Statutory Consultation F/YR21/4002/LACON Energy from Waste (EfW) and Combined Heat &amp; Power (CHP) facility, Algores Way, Wisbech</b>	

## 1 Purpose / Summary

The purpose of this report is to consider the consultation material that has been submitted to the Council in relation to the forthcoming application for an Energy from Waste (EfW) and Combined Heat & Power (CHP) facility and return comments to the applicant.

## 2 Key Issues

The development is of a nature and scale such that it will be determined by the Sec of State through National Strategic Infrastructure Project Process. The Council is a consultee in the process. The consultation is the first statutory consultation in the process. We have been invited to comment on the Preliminary Environmental Information Report produced by the applicant. The Council needs to submit its comments to the applicant by 13th August 2021.

## 3 Recommendation

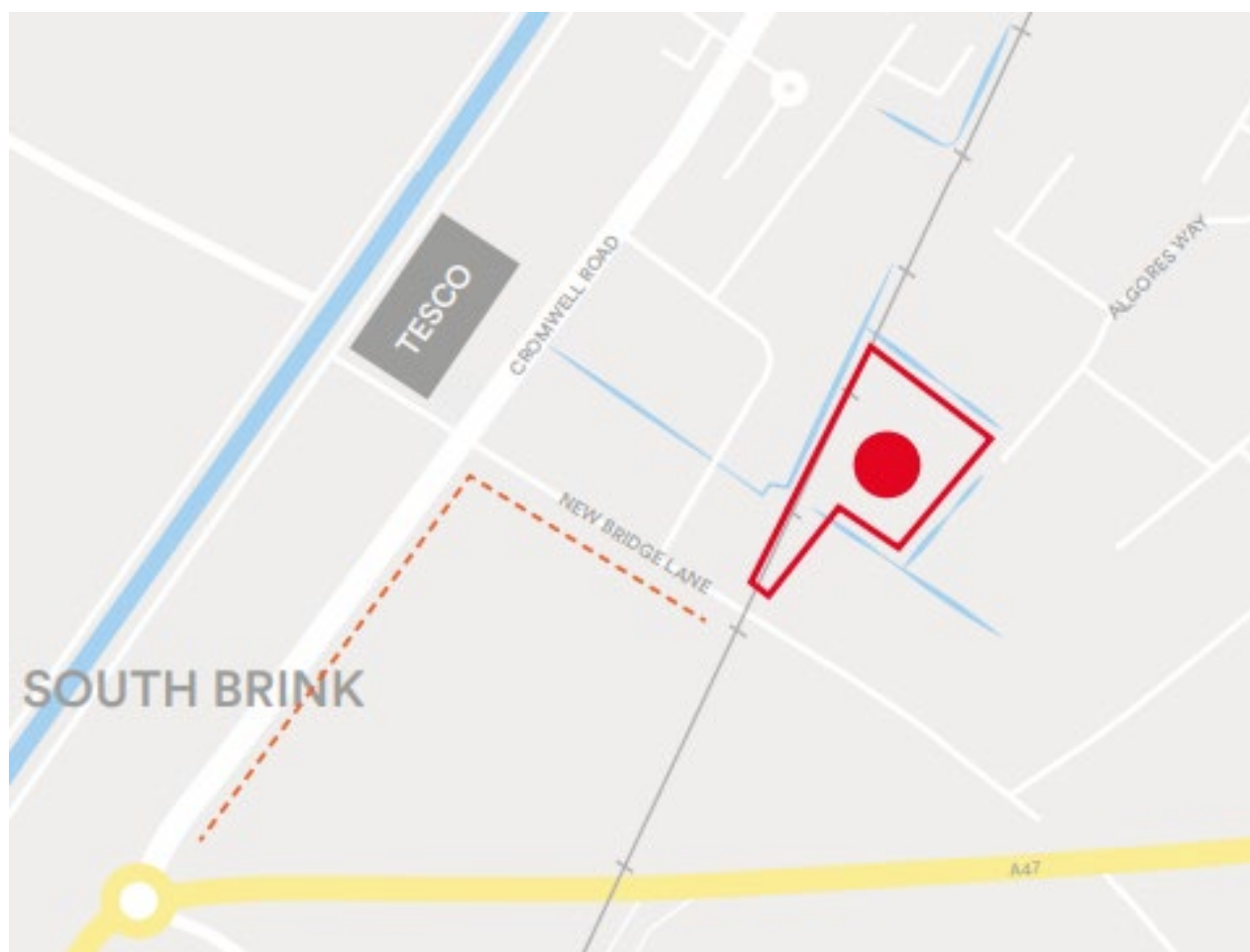
That the comments in section 5 of this reported be submitted to the applicant in response to the consultation.

<b>Wards Affected</b>	All, but in particular all wards in Wisbech. The proposed development is in Medworth ward,
<b>Forward Plan Reference</b>	Not applicable
<b>Portfolio Holder(s)</b>	Cllr Mrs D Laws - Portfolio Holder for Planning Cllrs Seaton - Portfolio Holder for Social Mobility & Heritage Cllr Benney - Portfolio Holder for Economic Growth
<b>Report Originator(s)</b>	Sheila Black & Nick Harding
<b>Contact Officer(s)</b>	Nick Harding, Head of Planning
<b>Background Paper(s)</b>	<span style="background-color: black; color: black;">[REDACTED]</span>

## 4 Introduction

There is a proposal for an Energy from Waste (EfW) and Combined Heat & Power (CHP) facility to be located in Wisbech. Because the output of the facility is proposed to be in excess of 50MW, the proposal is not one that is determined by the County Council or District Council. Instead, the proposal will be determined by the Secretary of State through the Nationally Significant Infrastructure Projects (NSIPs) process as established under the Planning Act 2008. If the Secretary of State allows the development this will be through a 'Development Consent Order' (DCO). The DCO, as well as 'giving planning permission', can authorise the compulsory purchase of land that is needed in order for the development to be implemented.

The proposed DCO would authorise the construction, operation, maintenance and decommissioning of an Energy from Waste (EfW) Combined Heat and Power (CHP) Facility at the industrial estate, Algores Way, Wisbech, Cambridgeshire (the "Proposed Development"). The Proposed Development also includes a CHP pipeline, a 132kV electrical grid connection and access improvement works. The Proposed Development would be capable of handling up to 625,600 tonnes of waste per annum and aims to generate up to 53MWe of electricity(net) and up to 50MWth of usable steam (heat) energy.



Because of the scale of the proposal, it is subject to the Environmental Impact Assessment Regulations. The aim of an Environmental Impact Assessment is to protect the environment by ensuring that the decision maker, when deciding whether to allow a project to go ahead, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision-making process.



The NSIP process is broken down into the following stages and we are currently at pre-application stage:

**Pre-Application** - The development consent regime is a front-loaded process. This means the development proposal has to be fully scoped and refined before the submission of an application to the Planning Inspectorate. It is at this stage that the applicant must formally consult with all statutory bodies, local authorities, the local community and any affected persons.

**Acceptance** - It is at this point that the Planning Inspectorate moves to the heart of the process. The Application is formally submitted by the applicant to the Planning Inspectorate. The Inspectorate then decides whether all relevant documentation has been submitted to enable the application to proceed. If the application is accepted then the process moves to the next stage.

**Pre-examination** - The applicant publicises that the application has been accepted by the Planning Inspectorate and enable people/organisations to register to get involved in the Examination as Interested Parties. Also, the Planning Inspectorate, an Inspector, or panel of Inspectors, will be appointed as the Examining Authority. A Preliminary Meeting will then be held to discuss procedural issues and the timetable for Examination which will then be published.

**The Examination** - It is at this stage that the Examining Authority examines the application and the Examination must be completed within six months. The Examination is primarily conducted through written representations; however, hearings can also be held. These will normally be conducted in an inquisitorial manner.

**Recommendation and Decision** - During this stage the Examining Authority has three months to write its recommendation and submit it to the Secretary of State. The Secretary of State makes the final decision for all NSIPs. The Secretary of State has three months to make its decision whether or not to grant consent.

**Post Decision** - This provides a six-week window for the applicant, any of the Interested Parties, or indeed anyone else to legally challenge the Secretary of State's decision.

Given the NSIP process as outlined above, although the development is primarily located within Fenland District, the Council is, in effect, a consultee in the process. It should be noted that as the current proposal spans Cambridgeshire and Norfolk there are three other 'host' authorities (Cambridgeshire County Council, Norfolk County Council and the Borough Council of King's Lynn and West Norfolk) involved in this NSIP project. All four 'host' planning authorities have undertaken to work together as far as possible to ensure full scrutiny of this project is undertaken. Cambridgeshire County Council is taking a lead on several work stands given its waste planning function.

On the 23 June 2021 Medworth CHP Ltd sent FDC a formal notification (by special delivery) that our statutory consultation for the proposed development will commence and provided FDC with an opportunity to review and comment on their Preliminary Environmental Impact Report. This statutory consultation exercise is carried out pursuant to section 42 of the Planning Act 2008 ("the Act"). FDC has been identified as a consultee for the purposes of section 42 of the Act and/or Regulation 13 of the EIA Regulations. The consultation period commenced on 28 June 2021 and closes on 13 August 2021.

A Preliminary Environmental Information Report has been produced which contained preliminary information about the likely significant environmental effects of the development together with a non-technical summary of that information. The applicant is currently undertaking further environmental studies and assessment and a full environmental statement will be produced and submitted with the DCO application.

The purpose of the Preliminary Environmental Information Report (PEIR) is for consultees to understand the likely environmental effects of the development and help inform consultee responses.

The consultation material is available to view here:



The documentation covers a wide range of topics including:

- Alternatives to the proposal
- Traffic and Transport
- Noise and Vibration
- Air Quality
- Landscape and Visual Impact
- Historic Environment
- Biodiversity
- Hydrology
- Geology
- Climate Change
- Socio Economic Impacts
- Health

The following internal consultees have been identified to comment on the PEIR:

- Fenland Transport Team
- Environmental and Health Team
- Conservation Officer
- Business and Economy Team
- Valuation and Estates Team
- Wildlife Officer PCC

As the work on the potential impacts of the proposal are still being worked on by the applicant, FDC are making a technical response to identify any gaps or shortcomings in the information gathered so far. This approach does not weaken the position of the Council in its ability to object to the proposal in due course should this be the view of the Council's Planning Committee at the next stage of the consultation process.

## **5 CONSULTATION RESPONSES**

### **i) Fenland Transportation Team**

In order for the Fenland Transport Team to make meaningful comments, it is considered that they will need to see the detail in the Transport Assessment. Whilst the methodology and process for the transport work seems to be in order from a governance and highway authority perspective, it is the details contained therein that is needed to fully understand the impacts. Concerns are raised about the levels of vehicles on routes that already have high volumes of traffic which is also likely to lead to impacts on air quality as well.

However, the following comments are made:

- a) It is noted that there has been significant discussion with the Local Highway Authorities and Highways England in respect of methodology and process. It is expected that such consultation will continue throughout the whole process. It is all noted that comments made by Cambridgeshire County Council in their scoping note response are being considered/addressed.
- b) The Travel Plan, the Public Rights of Way Management Plan and the Transport Assessment will all be prepared for the DCO application. It is essential for us to review and comment upon these documents in order to more fully understand the impact(s) of this proposed development.
- c) The scope of the construction period sets out use of New Bridge Lane, Weasenham Lane, Elm High Road, A47 and Churchill Road. Whilst it is acknowledged that these roads are primary routes into Wisbech from the south, they are also busy and often congested routes. The construction phase shows significant levels of traffic including HGVs at certain times. There is concern about the possible impacts of this additional traffic. A 36-month construction phase is a significant period of time with such additional traffic. Further information including up to date traffic data/surveys and a full transport assessment and travel plan are needed to better understand the full impacts of any proposed construction phase and also operational phase impacts.
- d) The suggestion made by Cambridgeshire County Council in their scoping note comments about not routing HGVs down Elm High Road due to residential development in the vicinity is supported. It is noted that MVV has now accepted this proposal. This decision does though place greater emphasis on traffic along Cromwell Road. The Wisbech Area Transport Study modelling work highlighted significant issues and the need to upgrade Cromwell Road in future years. This includes the area between A47/Cromwell Road roundabout and New Bridge Lane. It is suggested that a more detailed assessment of the impact of this proposed development on Cromwell Road and including the entrance to New Bridge Lane is needed as part of the transport assessment.
- e) Regarding preferred options it is noted that the development is suggesting upgrades to New Bridge Lane. Cambridgeshire County Council has stated that their preference is through the use of Algores Way. Both options need to be assessed in more detail to fully understand any impacts. A proposal to route down Algores Way will also impact Weasenham Lane another busy route providing an opportunity for east – west travel. It is important to understand the impact of any such route on Weasenham Lane. New Bridge Lane is narrow and it is suggested that some upgrades would probably be needed should this be the preferred option. A detailed assessment will be needed on this also to clarify the impact of any upgrades and whether this is enough to accommodate the proposed volumes of traffic to and from the site.

**ii) Fenland Environmental Health Team**

The EH team reviewed the following Chapters of the Preliminary Environmental Information Report (PEIR) - as accessed via the [REDACTED]

[REDACTED] link on 7th July 2021 :

Chapter 3 – Description of the Proposed Development (Final Version Dated June 2021)

Chapter 7 – Noise and Vibration (Final Version Dated June 2021)

Chapter 8 – Air Quality (Final Version Dated June 2021)

and following a meeting with representatives from MWV and Wood Group on 23 July 2021 make the following comments:

Noise

Chapter 7 – Noise and Vibration

The following comment relates to page 12 of Chapter 7 and in particular the comment is in relation to the Control of Noise at Work Regs 2005 which the EH team considers are not relevant in this context as set out below:

As discussed with Patrick Hoyle and Giles Hine on 23rd July 2021, The Control of Noise at Work Regulations 2005 are intended to ensure workers hearing is protected from noisy activities at their place of work - not to assess potential noise impacts from an external noise source at industrial /commercial receptors.

These regulations are not relevant in this context.

If noise impacts are to be assessed at nearby industrial / commercial receptors, it would be more appropriate to consider a hybrid approach using BS 4142 and the application of relevant limits as prescribed by the World Health Organisation - and / or BS 8233.

It is acknowledged that BS 4142 does not apply to industrial / commercial receptors - however, in the absence of any other specific guidance, the hybrid approach mentioned above would provide an assessment which is as representative as possible in accordance with established guidance and limits.

The following recommendation is to include a further British Standard in the list contained within Table 7.7. on page 19:

Table 7.7. - As discussed with Patrick Hoyle and Giles Hine on 23rd July 2021, confirmation required that "BS 8233:2014 - Guidance on Sound Insulation and Noise Reduction" should be added to this list.

Page 21 of the document states that construction noise will be assessed under DMRB LA 111 and the EH team has agreed with MWV that Construction Noise and Vibration will be assessed in accordance with BS5228 as set out below:

Para 7.4.3 - Whilst DMRB LA 111 sets out requirements for assessing and reporting effects of highways noise and vibration from construction, operation and maintenance

projects, the relevance of the "Study Area" content of this guidance was discussed in detail with Patrick Hoyle and Giles Hine on 23rd July 2021 - and is acceptable.

For the avoidance of doubt, Patrick and Giles also confirmed that the Construction Noise and Vibration aspects of the project would be assessed in accordance with BS5228 - and not DMRB LA 111.

Page 24 of the document contains a statement relating to outstanding baseline requirements for further noise and vibration assessments and the EH team consider further content should be added to that note as set out below:

Table 7.9 - Confirmation to be inserted that author has reviewed the joint ANC / IoA Guidance note re: covid and that that the approach is consistent with the content of that guidance note.

Fenland District Council hold current traffic data as part of wider work currently being undertaken in relation to establishing what is the likely to be the "new normal" following the pandemic - and this data can be requested by the Author to inform future baseline assessment.

Page 25 and 26 of the documents contains statements relating to desk-based reviews of the Grid connection and the EH team make the following comments:

Paras. 7.5.7; 7.5.8 and 7.5.9 - The reference here to "desk-based review" implies that a formal review has been undertaken.

Discussion with Patrick Hoyle and Giles Hine on 23rd July 2021 confirmed that no formal review has been undertaken - and to avoid further confusion, this section would be better worded to make it clear that this was a consideration of relevant data available - rather than an actual formal review.

In Table 7.18 on page 38 'Summary of the embedded environmental measures and how these influence the noise and vibration assessment' – the phrase 'Where possible' is used and the EH Team considers that this phrase should be reworded as set out below:

Table 7.18 - As discussed with Tim Marks on 23rd July 2021, the words "where possible" are understood to mean "in the event of an emergency" - as the capability for undertaking activities outside of these hours if needed is provided in the following sentence stating that "works will be agreed in advance with the relevant Planning Authorities".

This would benefit from being re-worded to provide greater clarity.

Pages 39, 41 and 43 of the document states that construction noise will be assessed under DMRB LA 111 and the EH team has agreed with MWV that Construction Noise and Vibration will be assessed in accordance with BS5228 as set out below:

Paras. 7.8.3; 7.8.11; 7.8.22 - As discussed with Patrick Hoyle and Giles Hine on 23rd July 2021, The Control of Noise at Work Regulations 2005 are intended to ensure workers hearing is protected from noisy activities at their place of work - not to assess potential noise impacts from an external noise source at industrial /commercial receptors.

These regulations are not relevant in this context.

If noise impacts are to be assessed at nearby industrial / commercial receptors, it would be more appropriate to consider a hybrid approach using BS 4142 and the application of relevant limits as prescribed by the World Health Organisation - and / or BS 8233.

It is acknowledged that BS 4142 does not apply to industrial / commercial receptors - however, in the absence of any other specific guidance, the hybrid approach mentioned above would provide an assessment which is as representative as possible in accordance with established guidance and limits.

Page 3 of the Technical Report relates to Proposed Noise Surveys and para. 2.1.3, 2.1.13 and in particular relates to backup locations for monitoring locations and a query has been raised by the EH team as below:

Para. 2.1.3 - Backup / alternative monitoring locations have been identified for some, but not all of the proposed monitoring locations – with no apparent rationale behind why some but not others.

It would appear logical to provide alternative monitoring locations to all, to ensure potential delays associated with granting of permission are avoided during future development of the project.

Para. 2.1.13 - Backup / alternative monitoring locations have been identified for some, but not all of the proposed monitoring locations – with no apparent rationale behind why some but not others.

It would appear logical to provide alternative monitoring locations to all, to ensure potential delays associated with granting of permission are avoided during future development of the project.

In addition, level of detail provided re ST6, ST8 location description is not consistent with other monitoring locations proposed - this should be expanded to provide greater clarity.

To be amended to read :

"Noise measurements will be undertaken by personnel who hold the Institute of Acoustics Certificate of Competence in Environmental Noise Monitoring, as a minimum.

Subsequent analysis and reporting of this data shall be overseen and peer reviewed by personnel who hold corporate Membership of the Institute of Acoustics (MloA) "

The following paragraphs on page 6 of the Technical Report relate to Data Collection Methodology and in particular noise measurements

Para. 2.2.1 and 2.2.3 - Change to :

"Noise measurements will be undertaken in accordance with the relevant British Standards (including BS 4142:2014+A1:2019 Methods of rating and assessing industrial and commercial sound, BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Part 1: Noise5, and BS 7445 – Description and Measurement of Environmental Noise).

Meteorological logging stations will be installed over the survey period at locations representative of the long-term monitoring sites which will log wind speed, wind direction and precipitation. This information will be used in the analysis of the noise data to ensure that only data collected under appropriate and representative weather conditions is included in any assessment."

Para. 2.2.5 on page 7 of the Technical Report is recommended to be reworded as follows:

Para. 2.2.5 - Change to "for not less than 5 days (including a weekend), at relevant locations as agreed in advance in writing with the host Authorities".

Para. 2.3.1 on page 7 of the Technical Report is recommended to be reworded as follows:

Para. 2.3.1 - Replace with "The reporting of all data will be undertaken in accordance with the relevant technical guidance."

Para. 2.4.2 on page 8 of the Technical Report is recommended to be include additional text as set out below:

Para. 2.4.2 - Change to "agreed in writing with the host Authorities in advance"

The EH Officer has concluded in respect of Chapter 7 as below:

I would recommend that the applicant is requested to undertake the amendments as suggested in the report – all of which I discussed with representatives from MWV and Wood Group on 23rd July 2021.

Air Quality

Chapter 8 - Air Quality

The following comment from the EH Officer relates to Chapter 8 of the PEIR:

In relation to air quality, I note the comments submitted by Air Quality Consultants Ltd (AQC) in their July 2021 document entitled “Air Quality Review: Medworth Energy from Waste CHP Facility – Review of Preliminary Environmental Information”.

Notwithstanding these comments, of particular interest to Fenland District Council is the potential for dust / odour emissions from the proposed facility to result in complaints being received concerning alleged statutory nuisance.

In relation to Chapter 8 of the PEIR, it is noted that:

Appendix 1A of Chapter 1 confirms the relevant competencies of the author of the report:

“normal” operating conditions inherently includes operational processes which would mitigate the risks of any potential dust / odour emissions. These processes are detailed in Chapter 3 of the PEIR - and also 8.6.44 and 8.6.45 – resulting in dust / odour being scoped out of this assessment:

the potential for dust / odour emissions would be regulated further through the enforcement of the Environmental Permit mentioned in 8.6.45 – including the submission of an Odour Management Plan, as a requirement of the Environmental Permit:

dust / odour will be assessed further in the context of “abnormal” operations

In addition to the above, discussions were held with representatives from MVV and Wood Group on 23rd July 2021 - relating to the potential external storage of odorous material. These discussions confirmed that, even in “abnormal” operations, there would be no need to store material outside - as the internal storage capacity is more than sufficient.

Notwithstanding content which might be required by the Environment Agency (or to demonstrate compliance with the relevant technical guidance), it is recommended that the Odour Management Plan should include:



details of the operational/mitigation measures in place during "normal" as well as "abnormal" operating conditions:

confirmation that all vehicles delivering / removing material from the site will be sheeted at all times:

details of how any complaints received by the operator will be recorded and investigated

Again, this was all discussed with representatives from MVV and Wood Group on 23rd July 2021.

The comments above do not result in an objection to the PEIR but more importantly sets out how the document should be improved and amended to ensure the proper consideration of noise and air quality during the construction/operation of the Plant.

### iii) **Fenland Conservation Officer**

The Historic Environment Chapter appears to be comprehensive and contains a thorough and realistic assessment of the potential impact on the setting of identified heritage assets within Fenland, especially given the concentration of existing industrial units and factories in this area.

However, there are two points about which need clarification. First is an understanding of what infrastructure or building will be constructed at the termination of the CHP Connection. This site is directly behind the Nestle Purina factory off Coalwharf Road and therefore much closer to any affected heritage assets than the main plant site off New Bridge Road/Algores Way.

This site and its impacts need clarifying. Indeed, at this stage there are no clear indications of the visual appearance of the main plant building, or assessment of the height of the chimney against existing buildings, in order to begin to assess the visual impact on the heritage assets.

Secondly, the maps indicating the ZTVs are not entirely clear, or they do not reflect what is purported from the document in terms of visibility. Large areas of visibility of both the chimney and the building appear to be indicated from the north of Wisbech Conservation Area, views of the Chimney from Bowthorpe Conservation Area) (Figure 10.3) as well as views of the chimney and building from the east of Elm Conservation Area (Figure 10.4), and yet the conclusion put forward in the document is that the visual impact will be virtually negligible from within these areas. It should not follow therefore, that there are large areas of visibility from outside these conservation area boundaries. Perhaps the figures showing ZTV could indicate a level of additional impact from the proposal, given the context of industrial buildings mentioned above.

A series of photo montages, of key vantage/viewpoints would help clarify the impact of the views towards the proposed development site, from affected assets.

One further point to consider, is that the Historic Environment chapter does not appear to address in any way, the impacts of smell, noise or other pollution on the settings of identified assets. These intangible side effects can have as much, if not more impact, than a visual impact. It is understood that these elements have been addressed under other chapters, but a summary should be included in this chapter, in terms of their impact on the setting of heritage assets.

#### iv) Fenland Business & Economy Team

##### Medworth Statutory Consultation Booklet

Pg9 – shows the proposed site contained wholly within the ownership of the existing landowner/site promoter, yet on the subsequent pages of this document (pg10,12-15), the site proposal includes land within the ownership of Fenland District Council (infill section to the south-eastern corner) – There is no intention or commitment from Fenland District Council to willingly include land it owns within the proposed scheme – this is misleading and suggests that the land ownership is already assembled in order to deliver this proposal, it is not.

Pg10-11 – the massing of the proposed development is incongruous with the surrounding built environment & landscape. The proposed built mass is enormous and does not sit comfortably when viewed from any of the surrounding landscape angles. The proposed chimneys are visually imposing and are likely to be viewed from many miles away. The chimneys have a significant negative impact on the characteristics of the surrounding fen landscape.

Pg12 – the potential impact from installing 'CHP' infrastructure along and adjacent to the former Wisbech to March rail track route is likely to render the re-opening of this line impossible. Despite assurances from the consultation booklet, working within and alongside any current 'live' rail infrastructure (in use or otherwise – the track bed here is considered a 'live' asset) is littered with challenges. It is expected that Network Rail would not support any activity in such close proximity to the railway asset.

Pg13 – the proposed routes to the electricity sub-station at Walpole would further pepper the landscape with underground cables and a significant 'run' of overhead power lines. The open fen countryside and landscape, famed for its broad horizon's, would be further impacted visually by obtrusive overhead power lines.

Pg14 – shows a proposed layout plan, which again includes land in the ownership of Fenland District Council. There is no agreement for Fenland District Council's land to be included within the proposed development. This seems to demonstrate that the scheme cannot be accommodated on the existing site footprint as assembled by the site promoter. The access onto New Bridge Lane at this location is limited by the width of the highway and further restricted by the closed level crossing adjacent to the site entrance.

Pg15 – a further image of the access land, which shows additional Fenland District Council land required for the scheme – this is the third different plan showing the extent of the site footprint. Within the document, the succession of land requirements grows 'page by page'. To repeat earlier comments, no Fenland District Council land has been approved for inclusion within this scheme and the fact that it is shown that way is both mis-leading and disingenuous.

Pg16-17 – where will the waste come from? It could be from west/mid Wales to the south coast of England. With this proposal, Wisbech risks becoming a 'dumping ground' for waste materials. In a lucrative waste disposal business, other local authorities, public and private businesses will be paying handsomely to have their waste products disposed of. The increased vehicle movements bringing waste products into Wisbech from the surrounding counties will have a major impact on the air quality and general quality of life of people living in the Town, that is even before the processing of the waste, which will generate pollutants which will be blown into the surrounding environment.

Pg20 – In use the plant will generate an estimated 362 large waste vehicle movements per day, between the hours of 7:00am and 8:00pm, that is an average of approximately

28 vehicle movements an hour or approximately 1 vehicle movement every 2 minutes. A plant of this scale, being served by such a volume of waste needs connections directly onto major 'A' road, not via a local road network as is proposed. The volumes of traffic generated will produce significant pollutants.

Pg22 – Community benefits? It is not considered that the proposal benefits anybody from the local community. Even a sizeable S.106 contribution could not 'make good' on the permanent and ongoing disadvantages of having this plant located at the proposed location in Wisbech. The plant will make little positive impact on the local community, it will generate few jobs, whilst processing the waste of others from many miles away and generate significant profits for the operators, whilst giving virtually nothing back to the community it purports to protect.

### Chapter 3 Description of the Proposed Development Figures

Pg29 – Shows the proposed layout of temporary storage, office and parking facilities on adjacent, Fenland District Council owned land (east of the main site). Fenland District Council object to the use of its land being used in support of this application. There is no intention or commitment from Fenland District Council to willingly include land it owns to aid the proposed scheme – this is misleading and suggests that the land required to facilitate the construction of this development is already assembled, it is not.

### Chapter 6 Traffic and Transport Figures

General observation - The surrounding road infrastructure serving the proposed site is not fit for purpose. Additional heavy goods vehicle movements are likely to cause significant disruption to the surrounding road network, mixing additional freight traffic with commuter/domestic traffic and the proposed heavy traffic is likely to do untold damage to the existing highways in the general area. It is also likely to cause significant disruption to the surrounding road network and to the operations of the existing local businesses including receiving and sending goods and materials and the ability of employees accessing their places of work. This proposal is simply in the wrong place – too close to existing homes, schools and businesses and too remote from the grid connection that it hopes to serve.

Pg29 – The plan on this page shows the proposed access into the site from AL gores Way. AL gores Way is a private roadway at this location, owned by Fenland District Council, to repeat earlier objections, there is no intention or commitment from Fenland District Council to willingly include land it owns to aid the proposed scheme.

### Chapter 9 Landscape and Visual Figures

Please see my comments above

### Tourism and Recreation

Wisbech attracts visitors who value its culture, outstanding heritage and the built environment. The proposal detracts from this offer both in terms of its negative visual aspect and perceived risk to health and hence would negatively impact upon the number of visitors.

## **V) Fenland Wildlife Officer**

It should be noted that as of 23 July 2021 the ecological surveys for the proposed development had not been completed and therefore it is not possible to fully comment on whether the proposed avoidance, mitigation and compensation contained within the PEIR aligns with National and Local Policies.

Previously on 25 March 2021 a meeting was held between the LPA stakeholders and Medworth CHP Ltd ecological representation to inform Chapter 11: Biodiversity for the PEIR and the content of these discussions have been included within table 11A.1 and 11A.2 and responded to appropriately.

The comments of the Wildlife Officer are set out below:

Overall, the PEIR is well constructed and extensive in its scope covering every aspect of the proposal in details and broken into relevant partitions. At this moment in time with the survey work still ongoing and all comments made appropriately responded to there is no further comment I wish to make as I am unable to determine the impacts of the proposal.

## **6 CONCLUSION**

The above comments are from Fenland District Council internal consultees following a consultation exercise to gain their views on the contents of the Preliminary Environmental Impact Report which will form part of the MWV's submission of the Development Consent Order to the Planning Inspectorate.

As set out in the introduction above, the response of Fenland District Council to the applicant will form part of the pre-application stage of the overall process whereby the applicant (MVV) has a duty to formally consult with all statutory bodies, local authorities, the local community and any affected persons.

Therefore, with the Planning Committee's agreement, the above responses will be forwarded to the applicant to comply with the pre-application stage of the statutory consultation process.

# Medworth incinerator proposals

## High level review of consultation material

### 1. Background

This paper summarises the findings of a high-level review of the consultation material produced by MVV Environment in respect of the Medworth Incinerator proposals.

### 2. Executive summary

A review of the Medworth consultation material has concluded that:

- The consultation is premature and not of an appropriate quality

MVV is not following good consultation practice for a Nationally Significant Infrastructure Project (NSIP). The single stage of formal consultation is premature and does not meet the legislative requirements, particularly in respect of the Preliminary Environmental Information Report (PEIR), which is incomplete.

A further round of formal consultation will be required to ensure that all stakeholders are fully informed, and that information previously requested by them can be fully considered and responded to.

- The project does not comply with key elements of policy, including the National Policy Statements for Energy, the National Planning Policy Framework for waste and the UK's adopted Sixth Carbon Budget recommendations.
- The limited benefits of the project, coupled with its non-compliance with planning and climate change policies, are such that the project is unlikely to obtain consent.

This view is supported by the Secretary of State's recent decision to refuse consent for the Kemsley North Waste-to-Energy Development Consent Order (DCO), in concurrence with the Planning Inspectorate's recommendation. The examining authority for the DCO application comprehensively considered the policy framework, the need for that incinerator project and alternatives to the proposal and found an absence of robust arguments to support the new plant, together with an absence of need for its location.

### **3. Introduction**

MVV Environment ("MVV" or "the developer") is proposing to develop a new Energy from Waste (EFW) Combined Heat and Power (CHP) facility generating electricity and steam on land at Algores Way, Wisbech ("the Project").

By virtue of its notional electrical capacity the developer believes that the project constitutes a nationally significant infrastructure project (NSIP) for which a Development Consent Order (DCO) is required under the Planning Act 2008.

Part of the requirement of the DCO process is comprehensive front-loaded consultation. Lucent Energy has carried out a review of the consultation material produced by MVV in respect of its single statutory consultation exercise, carried out between 28th June and 13th August 2021.

### **4. Scope of review**

Lucent's high-level review has included the 19 chapters of the Preliminary Environmental Information Report (PEIR) provided by MVV as part of the consultation process together with associated consultation documents, including the Draft Waste Fuel Availability Assessment. These documents have been reviewed in the context of the relevant national planning and waste policies, with a focus on the key areas of waste management, carbon emissions, good design, traffic and transport and air quality.

### **5. Findings of high-level review**

The findings of the high-level review fall under three main categories, namely:

- That the current formal consultation process is both inadequate and premature, failing to meet key requirements of the Development Consent Order process
- That the project proposals are contrary to the National Policy Statements and the national policy framework for waste
- The limited benefits of the project do not outweigh its adverse effects and therefore, given non-compliance with policy, the project is unlikely to be consentable in its current form at the proposed location.

These three categories are discussed in more detail in sections 6-8 below.

### **6. Premature and inadequate consultation**

The current consultation is both inadequate and premature. Many important elements of the project remain unclear or undecided. The consultation does not meet good practice or the requirements of the

relevant legislation and the PINS guidance. The developer has not met the undertakings made in its Statement of Community Consultation (SOCC).

The guidance<sup>1</sup> on the DCO pre-application process states that consultation should be:

- *based on accurate information that gives consultees a clear view of what is proposed including any options;*
- *shared at an early enough stage so that the proposal can still be influenced, while being sufficiently developed to provide some detail on what is being proposed; and*
- *engaging and accessible in style, encouraging consultees to react and offer their views.*

None of these good practice criteria have been met by the developer's consultation documentation. As described below the documentation contains inaccurate information, is missing key details of what is being proposed and stylistically, is complex, dense and inaccessible.

Additionally, the developer has not complied with its own consultation requirements set out in the Statement of Community Consultation (SOCC), as agreed with the local authorities. The stated objectives of the SOCC, including to provide "*clear and concise technical and non-technical information*", have not been met.

Furthermore, the requirements of PINS Advice Note 7 and particularly Section 8 "*The Role of Preliminary Environmental Information*" have not been met. Preliminary Environmental Information (PEI) must include information which is "*reasonably required by consultation bodies to develop an informed view of the likely significant environmental effects of the development (and of any associated development)*", but this requirement has not been met.

These omissions and errors are described further below, as follows:

## **6.1 Incomplete project description**

The project description is incomplete, providing only cursory detail in respect of the works at the proposed substation locations; no dimensions of substation work has been provided, there is no description of the apparatus, the substation construction / installation details are absent and, in the case of "TCC4", the location of a construction compound is yet to be decided. These are significant elements of the project and cannot be omitted from the Preliminary Environmental Information (PEI) and deferred until the publication of the environmental statement (the approach proposed at page 11 of the project description). This is particularly the case because the Environmental Impact Assessment (EIA) Regulations specifically require the PEI to include consideration of associated development and the need for all the above information was highlighted at paragraph 2.2.6 of the Scoping Opinion. It is unclear why it has been omitted from the PEI.

The developer's treatment of the grid connection is confusing, particularly given its commitment (Planning Inspectorate note of 6th July 2020) to include the electrical connection in the Development Consent Order application. The absence of a final decision on the grid connection reinforces the

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<sup>1</sup> <https://www.gov.uk/government/publications/guidance-on-the-pre-application-process-for-major-infrastructure-projects>

prematurity of the consultation – the developer is simply not yet able to consult fully on the project. The decision on the grid connection has been awaited since at least October 2019 (see Planning Inspectorate’s note of meeting) and it is unclear why the developer is unable or unwilling to secure a connection.

Other associated development is similarly inadequately detailed. The requirement for highway improvements is acknowledged, however the PEI notes that these impacts, and required mitigations, have not yet been identified (paragraph 3.6.88), confirming that the developer has not met the PEI requirements.

## 6.2 Inadequate treatment of alternatives

The Preliminary Environmental Information’s treatment of alternatives is not aligned with the Scoping Opinion or the requirements of the Environmental Impact Assessment (EIA) legislation, under which the developer is required to set out the main alternatives considered, including those in respect of site selection. The position stated at 2.3.3 (that “*the consideration of specific alternatives was not considered to be necessary*”) is incorrect, Schedule 4 of the EIA Regulations require:

“A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”  
(underlining added for emphasis)

It is not credible that the developer considered only one location for the project, particularly given that site search criteria set out at paragraph 2.3.2 would give rise to many sites in the United Kingdom, many of them likely to be more suitable. This is another example of the poor quality of the consultation documentation.

The absence of information on consideration of alternatives would also prejudice the award of any compulsory acquisition powers sought by the applicant, further decreasing the likelihood of the project progressing. The developer cannot evidence an over-riding public interest in compulsorily acquiring property if it cannot appropriately explain its site selection.

Alternatives in respect of design and operation have similarly not been considered. Despite the advice of PINS (note of 15th January 2021 meeting) no attempt has been made to draw upon other Energy from Waste facilities when considering architecture and design. The National Policy Statement (NPS) requirements in respect of Good Design have been disregarded by the developer, a topic discussed further at Section 7 below.

## 6.3 Residential Amenity Assessment

In January 2021 the developer undertook to publish a Residential Amenity Assessment (PINS meeting note). The findings of this assessment have not been provided at the consultation stage, denying residents of Wisbech, and further afield, the opportunity to comment on the potential impacts on their homes and community.



## 6.4 Status of ash waste

The uncertainties around the status of Incinerator Bottom Ash (26.5% of the input waste, over 165,000t) and the potential for parts of that waste to enter landfill as hazardous waste rather than reclamation are not discussed in the Preliminary Environmental Information. The project description fails to inform consultees that the Air Pollution Control (APC) residues (a further 5% of input waste) are classified as hazardous waste. The developer has failed to provide information highlighting that the project is less sustainable than presented, creating hazardous waste where none existed in the feedstock and consigning significant proportion of waste to landfill. The transport of these wastes is not discussed in the PEI, either under traffic and transport (Chapter 6) or accidents and disasters (Chapter 17). The absence of a waste chapter to the PEI is particularly notable for a project which creates hazardous wastes. Advice Note 7 highlights the importance of providing clear information to consultees.

## 6.5 Air quality

Air quality is a key issue of concern for residents and yet full-time monitoring only commenced in June 2021. The lack of location specific weather data further adds to the uncertainty around the modelling (paragraph 8.6.27), relying instead on modelled data. These inadequacies again suggest the prematurity of the consultation exercise and poor quality of the PEI. Modelling of abnormal operations has not taken place at all, despite schools and a hospital being in close downwind proximity to the proposed site.

There has been no attempt to present the modelling in an easily accessible and understandable form, instead the developer has presented over 270 pages of tables (Appendix 8C). Modelling could have been easily presented in graphical form (for example by showing plumes overlaid on OS Maps) – it could be assumed that this is because the developer does not wish to show potential effects on the developed areas of Wisbech, which are largely downwind from the proposed location. The Plumeplotter website shows this to be the case for the developer's operational project in Plymouth. The poor location of the proposed project (exacerbated by the developer's failure to adequately consider alternatives, as discussed above) should not be used as a reason for not presenting PEI in a simple manner, consistent with the requirements of Advice Note 7.

## 6.6 Inaccurate and misleading information on greenhouse gas emissions

One of the main claims of the Energy from Waste (EfW) technology proponents, that these projects deliver greenhouse gas (GHG) emissions reductions as a renewable energy, is not evidenced in the PEI. The GHG emissions reductions set out in Chapter 14 show a net increase in greenhouse gas emissions from the "without proposed development" scenario of 32.9 ktCO<sub>2</sub>e/yr during operation<sup>2</sup>. There is a high likelihood that the increase in GHG emissions would, in fact, be greater than assessed. The PEI uses conservative assumptions as to the future efficacy of capture and re-use of landfill gas (for example, discounting export of biogas rather than generation by gas engines) and does not consider the requirement under the UK's 6th Carbon Budget for many of the more GHG intensive landfill wastes to be processed further up the waste hierarchy.

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<sup>2</sup> 252.4 ktCO<sub>2</sub>e for LFG (table 14.23) plus 3.4 ktCO<sub>2</sub>e for HGVs (table 14.24) vs 280.6 ktCO<sub>2</sub>e (table 14.25) plus 8.1 ktCO<sub>2</sub>e for vehicles (table 14.27)

Conversely, the emissions reductions predicted to arise by reason of power generated by the EfW plant (157.3 ktCO<sub>2</sub>e/yr, from table 14.28) displacing other forms of generation are likely to be significantly lower than that presented in the PEI.

Firstly, the 91% availability of the EfW generation (8000 hours, table 14.28) is not realistic in the context of industry figures where power export reliability is poor, often as the result of turbine and generator failures. Parasitic load (of around 15%) also has not been considered. Industry analysis<sup>3</sup> suggests an average power export of around 540 kWh/t input, with around 80% availability of turbines.

Second, the carbon intensity of the UK grid is rapidly decreasing, the assumptions based on displacement of gas fired generation only over the 40-year life span of the project (paragraph 14.9.34) are not credible, particularly as all new gas fired generation is likely to be required to incorporate carbon capture and storage.

Applying more realistic calculations based on these two points would reduce available power from the plant by a significant level, to the point where full lifecycle emissions benefits become negligible. Consultation should take place on these revised figures, not the misleading and inaccurate contents of Chapter 14.

The assessment's conclusion (paragraphs 14.9.40 – 14.9.48) that the project will contribute towards the aims of the 6th Climate Budget are misleading, given that the Budget assumes that Energy from Waste emissions should stay flat, with Carbon Capture and Storage (CCS) being adopted on all EfW projects and waste streams being diverted further up the waste hierarchy<sup>4</sup>. The reality is that, as currently, configured, the project would increase greenhouse gas emissions at a time when all industries must be rapidly decarbonising.

The Examining Authority for the North Kemsley Development Consent Order decision concluded that given the uncertainties surrounding carbon benefits in that case that emissions reductions should carry little weight in the planning balance and we believe that this is also likely to be the case for the Medworth proposals.

In the context of the rapid de-carbonisation of the UK electricity grid, and the relative inefficiency of Energy from Waste, this technology limited green credentials are decreasing annually. The potential carbon savings of the project are an important element of the environmental impact assessment process, but clarity and accuracy on this topic have been omitted from the Preliminary Environmental Information Report. Further statutory consultation is required to provide clarity on this issue and ensure that the information contained in the Development Consent Order application, if it occurs, is robust.

Further discussion on the carbon emissions from the Medworth development in the context of the UK's 6th Carbon Budget is set out below in respect of the project's non-compliance with planning and other policy. Unless carbon capture and storage (CCS) is adopted as an integral part of the project (rather than just a piece of land being allocated for future CCS) then the proposals would be incompatible with UK emissions targets. The PEI has not described the necessary CCS elements of the project or how they could operate in practice. This reinforces the need for a further round of consultation.

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<sup>3</sup> E.g Tolvik UK Energy from Waste Statistics

<sup>4</sup> [REDACTED]

## **6.7 Flawed assumptions relating to waste fuel availability**

The draft waste fuel availability assessment is incomplete, and significantly flawed. As discussed below in respect of waste, planning and climate change policies, the assessment fails to address the waste hierarchy and the extent to which wastes can be managed higher up in the waste hierarchy. The findings of the Planning Inspectorate in respect of the North Kemsley Incinerator and the likely adverse effect of those proposals on recycling rates is highly relevant here.

The assumptions in respect of source local authorities does not accord with the proximity principle. It is difficult to understand how sourcing waste from 12 authorities can satisfy the requirement to treat wastes as locally as possible. Furthermore, the use of the 2-hour travel time metric (even if appropriate under the proximity principle) has not been consistency applied – many of the towns listed in table 14.26 as sources of waste fuel are at distances which would be impossible to travel from by HGV in 2 hours, including Coventry, Basildon, Watford, Scunthorpe, Warwick and Mansfield.

The breakdown of waste composition used to assess the carbon intensity of the proposed project (table 14.22) appears to include a significant element of waste could be managed further up the waste hierarchy, including food waste (27%), garden and other organic waste (5%), paper (14.8%), card (6.3%) and textiles (5.5%) – this analysis undermines the assumptions of the fuel availability assessment. Under the 6th Carbon Budget nearly all this material must either be treated higher up the waste hierarchy or through EfW equipped with CCS. Card, paper and textiles can all be recycled, food, garden and other organic waste can be more benignly managed through anaerobic digestion.

Further consultation should take place when these key issues have been addressed in the next iteration of the assessment.

## **6.8 Traffic and transport**

As previously advised by statutory consultees (see responses to Environmental Impact Assessment scoping on the PINS website) a rigorous assessment of traffic impacts is required, but this has not been delivered. Nor is the preliminary information clear or understandable to consultees. Most of the information presented presents assessment methodologies rather than a clear indication of likely effects or the mitigation (including the delivery of associated development) which will be required. The prematurity of the information provided is clearly indicated by the “further steps” which include traffic surveys, further assessment, technical consultation and design arrangements for A1101 Elm High Road and A47 Broadend crossings. Further statutory consultation should take place when this information is available.

Given the flawed nature of the draft waste fuel availability assessment (discussed above) and the uncertainties surrounding the location of waste sources and ash disposal facilities, it is questionable whether the HGV traffic distribution data set out in the PEI is accurate or reliable. Further information in respect of traffic movements in this respect is required.

## **6.9 Limited detail of proposed mitigation**

The mitigation presented throughout the PEI is generally generic in nature, emphasising the premature nature of the consultation. Key elements of the project required to mitigate impacts, including highways improvements, Combined Heat and Power connections and Carbon Capture and Storage facilities have not been described. An informed view of the likely significant effects of the project

cannot be ascertained if the scale and efficacy of the mitigation is not clearly presented. Further consultation should take place when schemes of mitigation are more clearly understood.

## **7. Failure to comply with National Policy Statements, the National Planning Policy Framework for Waste and UK Climate Change policy**

The developer's proposals significantly conflict with government policies in respect of waste management, planning, and climate change.

### **7.1 Waste policy**

As discussed above the proposals are not consistent with the self-sufficiency or proximity principles. Figure 2 of the draft waste fuel availability assessment describes an area measuring some 160 miles from north to south and 150 miles from east to west, encompassing 12 waste authorities (9 county councils and 3 unitary authorities). The only reference to the proximity principle in the consultation is made in respect of exports of waste outside of the UK.

Similarly, the proposals do not accord with the waste hierarchy, with the over 50% of the waste fuels proposed being capable of being managed by recycling or less harmful recovery technologies such as anaerobic digestion which do not create toxic emissions or solid waste.

### **7.2 National Policy Statements**

The project does not meet the requirements of the National Policy Statements EN-1 and EN-3, particularly in respect of principles of Good Design.

Section 2.4 of NPS EN-3, referencing Section 4.5 of NPS EN-1, reminds applicants of the requirement for energy infrastructure to demonstrate good design, both in respect of landscape and visual amenity and more widely. There is no indication in the consultation document that this requirement has been taken seriously, despite recent DCO decisions and recommendations that design issues constitute important factors when considering whether to grant consent.

The project promoter should take account of good practice advice in respect of design (most notably that produced by the National Infrastructure Commission) and show how the project design has evolved. It should be noted that design extends beyond visual appearance to include issues such as site selection and alternatives, issues which, as discussed above, are not fully addressed in the consultation documentation, despite requests from consultees for more information in this respect, and the requirements of the Scoping Opinion. Paragraph 4.5.2 of NPS EN-1 emphasises this point, highlighting the importance of siting in mitigating adverse impacts, siting is also emphasised elsewhere in the NPS including at paragraph 5.9.17 in respect of visual harm.

Paragraph 2.5.2 of EN-3 acknowledges an important role for projects in meeting the UK's energy needs where in accordance with the waste hierarchy (emphasis added). As discussed above the project proposals are not currently in accordance with that hierarchy.

The project does not appear to be in conformity with the provisions of NPS EN-1 in respect of Combined Heat and Power (CHP). As currently presented the proposals for utilising excess heat amount to a pipeline across land not currently within the control of the applicant and, given the statutory

undertaker status of Network Rail, this position is unlikely to change within the foreseeable future. Furthermore, the project promoter has failed to evidence either demand for excess heat or the likelihood of entering commercial contracts for that heat. It is not sufficient the plant to be heat enabled, for benefits to be delivered it must deliver heat. The potential for CHP is one of the limited benefits of the proposals but on the current evidence cannot to be delivered. The proposals therefore do not currently satisfy paragraphs 4.6.6 – 4.6.8 of the NPS. As discussed below this is possibly because the project proposals are not currently sufficiently advanced to be suitable for public consultation.

### **7.3 Climate change policy**

The UK needs to decarbonise its electricity network to meet 2050 Net Zero targets. In that context the greenhouse gas emissions which the proposed development would produce (a minimum additional level of 32.9 ktCO<sub>2</sub>e/yr) would be unacceptable.

The 6th Carbon Budget (which was adopted by government in full in April 2021) makes significant and wide-ranging recommendations in respect of waste. The project proposals are incompatible with the assumptions set out the adopted budget in respect of Energy from Waste (EfW) and the future management of waste currently destined for landfill. To be compatible, the project's business case would need to acknowledge a far lower proportion of available waste fuel and that, without the adoption of carbon capture and storage (CCS) technology, more efficient and carbon friendly recovery technologies would be available as alternatives to EfW.

## **8. The project is not consentable as currently formulated**

The existence of preferred technical solutions to manage the waste, including increased plastic recycling, and the presence of alternative sites and project configurations suggests that the project as proposed is unlikely to obtain consent.

The PEI, despite its flaws, acknowledges that the project will give rise to significant adverse effects on the environmental and local community without delivering local or national benefits.

There is simply no need for the project, something evidenced by the Secretary of State's decision in respect of the North Kemsley DCO proposals. The Medworth project is being promoted as a nationally significant infrastructure project at a time when the Secretary of State has determined that there is no longer a national need for large new incinerators.

For the project to progress to DCO application with a prospect of success, the following issues would need to be addressed:

- Delivery of a further round of consultation, with full Preliminary Environmental Information being provided to stakeholders. Additional information is required in respect of the project description, grid connection proposals, highways improvements, impacts on residential amenity, ash waste, air quality, traffic and greenhouse gas emissions
- Development of a business case which accords with the proximity principle and provides the Development Consent Order Examining Authority and Secretary of State with evidence that the

project is aligned with the waste hierarchy and does not divert waste from recycling or other more beneficial recovery methods

- Presentation of alternatives to the project, including the project location, in accordance with the Environmental Impact Assessment Regulations
- Further details on how Carbon Capture and Storage (CCS) and Combined Heat and Power (CHP) will be secured to ensure that the maximum level of energy efficiency and carbon savings can be secured, in accordance with the adopted 6<sup>th</sup> Carbon Budget.
- Design of the plant, including site selection, to be explained in the context of the Good Design requirements of the National Policy Statements.

Additionally, we believe that the questions set out in the appendix to this report should be addressed by the developer during the current consultation.

## **Questions for developer, to be addressed at a further stage of consultation**

To what extent have the requirements for good design set out in the National Policy Statements been taken into account in selecting the site for the project and in evolving its appearance, layout and operation?

Has the developer taken independent professional advice or carried out design review, as recommended by paragraph 4.5.5 of NPS EN-1?

Will the developer take into account the National Infrastructure Commission's Design Guidance? How do the proposals take account of the principles of "Climate, People, Places and Value" described in that guidance?

What is the status of potential contracts for the sale of excess heat from the project?

When is it envisaged that agreement will be reached with Network Rail for the installation of the CHP infrastructure?

The PEIR suggests that no alternative sites were considered in respect of the project? Is this the case? If not then, in accordance with the EIA Regulations and the Scoping Opinion, could the developer provide details of other sites considered for the project?

If no alternatives were considered could the developer confirm how the site was selected? How did that site selection accord with the principles of Good Design mandated by the National Policy Statement?

Noting the legislative requirement to provide information on alternatives which have been considered, and recent decisions and judicial reviews in respect of alternatives, including for the Wheelabrator Kelmsley North Waste-to-Energy and A303 Stonehenge DCO projects, how does the developer intend to consult on this information?

How will the developer show a need for project, given that the draft Waste Fuel assessment has not evidenced compliance with either the waste hierarchy or the proximity principle? If no need for the project has been shown, and no alternatives have been considered, how does the developer intend to sustain a compulsory purchase case?

What are the implications of the adoption of the 6<sup>th</sup> Carbon Budget for the project? How are the greenhouse gas assumptions set out in Chapter 14 of the PEI aligned with the Budget?

When will the developer consult on accurate and realistic greenhouse case emission estimates for the proposed plant? Carbon assessment forms a key element in the environmental impact assessment process and therefore accurate information should have been included in the PEI.



The project proposals do not contain details of future carbon capture and storage (CCS) capabilities. However, government policy (as set out in the adopted Sixth Carbon Budget) envisages that all EfW plants will have to incorporate CCS to meet UK emissions targets. How does the developer intend to consult on the CCS elements of the project?

Will the developer provide graphical depictions of plume modelling? When will the results of modelling incorporating the ongoing air quality monitoring be made available for consultation? What are the weaknesses of using modelled meteorological data and why has the developer not deployed its own meteorological equipment to ensure that the modelling is underpinned by robust data (as has been the case for other waste projects)?

Noting that the Residential Amenity Assessment has not been provided as part of PEI, when does the developer intend to consult with residents on local impacts on homes and communities?

When will details of all associated development, including substation design and construction, and highways improvements, be made available for public consultation?

How does the developer intend to comply with the legal duty to respond to consultation and ensure alignment with all relevant DCO guidance?