Medworth Energy from Waste
Combined Heat and Power Facility

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Applicant's response to the ExA's Written Questions (ExQ3)

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1. Introduction

1.1 Background

1.1.1 Medworth CHP Limited (the Applicant) submitted an application for development consent to the Secretary of State on 7 July 2022 (the Application). The Application was accepted for examination on 2 August 2022. The Examination of the Application commenced on 21 February 2023.

1.1.2 This document, submitted for Deadline 7 (4 August 2023) of the Examination contains the Applicant's responses to the Examining Authority's (ExA) Third Written Questions (ExQ3) issued by the ExA on 21 July 2023.

1.1.3 The Applicant's responses to ExQ3 are presented in the following tables:

- Table 2.1 General and Cross-Topic Questions;
- Table 2.2 Principle and Nature of Development (including waste recovery capacity and management of waste hierarchy);
- Table 2.3 Cumulative Effects;
- Table 2.4 Draft Development Consent Order; and
- Table 2.5 Planning Policy.

Table 2.1: General and Cross-Topic Questions

ExQ3	Question to	Question	Applicant Response
GCT.3.1	Applicant HLAs	There are outstanding issues that the Applicant and HLAs are working on to resolve via S.106 Agreements. Can the Applicant please provide an update on any progress? Can the LHAs also clarify, in relation to any outstanding issues proposed to be covered via a S.106 Agreement, how likely are these to be resolved before the end of the Examination and, if not, would these result in an objection to the Proposed Development?	S.106 heads of terms are agreed, therefore, there are no in principle outstanding matters, see Section 106: Heads of Terms (Volume 15.8) [REP6-031]. See item 15.3.5 of the **Statement of Common Ground between Medworth CHP Limited and Cambridgeshire County Council and Fenland District Council (Draft) (Volume 9.4b)** which confirms agreement on the Heads of Terms. The Applicant and CCC solicitors are preparing the draft S.106 Agreement and intend to submit this before the end of the Examination.
GCT.3.2	Applicant HLAs	Can the HLAs and the Applicant clarify the role of the proposed Community Mitigation Package in mitigating specific harm from the proposed development and describe the residual effects that would remain following the implementation of the package?	As set out in the **Outline Community Benefits Strategy (Volume 7.14)** submitted at Deadline 7 and paragraph 4.14.11 of the **Planning Statement (Volume 7.1) [APP-091]**, the proposals are in addition to the mitigation measures secured in the draft DCO and S106 Agreement and are therefore not a relevant planning consideration. However, to demonstrate the Applicant's commitment to deliver the community fund described in Appendix B to the **Outline Community Benefits**

ExQ3	Question to	Question	Applicant Response
			Strategy (Rev 3.0) (Volume 7.14), the Applicant and CCC are to enter into a S.111 Agreement to secure the measures. The Applicant and CCC solicitors are preparing the draft S.111 Agreement and intend to submit this before the end of the Examination. See item 15.3.5 of the **Statement of Common Ground between Medworth CHP Limited and Cambridgeshire County Council and Fenland District Council (Draft) (Volume 9.4b)** which confirms agreement on the **Outline Community Benefits Strategy (Rev 3.0) (Volume 7.14)**.
GCT.3.3	Applicant Cambs CC and Fenland DC NNCC Walsoken Parish Council Wisbech Town Council	The Applicant has highlighted a series of "matters not agreed" (marked red in Table 4.1: Summary of Commonality with each party) in the Statement of Commonality [REP6-009]. These seem to highlight areas where there is no reasonable prospect of issues being resolved or agreed before the end of the Examination, or where discussions have stopped. The ExA asks all organisations that are no longer in active discussions with the Applicant but have outstanding issues not agreed, to submit a brief overview of their outstanding	A summary of the position reached with the local host authorities is provided in the **Statement of Commonality of SoCG (Volume 9.16)** submitted at Deadline 7. In Summary, engagement between the Applicant and local host authorities has been constructive and positive, enabling agreement to be reached on most matters in the SoCGs. The principal areas of disagreement (which are mostly with CCC and FDC) relate to: - landscape and visual impacts, - greenhouse gas emissions and - consideration of alternative sites. NCC disagrees on matters relating to the procedure for the discharge of DCO requirements (specifically the period for determination and whether a failure to

ExQ3	Question to	Question	Applicant Response
		objections to the ExA highlighting main points of contention.	respond results in deemed approval) and to landscape and visual impacts. There are no areas of disagreement with BCKLWN. Overall, there was no single issue which resulted in unanimous disagreement. The conclusions of the LVIA, specifically the extent of significant effects identified, attracted the strongest disagreement with CCC/FDC and NCC in disagreement, especially the effects arising where there would be views of the stack and visible plume. None of the LHAs considered the Proposed Development to be contrary to the waste hierarchy or proximity principle, with the only outstanding matter on waste being with CCC/FDC regarding the impact on other waste authorities and compliance with local policy. The Applicant intends to finalise the position with CCC/FDC on these matters before the Examination closes. Since Deadline 6, the Applicant has been working to resolve outstanding highways matters with CCC/FDC. Matters relating to the design of the New Bridge Lane/Cromwell Road junction have now been agreed in principle (subject to the detailed design), however the Applicant and CCC will continue to work together with the aim of resolving the following before the Examination closes:

ExQ3	Question to	Question	Applicant Response
			• Further discussions on the extent of the Order limits to accommodate Change 1 and 2. • Note that Tesco hold no objections in principle to the Change Application, see [**REPAS-035**], however further discussions to review progress on matter are required. As noted above, the Section 106 Heads of Terms and Outline Community Benefits Strategy (Section 111 Agreement) have also been agreed and legal reviews of the draft agreements is underway. The SoCG with the LHAs has now been separated into two documents for the purposes of the Deadline 7 submissions, reflecting the fact that all matters have been finalised with NCC and BCKLWN, whilst there remain a few outstanding matters with CCC/FDC mostly relating to highway improvements and policy compliance. The Applicant has received written confirmation from CCC on 01 August 2023 that its Community Fund proposal '*will be greatly beneficial to the community, health and environment of Wisbech*' and that the Council '*is delighted to agree it'*, The Applicant is confident that outstanding matters can be concluded prior to the close of the Examination.

ExQ3	Question to	Question	Applicant Response
			The Applicant has submitted a final signed SoCG with NCC/BCKLWN at Deadline 7, together with an updated draft SoCG with CCC/FDC to indicate the progress made and identify outstanding matters. In contrast with the substantial progress made with other statutory parties, progress with the two relevant parish councils has been limited, with little common ground agreed. For Walsoken Parish Council, the position is summarised at paragraph 4.2.8 of the **Statement of Commonality of SoCG (Deadline 6) [REP6-009].** Walsoken Parish Council does not agree on matters of traffic impacts, emissions (air quality) and consequential effects, landscape and visual impact and the effectiveness of DCO requirements as a mechanism for securing mitigation or managing potential impacts. The Applicant draws attention to the fact that Walsoken Parish Council's position has been determined without reference to the application and examination documents and the Parish has not offered any evidence to substantiate its views or to demonstrate why the Applicant's assessments are allegedly incorrect. The position with Wisbech Town Council is summarised in the **Statement of Commonality of**

ExQ3	Question to	Question	Applicant Response
			SoCG [REP6-009] submitted at Deadline 6 (see paragraph 4.2.10). Apart from a few minor factual points about the location of the Proposed Development vis a vis Wisbech Town Council's administrative boundary, no agreement could be reached with Wisbech Town Council on any of the key issues. The principal areas of difference relate to: the need for the development, the Applicant's needs assessment methodology; whether the Proposed Development would result in over provision of waste management capacity, the potential for conflict with policy relating to the waste hierarchy and proximity principle, the suitability of the location vis a vis other alternatives; and the adequacy of the DCO requirements. A detailed list of points of disagreement is provided in section 3.3 of the **SoCG [REP6-020]**. Reflecting its in principle opposition to the Proposed Development, Wisbech Town Council does not wish to agree any matters with the Applicant and maintains its objection to matters such as flood risk, effects on biodiversity and effects on heritage. In this context it is important to note that the relevant statutory environmental bodies, including the Environment Agency, Natural England and Historic England as well as the local host authorities, have confirmed their satisfaction with assessment approaches and outcomes in their respective SoCGs. Wisbech Town

ExQ3	Question to	Question	Applicant Response
			Council has not offered any substantive environmental evidence to counter the Applicant's assessments or the conclusions of the statutory environmental bodies on these matters, with whom agreement has been reached in their respective SoCGs.
GCT.3.4	Applicant HLAs Network Rail Hundred of Wisbech IDB King's Lynn IDB National Highways	The Applicant has highlighted a series of "matters subject to further discussion" (marked yellow in Table 4.1: Summary of Commonality with each party of the Statement of Commonality [REP6-009]). The ExA asks all organisations with any matters not agreed with the Applicant to submit a brief overview of their outstanding objections to the ExA highlighting their main points of contention.	Please see the Applicant's response to GCT.3.3 above for the position regarding outstanding matters with the LHAs. SoCGs have been finalised and signed with the two Internal Drainage Boards and with National Highways, with all matters now agreed. The final signed SoCGs have been submitted at Deadline 7. As to Network Rail, the Applicant has been in on-going discussions and a Framework Agreement is in the process of being finalised. The Applicant and Network Rail remain confident that this, together with the SoCG, will be completed prior to the close of the Examination.

Table 2.2: Principle and nature of Development (inc. waste recovery capacity and management waste hierarchy)

ExQ3	Question to	Question	Applicant Response
PND.3.1	Applicant	The SoS for Energy Security and Net Zero has granted development consent for the Boston Alternative Energy Facility (BAEF). In para. 5.1.23 of the WFAA [REP5-019/020] the Applicant states that it is not considered that the BAEF represents an alternative for the management of residual waste being available for the Proposed Development as the BAEF requires refuse derived fuel (RDF) to arrive at the facility by sea or water (not by road), the fuel base for the BAEF is UK material currently being exported to Europe and that only approximately 163,000 tonnes of RDF is identified as coming from the Study Area. In light of it having been granted development consent, the Applicant is asked to update the forecasted future residual waste requirements, provide further information on how this new development will affect the need case for the proposal (both national and for the "in study" area) and why it believes that only 163,000 tonnes of waste will come from the Study Area.	The Boston Alternative Energy Facility (BAEF) (PINS Ref: EN010095) was granted development consent pursuant to the Boston Alternative Energy Facility Order 2023 on 5 July 2023 (the Boston Order) and is only permitted to accept refuse derived fuel (RDF). This differs from the Proposed Development which is capable of accepting a wide range of unprocessed residual waste, in addition to RDF. RDF is waste that has already undergone a treatment process. This process seeks to remove glass and metal before further sorting it to separate light materials, typically with a higher calorific value. The lighter materials are then processed into pellets and then bales. The heavier materials are sent to landfill or another EfW such as the Proposed Development. The BAEF is only permitted to accept undamaged RDF bales. This is secured as embedded mitigation. Work 1A of the Boston Order having "a capacity to process up to 1,200,000 tonnes of waste ***refuse derived fuel*** per calendar year" [emphasis added]. As set out in the BAEF Environmental Statement Chapter 23: Waste, paragraph 23.7.4 confirms that the "*supplier of the RDF bales will have several contract requirements*", with paragraph 23.7.6 confirming that the "*supplier of the RDF will not be permitted to load any damaged bales onto the vessels prior to shipping to the* [BAEF]". This

ExQ3	Question to	Question	Applicant Response
			embedded mitigation is required due to the location of BAEF in The Haven (a tidal waterway of the River Witham between The Wash SSSI and Boston), as RDF bales will be unloaded from a purpose-built wharf, with the potential for damaged bales to litter into the Haven and into The Wash SPA / Ramsar site. The requirement for all waste to be delivered to BAEF by vessel is secured by Requirement 17 (Operational vehicle movements) in the Boston Order, stating that "*waste must not be delivered by road to Work No. 1A except in the event of a wharf outage*". Taken together, there is no potential for BAEF to accept unprocessed residual waste due to the controls in the Boston Order and to mitigate the risk of harm to The Haven. By contrast, the Proposed Development will be capable of taking household and commercial residual waste without further additional processing. The Proposed Development is also capable of accepting RDF, but is not constrained to doing so. As such, RDF forms only a small part of the potential sources of waste fuel identified in the **Waste Fuel Availability Assessment (WFAA) (Rev 3) [REP5-020]**. The **WFAA** has identified that only around 163,000 tonnes of RDF are exported from the Study Area. This is consistent with the Study Area's reliance on landfill, where no additional processing of waste is required. Paragraphs 4.1.19 and 4.1.20 of the **WFAA** set out the exportation of RDF from the Study Area. This identified that, in 2020/21, almost 181,000 tonnes of RDF were exported from the Study Area. In order to provide figures consistent with the remainder of the local assessment,

ExQ3	Question to	Question	Applicant Response
			being 2021/22, a reduction proportionate to the reduction in national exports was applied, being around 10%. As a result, the WFAA estimates that, in 2021/22, around 162,500 tonnes of RDF will have been exported from the Study Area. Furthermore, in preparing the **WFAA (Rev 3.0) [REP5-020]** the Applicant was cognisant of the of the DCO application for BAEF, see bullet point 4, Section 5.1.23 of the **WFAA**. Consequently, when the Secretary of State approved the Boston Alternative Energy Facility Order 2023 (the Boston Order) on 6 July 2023 and in response to other waste matters that were examined during ISH7 (27 June 2023), at Deadline 6 (12 July 2023) the Applicant submitted a further document; **Appendix C, Briefing Note – Waste Fuel Availability Assessment Refined, Written Summary of the Applicant's Oral Submissions at ISH7 (Volume 15.3) [REP6-025].** Section 1.2.2 of Appendix C states**:** *"Of the 1 million tonnes per annum, of capacity recently permitted at the Boston Alternative Energy Facility, only a small amount of this capacity (~160,000 tonnes per annum) represents an alternative for the management of residual waste assessed in the Study Area as being available for the Proposed Development. This is due to:* • *The Boston facility requires RDF fuel to arrive at the facility via boat at a purpose-built dock; no waste or RDF may be transported to the facility by road;*

ExQ3	Question to	Question	Applicant Response
			• *The RDF fuel base this facility is looking to capture is UK based material, currently being exported to Europe; and* • *Only ~160,000 tonnes per annum of RDF is identified as coming from the Study Area"* Section 1.2.3 concludes: *"To conclude therefore, taking account of existing, in construction and permitted but as yet unbuilt capacity in the Study Area, the Applicant is of the view that there remains a shortfall of residual waste management capacity in the Study Area of* ***at least 935,000 tonnes per annum****".* In summary, the Applicant has taken into account the capacity provided by the BAEF to process RDF when preparing the WFAA and the Applicant's position is that there remains a need for the Proposed Development, as evidenced in the **WFAA (Rev 3.0) [REP5-020]**.
PND.3.2	Applicant	The Applicant has stated in the WFAA [REP5-019/020] para. 5.1.23 that because "no waste or RDF may be transported to the facility by road" the BAEF is not an alternative for the management of residual waste being available for the Proposed Development. Why does the Applicant believe, and what evidence can the Applicant provide, to	Please see the Applicant's response to PND.3.1, above, which summarises the controls and restrictions in the Boston Order. In terms of the "Study Area", the Applicant believes that the BAEF would not offer an alternative to the management of the 2.4 million tonnes of residual waste currently sent to landfill in the Study Area. This is because the residual waste would firstly need to be pre-processed and baled to create an RDF (i.e., the

ExQ3	Question to	Question	Applicant Response
		demonstrate that waste from within the "study area" cannot be transported to the BAEF by boat via one of the considered ports, particularly Yarmouth for the "Study Area" case and all other England ports for the national case, therefore reducing the overall amount of waste available for the Proposed Development?	'product' that the BAEF will accept) before then being transported to a port facility, and only then loaded onto ship for further onward transportation to the BAEF. These additional processing steps before waste can be treated at the BAEF increase the likelihood that waste that is not currently be processed into RDF will simply be transported further afield to a general EfW Facility, as this may be significantly cheaper and simpler to manage. The **WFAA (Rev 3.0) [REP5-020]**, at paragraph 5.1.23, provides three reasons why BAEF is not considered to be an alternative. Firstly, the Boston Order requires RDF to arrive by boat, and no RDF may be transported to the BAEF by road. Secondly, BAEF is seeking to capture the RDF fuel base, currently being exported to Europe. Thirdly, only around 163,000 tonnes of RDF is identified as originating from the Study Area. The fact that BAEF is only capable of accepting RDF is a key factor which means that the BAEF is not an alternative to the Proposed Development. Only undamaged RDF bales are capable of being accepted at BAEF due to the risk of littering into The Haven and The Wash SPA/Ramsar site. By contrast, the Proposed Development is capable of accepting residual waste that has not been subject to further processing, of which there is a significantly greater quantity in the Study Area.

ExQ3	Question to	Question	Applicant Response
			The only port facility in the Study Area is Yarmouth. The latest Environmental Permit Register from September 2022 shows an Environmental Permit for a private company with a separate berth in Great Yarmouth specialised for handling hazardous waste but does not show a waste transfer permit for the Port of Yarmouth. As matters currently stand therefore, the Port of Yarmouth is not permitted to provide for, and indeed does not appear to be considering, RDF export. Moreover, if Yarmouth was permitted to transfer waste, as the waste market identified by the BAEF is RDF **currently exported from the UK**, this would mean that only up to ~163,000 tonnes per annum of RDF from the Study Area would be 'lost' to the BAEF. This is fully accounted for in paragraph 5.1.23 of the **WFAA (Rev 3.0) [REP5-020].** This leaves almost 2.4 million tonnes of un-processed, non-RDF residual waste requiring management in the Study Area. In terms of the national case, the biggest RDF export ports in the UK are Felixstowe, Immingham, Dover and Tilbury, exporting more than 300,000tpa each in 2019. Even were the Port of Yarmouth to provide temporary storage infrastructure to export RDF from the Study Area in the future, the Applicant considers that it is unlikely to compete with these existing port facilities given that they are established with the relevant permits and infrastructure in place and that the RDF export trend is in any event downward, decreasing from 3.1 million tonnes in 2017 down to 1.3 million tonnes in 2022.

ExQ3	Question to	Question	Applicant Response
			Finally, the Applicant notes that the Environment Agency (EA) update of 6 June 2023 confirms that BAEF will require Environmental Permits for three distinct processes. The EA confirmed that it continues to have concerns over the likelihood of an Environmental Permit being granted for BAEF, and that it could not confirm that BAEF was "of a type and nature that could be permitted 'in-principle'". There are therefore two significant permitting hurdles to be overcome for RDF to be exported from Great Yarmouth in significant quantities, relating to that port and BAEF itself. Accordingly, the Applicant does not consider that BAEF represents an alternative to the Proposed Development. BAEF has been fully considered as part of the **WFAA (Rev 3.0) [REP5-020]** and there is only a very limited quantity of fuel within the Study Area that could be accepted at both facilities, namely the ~163,000 tonnes of RDF identified as being exported from the Study Area in 2021/22. In light of the above, the Applicant does not consider that it would be safe or appropriate to assume that residual waste originating in the Study Area and currently being sent to landfill, would be processed into RDF and transported to BAEF via the Port of Yarmouth. However, for the reasons set out in response to PND.3.1 above, even in that scenario there remains sufficient residual waste arisings available for the Proposed Development.

ExQ3	Question to	Question	Applicant Response
PND.3.3	Applicant	Considering that one of the ports identified as potentially being able to send RDF to BAEF is also located within Waste Area 2 (Yarmouth), how has the Applicant taken into consideration the impact of the consented BAEF on the Proposed Development and the case for study area need?	The BAEF is designed to treat 1.2 million tonnes RDF per year and has indicated 12 delivery ports which would mean an average delivery of 100,000tpa per port. The BAEF states in the project description that the vessel load is assumed as 2,500 tonnes and that up to 10 RDF deliveries per week will take place. Notwithstanding the Applicant's response to PND.3.2 above, assuming one ship per week from Port Yarmouth, this would result in 130,000tpa which is below the 160,000tpa accounted for within the **WFAA (Rev 3.0) [REP5-020]**. Please also see the Applicant's response to PND.3.2, above, for the reasons why the export of RDF from the Port of Yarmouth is not anticipated, and PND.3.1 above which explains how the Applicant has taken BAEF into consideration and concluded there remains a need for the Proposed Development.
PND.3.4	Applicant	As stated in PND.3.1 the Applicant considers that the BAEF does not represent an alternative for the management of residual waste being available for the Proposed Development as fuel base for the BAEF is UK material currently being exported to Europe. Nevertheless, the BAEF DCO does not appear to include any requirement limiting waste arriving to the BAEF facility to waste fuel that is different from that being targeted by Proposed Development. How can the Applicant be confident that the waste fuel	As set out in the Applicant's response to PND.3.1, BAEF is only permitted to accept undamaged bales of RDF, transported to that facility by vessel. BAEF DCO requirement 17 prevents the delivery of waste by road. As explained in PND.3.4, the BAEF is only able to take undamaged RDF bales as fuel, as embedded mitigation against the risk of littering the Haven. The collected residual waste must be pre-treated, baled and plastic wrapped for transport and temporary storage before loaded to the vessel. At the BAEF the RDF needs to be unloaded and the bales split or shredded before treated at the BAEF. The process of RDF shipping is explained in the document "Refuse

ExQ3	Question to	Question	Applicant Response
		included in its assessment will not be further impacted by the BAEF and what work has the Applicant carried out in order to establish this?	Derived Fuel Code of Practice for the UK" published by the RDF Industry Group in October 2017. By contrast, the Proposed Development is designed to accept residual household and commercial waste, without any further treatment being required. RDF forms only a small part of the waste fuel that is available to the Proposed Development within the Study Area. Whilst the Boston Order does not include any requirement that limits it to accepting only RDF that is currently being exported, consideration must be given to the additional processes involved to convert residual waste into RDF arising within the Study Area. To enable a higher export from the Study Area into BAEF, pre-treatment and baling facilities must be established within the Study Area. There are also additional costs resulting from the pre-treatment, baling and additional handling requirements for RDF. In the view of the Applicant, these additional costs, processes and the need to establish new facilities to create RDF, greatly reduce the likelihood of waste arising from then local area being treated at BAEF in preference to a general EfW Facility. It is more likely that existing RDF processing facilities located outside of the Study Area will export to BAEF or increase production of RDF to send to both the European market and BAEF. It may also be possible for BAEF to accept RDF from other countries. The general waste available to the Proposed Development, that is the focus of the **WFAA (Rev 3.0) [REP5-020]** will, therefore, remain at approximately the same level as that assessed.

ExQ3	Question to	Question	Applicant Response
			Please also see the Applicant's response to PND.3.2 and PND.3.3 for the additional steps that would be required in order for RDF to be exported in any substantial quantity from Great Yarmouth, being the Port located within the Study Area. Accordingly, the waste fuel that is potentially available to both BAEF and the Proposed Development is limited to ~163,000 tonnes of RDF that is exported from the Study Area. There remains a minimum of 935,000 tonnes of waste (likely to be significantly higher) available to the Proposed Development, for the reasons set out in the Applicant's response to PND.3.1. The Applicant therefore maintains its position that the Proposed Development will not result in an over capacity at either a national or local level.
PND.3.5	Applicant	The proximity principle requires waste to be managed as near as possible to its place of production, because transporting waste has an environmental impact. The Applicant states, in para. 2.3.5 of the WFAA [REP5-019/020] that, to guarantee the Applicant's commitment to compliance with the proximity principle, the Applicant has included in the draft DCO [REP6-003/004] a requirement that guarantees that not less than 17.5% of the waste processed at the authorised development per operational year must originate from within Waste Area 1, which is	The compliance of the Application with the proximity principle is not limited to the proposed commitment as regards Waste Area 1. That is only one element of the compliance strategy, and compliance with the proximity principle does not necessitate that waste be sourced only from within Waste Area 1. Requirement 29 of the draft DCO (Rev 6 provided at Deadline 7) also requires a minimum of 80% of the waste processed at the Proposed Development to originate from Waste Area 2. Waste Area 2 is defined by reference to the Waste Area Plan. Waste Area 2 is the Study Area referred to in the WFAA. Waste Area 2 comprises all of the waste planning authority areas that

ExQ3	Question to	Question	Applicant Response
		the area closest to the Proposed Development. Considering that the proposed article allows potentially for 82.5% of its waste to come from areas further than the Waste Area 1, how is this addressing the proximity principle?	constitute the local area, i.e., those waste planning areas for which disposal at the Proposed Development will be in compliance with the proximity principle. Waste Area 1 is defined as a 75km radius from the EfW CHP Facility site, and is therefore a smaller area than the local Study Area (which corresponds to Waste Area 2 as set out above). A minimum of 17.5% of the waste accepted at the Proposed Development must originate from Waste Area 1. This is an additional obligation that has been agreed with Cambridgeshire County Council. The obligation serves to strengthen the credentials of the Proposed Development as regards compliance with the proximity principle, however it would be wholly inappropriate to regard only that waste sourced from within Waste Area 1 as having been sourced in accordance with the principle. A maximum of 20% of the waste may be processed at the Proposed Development that originates from outside of Waste Area 2. This flexibility is considered to be reasonable and proportionate and enables the Proposed Development to deal with fluctuations in the waste industry that could arise from unforeseeable future events (e.g., those caused by COVID-19 and the war in Ukraine). However, it is important to recognise that treatment of this waste at the Proposed Development may nevertheless comply with the proximity principle where there is no capacity at energy recovery facilities closer to the point of origin of the waste.

ExQ3	Question to	Question	Applicant Response
			Notwithstanding the above, the requirement to source 17.5% of waste from Waste Area 1 has been agreed with CCC and is a minimum. It does not prevent the Applicant from sourcing a greater percentage of waste from closer proximity. Because the cost of disposing of waste is heavily influenced by the cost of transport, the Applicant is confident that economics will encourage waste producers and processors located within Waste Area 1 to use the Proposed Development.
PND.3.6	Applicant	DCO Requirements 29: Waste Area Plan [REP6-015] includes a Plan showing Waste Area 1 (75km from the Proposed Development) and Waste Area 2. Considering that the vast majority of the waste anticipated to fuel the Proposed Development could potentially come from Waste Area 2 (with 80% to 100% of the waste coming from this area with potentially only a contribution of 17.5% from Waste Area 1) how does the Applicant guarantee that the Proposed Development will not displace waste from any of the local waste planning authorities included in Waste Area 2 which could be processed closer to its source? The Applicant is asked to provide evidence of this work.	The Applicant refers the ExA to the **WFAA (Rev 3.0) [REP5-020]**, being the evidence base that demonstrates that there is sufficient residual waste, i.e., waste that is currently being sent to landfill within the Study Area, available for the Proposed Development, to avoid displacing waste from any local waste planning authorities within Waste Area 2 that could be processed closer to its source. Waste Area 2 is equivalent to the Study Area identified within the **WFAA**. As such, any waste that originates from Waste Area 2 will have been taken into consideration within the **WFAA**. The Proposed Development will not displace waste from any existing energy recovery facilities as it will be sourcing fuel from residual waste within the Study Area that is currently sent to landfill. As demonstrated clearly by the **WFAA (Rev 3.0) [REP5-020]**, there is sufficient waste that is currently being treated at landfill available for the Proposed Development and

ExQ3	Question to	Question	Applicant Response
			the Proposed Development will not result in any over-capacity of EfW treatment at either a national or local level. The Proposed Development will offer much needed capacity in the Study Area that moves the management of residual waste further up the waste hierarchy. Through reviewing the Local Plan evidence bases of those Waste Planning Authorities within the Study Area, it has been demonstrated that of the sixteen Waste Planning Authorities considered, only three (Central Bedfordshire, Bedford and Luton, who operate under one single Waste Local Plan) had any planned surplus in residual waste management capacity. The overwhelming majority of the WPA's considered had predicted planned shortfalls in residual waste management capacity. In this regard, it is considered that the Proposed Development is highly unlikely to displace waste from any of the local waste planning authorities included in Waste Area 2 as the majority of these areas are already planning for shortfalls in capacity. Given the quantity of residual waste withing the Study Area (i.e., Waste Area 2) currently being treated at landfill, as demonstrated by the **WFAA**, the ExA can be confident that there is sufficient waste to fuel all existing EfW facilities and the Proposed Development.
PND.3.7	Applicant	In ExQ2 PP.2.1 the ExA asked the Applicant to comment on how the Proposed Development will not compete with greater targets for waste prevention, re-use or recycling at a national and local level.	ExQ2 PND.2.8 requested that the Applicant submit a written response regarding how the revised WFAA has taken into account the Government's target for Residual Waste reduction, particularly the 2027 and 2042 targets, the baseline year

ExQ3	Question to	Question	Applicant Response
		Applicant referred the ExA to its response to ExQ2 PND.2.8 [REP5-032]. In response to ExQ2 PND.2.8 [REP5-032] the Applicant provided additional information in relation to how it addressed the targets included in the Environmental Improvement Plan 2023, particularly how the Proposed Development has taken into account the Government's target for Residual Waste reduction. The Applicant's response concentrates on how it believes there will still be a need for EfW facilities nationally considering the Government's waste reduction targets for 2028 and for 2042. Can the Applicant please address ExQ2 PND.2.8 from a local perspective?	calculations and forecast of available residual levels of waste, as well as the Government's Net Zero Strategy. The Applicant's response to this **(Applicant's response to the ExA's Written Questions (ExQ2) [REP5-032])** focussed on the national perspective as the 2027 and 2042 targets included in the Environmental Improvement Plan 2023 are nationally prescribed targets. The Environmental Improvement Plan 2023 (EIP) sets a series of targets which are 'national', of which two are relevant to the Proposed Development. No local targets are identified. The **WFAA (Rev 3.0) [REP5-020]** has considered the implications for residual waste fuel availability, were these targets to be met, on a national level. Further detail is set out in the Applicant's response to PND.2.8. In respect of the local level, the Applicant has considered the future availability of waste in sections 4.2 and 4.3 of the **WFAA**. These sections set out the waste treatment capacity requirements identified by the relevant waste planning authorities up to and beyond the year 2030, test these capacity need assessments, and provide a conclusion as to the quantity of future waste management capacity, at the level of recovery, that will be required for the local area. This assessment is then validated in section 4.3, to confirm, as far as possible, the waste management need for the local area.

ExQ3	Question to	Question	Applicant Response
			The Applicant considers that this bespoke, targeted and validated assessment represents a more accurate assessment of future waste management need, than the simple application of a generic, national target. Notwithstanding this, it is recognised that these ambitious national targets will ultimately need to be reflected in the plan making of the WPAs in the Study Area. The approach taken by individual WPAs will vary nationally depending on the waste being generated, existing waste management facilities, and the potential for the waste that is generated as a result of local industry to be reused or recycled. The achievement of such ambitious targets is reliant on Government action and funding to facilitate a reduction in the generation of residual waste. Whilst the Applicant fully supports waste reduction initiatives, it is also mindful that future plans must be deliverable and based upon up-to-date evidence. In this regard, the **WFAA** has demonstrated that the Study Area currently sends almost 2.4 million tonnes of suitable residual waste to landfill each year - a trend that is unlikely to change without financial and other policy incentives – the details of which are yet unknown. Furthermore, even if the Government's ambitious residual waste reduction targets of halving residual waste by 2042 are achieved, based on the existing amount of suitable residual waste that is currently landfilled in the Study Area –~1.2 million tonnes of suitable material would remain – material that could

ExQ3	Question to	Question	Applicant Response
			be treated further up the waste hierarchy by the Proposed Development. Draft NPS EN3 requires that the Proposed Development must not result in an over-capacity of waste treatment capacity on a local level or on a national level. The **WFAA** has therefore reviewed the availability of waste on a national level on the basis of achievement of the national target at a national level. It has, however, adopted a bespoke and detailed assessment of waste management capacity at the local level as this is more accurate for the purpose of ensuring there is not an over-capacity at a local level. In this regard, it is considered that **based on current evidence**, the Proposed Development will not compete with greater targets for waste prevention, re-use or recycling at a local level.
PND.3.8	Applicant	In response to ExQ2 PND.2.8 [REP5-032] the Applicant states that "it is considered that, even in the event of the Environmental Improvement Plan 2023 (EIP) stretch target of having residual waste by 2042 being achieved, there remains a clear need for the modern, CHP enabled, and carbon capture facilitated capacity offered by the Proposed Development". Nevertheless, as highlighted and discussed through the Examination, there is no certainty at this point that the	The Proposed Development is required, by Requirement 22 of the **draft DCO (Rev 5.0) [REP6-004]**, to reserve space within the EfW CHP Facility site for future carbon capture and export. The EfW CHP Facility must also be constructed in accordance with the Carbon Capture and Export Embedded Design Measures. These are the design requirements to ensure that carbon capture and export technology can be connected to the EfW CHP Facility at such a time that this technology becomes feasible.

ExQ3	Question to	Question	Applicant Response
		Proposed Development will include an operational carbon capture component. Consequently, how can the Applicant rely of carbon capture as part of its justification for the proposal?	Requirement 23 of the **draft DCO (Rev 5.0) [REP6-004]** requires the Applicant to make a report to the Secretary of State, every two years, detailing how the Proposed Development will continue to comply with Requirement 22 of the **draft DCO (Rev 5.0) [REP6-004]**, and setting out the feasibility of carbon capture and export for the EfW CHP Facility site. Revised draft NPS EN-1, at section 4.8, sets out the potential for Carbon Capture and Storage (CCS) technology, noting that it forms part of the Government's ambitions. Paragraph 4.8.9 confirms that, "to ensure that no foreseeable barriers exist to retrofitting CCS equipment on combustion generating stations, all applications for new combustion plant which are of generating capacity at or over 300MW … should demonstrate that the plant is "Carbon Capture Ready" before consent may be given." The Proposed Development would have an installed capacity below the 300MW threshold over which Carbon Capture Readiness becomes mandatory. Nevertheless, the Applicant has sought to ensure that the Proposed Development is Carbon Capture Ready through the inclusion of Requirements 22 and 23. The NPS does not require new EfW facilities to be constructed with operational carbon capture technology, with paragraph 4.8.5 noting clearly that the Government anticipated subsidies to help establish the CCS industry. Whilst that industry is not

ExQ3	Question to	Question	Applicant Response
			established, Government policy requires only that new facilities are carbon capture ready. As such, the Proposed Development is fully compliant with the existing and revised draft NPS, published in March 2023, in respect of the requirements around carbon capture readiness. Under section 104 of the Planning Act 2008, where a national policy statement has effect in relation to a development, the Secretary of State must have regard to that national policy statement. In the case of the revised draft NPSs, whilst these have not yet been adopted, they are considered to be important and relevant matters. All projects subject to the policy requirement to be carbon capture ready are in the same position as the Proposed Development and subject to uncertainty as to if and when CCS technology can be deployed. That is why the policy is formulated as it is: requiring 'readiness' as opposed to deployment. The Applicant is therefore confident that Requirements 22 and 23 of the **draft DCO (Rev 5.0) [REP6-004]** reflect the national policy framework and as such form part of the justification for the Proposed Development and can be relied upon.
PND.3.9	Applicant	The Applicant estimates a minimum shortfall of 1.3 million tonnes in residual waste management capacity in the Study Area up to 2030, as per para. 4.2.11 of the WFAA	The predicted shortfall in residual waste management capacity in the Study Area of 1.3 million tonnes by 2030 referenced at paragraph 4.2.11 of the **WFAA (Rev 3.0) [REP5-020]** does not represent the Applicant's estimation of capacity requirements.

ExQ3	Question to	Question	Applicant Response
		[REP5-019/020]. Can the Applicant please demonstrate how the cumulative impact of the recently allowed capacity of BAEF and the targets included in the EIP have been taken into consideration, particularly at a local level?	Instead, this figure relates to a minimum indicative shortfall for 2030 identified by the WFAA's review of evidence bases which underpin the development planning framework for waste across the spatial scope of the assessment. The same evidence base reports a minimum shortfall of up to 1.5 million tonnes for 2035. The **WFAA (Rev 3.0) [REP5-020]** goes on to explain at paragraphs 4.2.12 and 4.1.20 that it is important to recognise that the WLP evidence bases are not without their limitations, and in some cases are likely to represent a significant under-estimation of the true need for additional capacity, potentially trebling the indicative shortfall identified above (as a consequence of capacity being lost or remaining unbuilt for some time). Indeed, in the Applicant's local assessment of fuel availability, the **WFAA (Rev 3.0) [REP5-020]** concludes that there is an existing residual waste capacity gap of up to 2.6 million tonnes per annum for the East of England alone – a gap that is predicted to increase substantially beyond 2025 as non-hazardous landfill sites throughout the wider area fill up (see paragraph 4.4.4 of the **WFAA (Rev 3.0) [REP5-020]**). In terms of the cumulative impact of the recently allowed capacity of BAEF and how this, plus the targets included in the EIP have been taken into consideration, please refer to the Applicant's responses to PND.3.1 to PND.3.4, above.

Table 2.3: Cumulative Effects

ExQ2	Question to	Question	Applicant Response
CE.3.1.	LHAs	In response to ExQ2 CE.2.3 [REP5-032] the Applicant stated it has considered the additional lists of projects provided by the LHAs at Deadline 3 and that it was agreed with the LHAs significant inter-project effects would occur as a result of the Proposed Development. The LHAs are asked to confirm if they are content with the Applicant's response.	N/A

Table 2.4: Draft Development Consent Order

ExQ2	Question to	Question	Applicant Response
DCO.3.1	Applicant	Art. 29 of Schedule 2 Requirements has been included in the latest version of the dDCO [REP6-015] to guarantee the Applicant's commitment to compliance with the proximity principle. Art. 29(1) states that: "Waste originating outside of Waste Area 1 and then transported to a waste loading point located in Waste Area 1 is not considered to have originated in Waste Area 1." Can the Applicant please confirm how this will be implemented and monitored, and who will be responsible to	DCO Requirement 29 **draft DCO (Rev 5.0) [REP6-004]**, requires the Applicant to provide to the relevant planning authority an annual Waste Catchment Report. This report requires the Applicant to provide information of the waste throughput and total tonnage, the waste catchment including the waste area for each waste loading point, separate total tonnages received from waste area 1, waste area 2 and outside of waste area 2; and the total annual tonnage processed at the authorised development from each waste planning authority for the operational year.

ExQ2	Question to	Question	Applicant Response
		its implementation and monitoring and how implementation and monitoring will be secured?	Waste will only be delivered to the Proposed Development under contract. The contract between the Applicant and the waste company will include a legal obligation upon the company supplying the waste to provide proof of origin documentation. The contract will require this documentation to be provided to the Applicant within a reasonable time period upon request and annually in advance of the Applicant's responsibility to prepare and submit the annual Waste Catchment Report. This information will therefore be available to the relevant planning authority and it can enforce any failure by the Applicant via the relevant provisions of the DCO. As this is secured by DCO Requirement, failure to comply with the monitoring and reporting obligation will automatically constitute a criminal offence. The Applicant will be able to enforce this Requirement against waste companies from which it receives waste via the terms of the individual waste contracts.
DCO.3.2	Applicant	Art. 29(2) Schedule 2 Requirements of the dDCO [REP6-015] states that: "Subject to sub-paragraph (1), waste transported into Waste Area 2 to a waste loading point is considered to have originated in Waste Area 2." • Can the Applicant please confirm that the text should read ""Subject to sub-paragraph (1), waste transported into Waste Area 2 to a waste loading point	The drafting of Requirement 29 of the **draft DCO (Rev 5.0) [REP6-004]**, has been agreed with CCC and is correct. The drafting ensures that any waste processed in a transfer facility located within the Study Area (Waste Area 2), in the ordinary course of waste management, is able to send any of its residual waste to the Proposed Development. If the wording proposed by the ExA was included it would be unworkable from a practical perspective as waste sent to a transfer station for processing (e.g. to remove recyclables) is not physically segregated within the transfer station by reference to

ExQ2	Question to	Question	Applicant Response
		is **not** considered to have originated in Waste Area 2."? • Can the Applicant please also confirm how this will be implemented and monitored, and who will be responsible to its implementation and monitoring and how implementation and monitoring will be secured?	or according to which waste planning authority the waste originates from. Paragraph 29(6) requires the Applicant to submit a Waste Catchment Report to the relevant planning authority every year. This Report will include the details of where the waste originates, detailing the total tonnage from each Waste Area. The Applicant will be responsible for collecting this data in so far as it is reasonably practical, and submitting to the local planning authority for monitoring. As this is secured by DCO Requirement, failure to comply with the monitoring and reporting obligation will automatically constitute a criminal offence.

Table 2.5: Planning Policy

ExQ2	Question to	Question	Applicant Response
PP.3.1.	Environment Agency (EA)	In [REP5-055] and in response to ExQ2 PP.2.7, the Environment Agency stated that "consideration of government targets is not a requirement under the Environmental Permitting (England and Wales) Regulation 2016 and will therefore not form part of our ongoing environmental permit determination". Although the ExA does not dispute this, the ExA asks the Environment Agency to confirm the Government's target to halving the waste	N/A

ExQ2	Question to	Question	Applicant Response
		that ends up at landfill or incineration by 2042 is adopted and in place.