

Medworth Energy from Waste Combined Heat and Power Facility

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Deadline: 6
July 2023



Section 106:

Heads of Terms

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with energy.**



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1. Heads of terms

1.1 Background

1.1.1 On 06 June 2023, Cambridgeshire County Council (CCC) and on behalf of Fenland District Council (FDC) and Norfolk County Council (NCC) wrote to the Applicant proposing a package of mitigation. CCC stated;

“As set out in the Councils’ various Responses (The Councils’ Joint Local Impact Report REP1-074; Comments on the Applicant’s Deadline 2 Submissions REP3-044; Comments on Applicant’s Deadline 3 Submissions REP4-031) and representation made at ISH4, the Councils consider that the proposed development will result in significant adverse impact on Non-Motorised Users (NMUs) of the public rights of way (PROW) and local road network and on the landscape within which that network and the local communities that it serves are located, and that this impact cannot be adequately mitigated by the measures currently proposed. The Councils therefore seek a package of mitigation to offset this adverse impact on local communities...”

“...The Councils consider that such a mitigation package would help meet relevant policy requirements including: NPPF para 100; Defra 25 Year Environment Plan; CCC and NCC Rights of Way Improvement Plans; the Cambridgeshire & Peterborough Joint Health and Wellbeing Integrated Care Strategy; the Cambridgeshire and Peterborough Minerals and Waste Local Plan; BNG ‘Principle 9: Optimise Sustainability’ (Environment Act 2021); FDC currently adopted Local Plan Policies LP2 (Health and Wellbeing), LP6 (Community Facilities), LP7 (Urban Extensions), LP8 (Wisbech), LP13 (Infrastructure), LP15 (Sustainable Transport), LP16 (High Quality Environments), LP17 Community Safety) and LP19 (Natural Environment), as well as the following policies in the emerging Draft Local Plan: LP4 (Securing Fenland’s Future) LP5 (Health and Wellbeing), LP7 (Design), LP11 (Community Safety), LP19 (Strategic Infrastructure), LP20 (Accessibility and Transport), LP21 (Public Rights of Way), LP24 (Natural Environment), LP25 (BNG), LP27 (Trees and Planting), LP29 (Green Infrastructure), LP30 (Local Green Spaces), LP31 (Open Space and Recreational Facilities), LP34 (Air Quality), LP37 and LP37.01 (Wisbech non-residential development)”.

1.1.2 The Applicant met representatives from CCC, FDC and NCC on 07 June and 4 July 2023 to review the proposed mitigation package and consider how they could be secured by the DCO. The outcome of these discussions concluded that two proposals met the statutory tests for planning obligations (para 57, NPPF) and could be secure by a Section 106 agreement of the Town and Country Planning Act 1990 (as amended), these are:

- Public Right of Way and Non-Motorised Vehicle Enhancement Contribution; and
- Public Access to offsite Biodiversity Net Gain Land.

1.1.3 In order to facilitate the Access Improvements to New Bridge Lane and Cromwell Road (Work No. 4A), an agreement to carry out works to the highway under s278 and s38 of the Highways Act 1980 is being negotiated between the Applicant and CCC. The Section 106 Agreement will contain a contractual obligation on the



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Applicant to enter into the agreed form of S278 Agreement prior to the commencement of the authorised development.

1.1.4 A separate agreement pursuant to s111 of the Local Government Act 1972 is being negotiated in respect of a community fund. Further details are set out in the updated Outline Community Benefits Strategy submitted at Deadline 6.

1.2 Purpose of this document

1.2.1 This document outlines the proposed heads of terms for an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the Development Consent Order (DCO) sought by Medworth CHP Limited for the Proposed Development.

1.3 The Parties

1.3.1 The Section 106 agreement (the Agreement) is anticipated to be between:

- Medworth CHP Limited (the Applicant);
- Alboro Developments Limited (the landowner); and
- Cambridgeshire County Council (the relevant planning authority; the Council).

1.4 Conditionality

1.4.1 The obligations outlined in this document are conditional upon:

- The DCO being made for the Proposed Development; and
- The implementation of the DCO.

1.5 Definitions

Term	Definition
Applicant	Medworth CHP Limited
Application	means the application for a development consent order made under section 37 of the Planning Act 2008 in relation to the Project and submitted to the Secretary of State on 7 July 2022 and given reference number EN010110 [as modified by change application]
Biodiversity Net Gain	means the biodiversity net gain identified through the Biodiversity Net Gain Strategy pursuant to Requirement 6 of Schedule 2 of the Development Consent Order



Term	Definition
Biodiversity Net Gain Land ('the BNG Land')	means the land to be identified and established through the Biodiversity Net Gain Strategy pursuant to Requirement 6 of Schedule 2 of the Development Consent Order.
Council	Cambridgeshire County Council
Plan 1	A plan identifying the Order limits of the Proposed Development.
Plan 2	A plan to identify the Public Rights of Way and Local Road Connectivity Enhancements area.
PROW	means a public right of way;
PROW and Local Road Connectivity Enhancements Area	means the community areas identified and shaded yellow on the Plan , being the four Parishes of: Wisbech CP in Cambridgeshire; Wisbech St Mary in Cambridgeshire; Elm in Cambridgeshire; and Emneth in Norfolk;
PROW and NMU Enhancements Contribution	means the sum of £400,000 (four hundred thousand pounds sterling);

1.6 Schedule 1: PROW and NMU Enhancements Contribution

- 1.6.1 Within 30-days of the commencement of development of the authorised works, the Applicant shall pay the Council the PROW and NMU Enhancement Contribution.
- 1.6.2 The PROW and NMU Enhancement Contribution will be applied by the Council in consultation with Norfolk County Council, Fenland District Council and the Borough Council of King's Lynn and West Norfolk and statutory consultees and users groups as appropriate for the purposes specified in **Appendix A**.
- 1.6.3 The Council covenants to provide an annual report outlining the progress made towards fulfilling the purposes of the PROW and NMU Enhancement Contribution within 30 days of each anniversary of the date of payment of the PROW and NMU Enhancement Contribution.
- 1.6.4 If on the tenth (10th) anniversary of the date of payment of the PROW and NMU Enhancement Contribution any part of the PROW and NMU Enhancement Contribution (or any Interest accrued thereon) remains unspent the Council shall within twenty-eight (28) days thereof account to the Applicant for the PROW and NMU Enhancement Contribution and shall repay to the Applicant any unexpended sum (including any interest accrued thereon) but shall not be liable to repay any monies paid to Norfolk County Council.



1.7 Schedule 2: Public Access in Biodiversity Net Gain Land

- 1.7.1 The Applicant will use reasonable endeavours to ensure that appropriate permissive non-motorised public access is made available to the Biodiversity Net Gain Land to be set out in the Biodiversity Net Gain Strategy approved pursuant to Requirement 6 of the DCO. It is agreed between the Applicant and the Council that such public access should not be to the detriment of the Biodiversity Net Gain sought.

1.8 Schedule 3: The Highways Agreement

- 1.8.1 The Council must enter into the Highways Agreement (to be substantially in the form annexed to the Section 106 Agreement) within 30 Working Days of receipt of a notice from the Developer requesting that the Council execute the Highways Agreement.
- 1.8.2 The Developer must not Commence the Project unless and until the Developer and Council have entered into the Highways Agreement.

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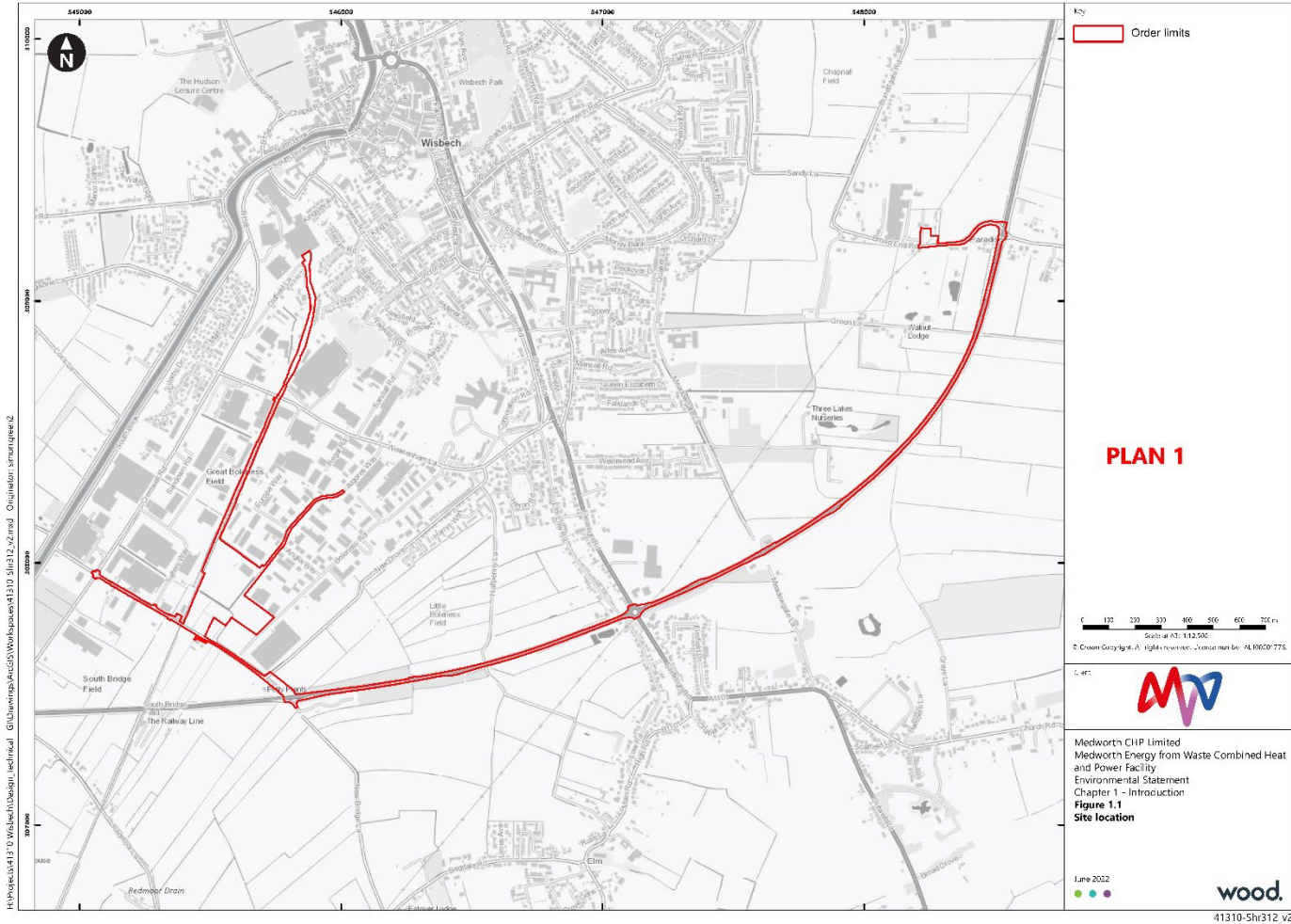
Appendix A Public Rights of Way and Non-Motorised User (NEMU) Improvements

- The improvements and enhancements to the existing Public Rights of Way and local road NEMU connectivity network shall be for the communities shaded yellow on **Plan 2**, being the four Parishes of:
 - ▶ Wisbech CP in Cambridgeshire;
 - ▶ Wisbech St Mary in Cambridgeshire;
 - ▶ Elm in Cambridgeshire; and
 - ▶ Emneth in Norfolk.
- The PROW Contribution shall be used for:
 - Dedicated project officer resource;
 - Public path creation agreements and public path orders and associated costs;
 - Improvements to existing public rights of way and NEMU links; and
 - Permissive path creations and improvements.

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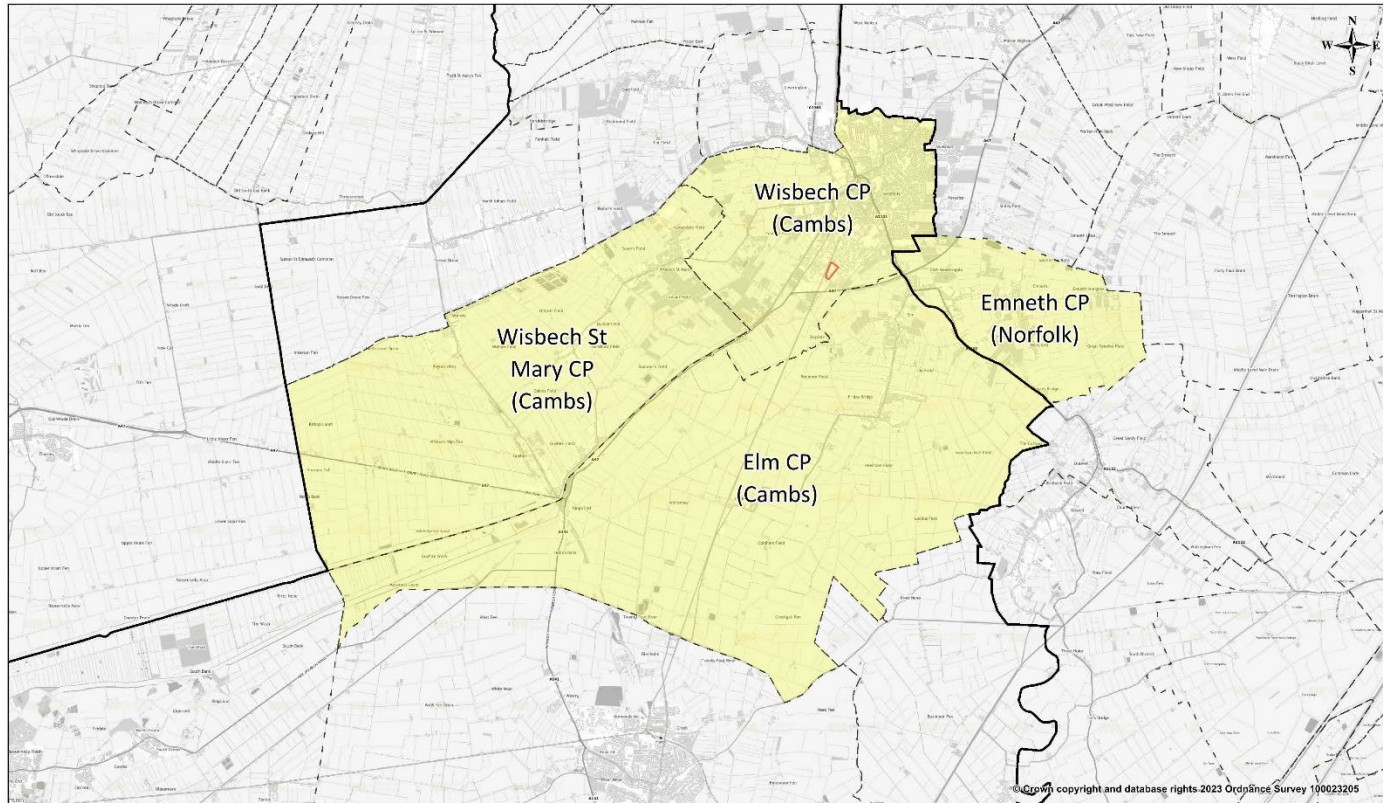
Plan 1





Plan 2

Medworth DCO - NMU Mitigation Area **PLAN 2**



Scale: 1:75,000
Date: 23/06/2023
By: CCC

Legend
Parish / County Boundary
MVV Energy from Waste site
Parishes within NMU Mitigation Area

