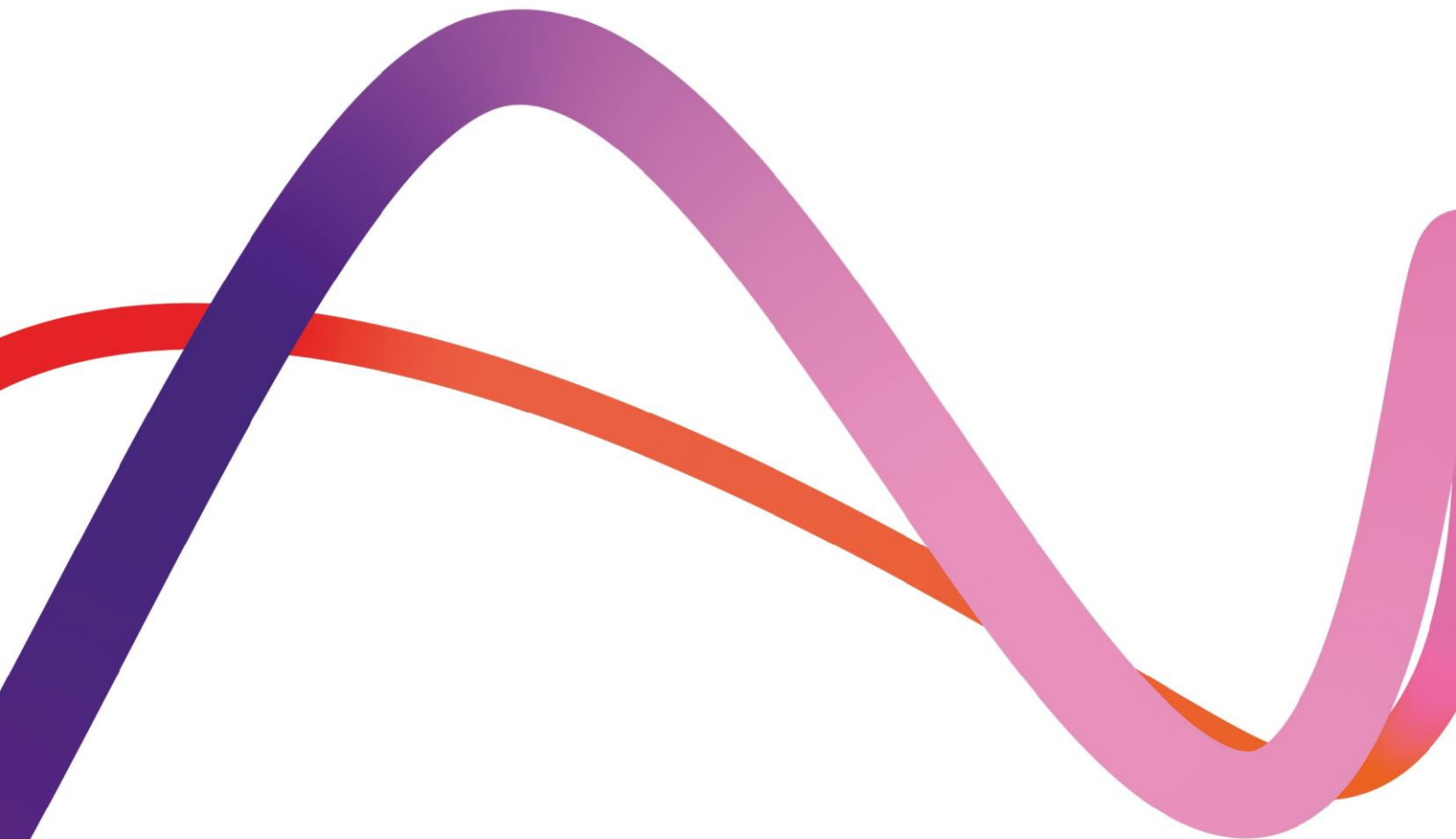


Medworth Energy from Waste Combined Heat and Power Facility



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Applicant's comments on the responses 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 8 (18 August 2023) of the Examination contains the Applicant's comments on the responses to the Examining Authority's (ExA) Third Written Questions (ExQ3) [PD-017] issued by the ExA on 21 July 2023. The responses are those uploaded at Deadline 7. The responses to ExQ3 were made by the following organisations and other interested parties:

- Cambridgeshire County Council (CCC) and Fenland District Council (FDC) **[REP7-044]**;
- Norfolk County Council **[REP7-049]**;
- The Borough Council of King's Lynn and West Norfolk (BCKLWN) **[REP7-041]**;-
- Wisbech Town Council **[REP7-052]**;
- Network Rail Infrastructure Limited **[REP7-048]**;
- Hundred of Wisbech Internal Drainage Board (IDB) **[REP7-046]**;and
- The Environment Agency **[REP7-045]**.

1.1.3 The Applicant notes that no responses to ExQ3 were provided by Walsoken Parish Council, the King's Lynn Internal Drainage Board and National Highways.

1.1.4 The Applicant's comments on the responses are presented in the following tables:

- Table 2.1 Comments on the responses from Cambridgeshire County Council and Fenland District Council;
- Table 3.1 Comments on the responses from Norfolk County Council;
- Table 4.1 Comments on the responses from the Borough Council of King's Lynn and West Norfolk;
- Table 5.1 Comments on the responses from Wisbech Town Council;
- Table 6.1 Comments on the responses from Network Rail;
- Table 7.1 Comments on the responses from the Hundred of Wisbech IDB; and
- Table 8.1 Comments on the responses from the Environment Agency.



2. Comments on the responses from Cambridgeshire County Council and Fenland District Council

Table 2.1 Comments on the responses from Cambridgeshire County Council and Fenland District Council [REP7-044]

ExQ3	Question	CCC & FDC Response	Applicant Comment
General & Cross Topic Questions			
GCT.3.1	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?	<p>Positive and constructive discussions continue between the Applicant and the Councils regarding the S106 agreement. The Councils are hopeful remaining matters will be resolved by the end of the examination.</p> <p>In respect of the outstanding matter of the s106 requiring the Applicant to enter into a s278 agreement for the proposed highway works, the LHA would consider that this is key in securing the requirement in relation to the subsequent approval and implementation process. Typically, there does not need to be a specific S106 requirement where developers cannot work in the highway without such an agreement being in place and consent from the LHA.</p> <p>However, owing to the potentially far-reaching powers available to MVV through the dDCO, and without securance of the s278 agreement via the s106, the LHA is of the view that the development would be unacceptable without the ability to retain appropriate control over the highway works. The s106 and resultant s278 are therefore necessary</p>	The Applicant and CCC have positively progressed negotiations on the Section 106 Agreement and the terms are now agreed and engrossments are being prepared for signature.



ExQ3	Question	CCC & FDC Response	Applicant Comment
		to ensure no objection from the LHA to the proposed development.	
GCT.3.2	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?	<p>The purpose of the Mitigation Package is to offset the adverse visual impact of the Proposed Development in the 5km SW-SE arc south of the Proposed Development by providing:</p> <ol style="list-style-type: none"> 1) New PROW and improvements to existing PROW within the 5km arc; and 2) Permissive NMU access to offsite land to be used for Biodiversity Net Gain. <p>These will help communities that already have a low sense of value and poor health outcomes to feel that their concerns have been recognised, and that some direct compensation for the adverse impact on them has been made through enhancements to their limited and precious PROW network and local road connectivity, as well as access to new nature sites.</p> <p>In addition, the enhancements to the PROW, local road connectivity and new nature sites will help to offset the potential negative impact on physical use of the network, and consequently on mental health, that could arise from users feeling their landscape has been degraded. This in turn should help to at least maintain, and hopefully to improve, public health outcomes for the area.</p>	<p>The Applicant's Section 106 Heads of Terms (Volume 15.8) [REP6-031] includes for measures to improve and enhance PROWs and local NMU connectivity and to use reasonable endeavours to ensure appropriate permissive access to BNG land by NMUs in response to requests from the Councils.</p> <p>For the avoidance of doubt, the community fund, detailed in the Outline Community Benefits Strategy Rev3 (Volume 7.14) [REP7-014] would be secured via a S111 agreement as it is considered that it would not meet the statutory tests for planning obligations (para 57, NPPF).</p> <p>The Applicant welcomes the opportunity to improve local PROWs and NMU access however it does not agree with the Council that the effects arising from the Proposed Development could significantly affect mental health. Neither the Councils in the Statement of Common Ground submitted at Deadline 7 (Volume 9.4B) [REP7-017] (with a final, signed version submitted for Deadline 8) nor the UK Health Security Agency (SOCG between Medworth CHP Ltd and the UK Health Security Agency Volume 9.8 [REP2-013]) disagree with the Applicant's conclusions that effects upon health arising from the Proposed Development would not be significant (ES Chapter 16 Health Volume 6.2 [APP-043]).</p>



ExQ3	Question	CCC & FDC Response	Applicant Comment
		<p>The residual effect in terms of NMUs and users of the PROW network is that the adverse visual impact of the development upon communities and PROW users/NMUs within the landscape within the southern 5km arc will physically still be much the same, due to the large scale in height of the development. This is because it will be impossible to put in place much physical screening that could effectively mitigate the views of the Proposed Development in this area.</p> <p>It is anticipated that the compensation mitigation will help to reduce the mental, and consequently physical, impact of the Proposed Development on NMUs and local communities over time. However, it is likely that some residual harm will always exist due to the ongoing adverse visual impact of the Proposed Development in the landscape.</p> <p>For clarity, the Councils have agreed with the Applicant that the Community Fund is to be addressed outside of the s106 Agreement, as detailed within the Applicant's updated Community Strategy [REP6-016]. The s106 Agreement will only cover the PROW and NMU community mitigation, and the requirement for the Applicant to enter into the s278 Agreement.</p>	<p>The Applicant and CCC have positively progressed negotiations on the Section 106 Agreement and the terms are now agreed and engrossments are being prepared for signature.</p>
GCT.3.3	<p>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</p>	<p>The Councils remain in active discussions with the Applicant regarding the outstanding issues that are not yet agreed and aims to resolve these before the close of the Examination. The Councils will submit a final position statement at Deadline</p>	<p>The Applicant confirms that negotiations with the Councils have continued since Deadline 7 and the resulting signed Statement of Common Ground between Medworth CHP Ltd and CCC and FDC (Volume 9.4B) is submitted at Deadline 8.</p>



ExQ3	Question	CCC & FDC Response	Applicant Comment
	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 objections to the ExA highlighting main points of contention.	8 setting out the final matters that cannot be resolved within the Examination timeframe.	
GCT.3.4	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.	The Councils remain in active discussions with the Applicant regarding the outstanding issues that are not yet agreed and aims to resolve these before the close of the Examination. The Councils will submit a final position statement at Deadline 8 setting out the final matters that cannot be resolved within the Examination timeframe.	The Applicant confirms that negotiations with the Councils have continued since Deadline 7 and the resulting signed Statement of Common Ground between Medworth CHP Ltd and CCC and FDC (Volume 9.4B) is submitted at Deadline 8.
Cumulative Effects			
CE.3.1	In response to ExQ2 CE.2.3 [REP5-032] the Applicant stated it has considered the additional lists of projects provided by the	The Councils agree with the Applicant's response as set out on page 37 of [REP5-032].	The Councils' comment is noted.

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ExQ3	Question	CCC & FDC Response	Applicant Comment
	<p>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.</p>		



3. Comments on the responses from Norfolk County Council

Table 3.1 Comments on the responses from Norfolk County Council [REP7-049]

ExQ3	Question	NCC Response	Applicant Comment
General & Cross Topic Questions			
GCT.3.3	<p>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 objections to the ExA highlighting main points of contention.</p>	<p>NCC and BCKLWN have concluded a Statement of Common Ground with the Applicant (Applicant's Document Ref. Vol 9.4a, Revision 4.0), which was agreed and signed by NCC on 1st August 2023. This has been submitted to the Examining Authority by the Applicant. The matters not agreed are set in the tables contained in each chapter of the Statement of Common Ground. NCC's overview of its outstanding objections are as follows:</p> <p>Chapter 4 Draft DCO - Table 4.2 Agreement Log: Draft DCO 4.2.3 NCC: No agreement on Deemed Consent.</p> <p>NCC Position: Whilst NCC welcomes the Applicant's agreement to the 12 week determination period and the offer to enter into a PPA to cover costs, NCC considers that the other points are not agreed, i.e. that non-determination should be treated as a deemed refusal, that the timescales for requests for further information and consultation should be broken down, or that the other proposed limitations on the ability of the relevant authority to request further information should be limited at the end of the time limits, or that the submission of further information should be treated separately from the initial application.</p>	<p>The Applicant notes NCCs comments and confirms that these reflect the contents of the Draft Statement of Common Ground Between Medworth CHP Ltd and NCC and BCKLWN (Volume 9.4A) [REP7-016].</p> <p>With regard to the comments made on Chapter 4 Draft DCO, the Applicant maintains its position that deemed consent is appropriate and necessary in order to ensure that the Proposed Development, as a Nationally Significant Infrastructure Project, is not unreasonably delayed. This approach of deemed consent has been most recently included within the made Boston Alternative Energy Facility Order 2023, where Requirement 26 provides a period of eight weeks and deemed approval. The Applicant considers that that project, also being an Energy from Waste Facility, is of comparative complexity to the Proposed Development.</p> <p>With regard to comments made on Chapter 9 Landscape and Visual, the ExA's attention is drawn to the Applicant's position to each of the Councils' outstanding objections within Draft Statement of Common Ground Between Medworth CHP Ltd and NCC and BCKLWN (Volume 9.4A) [REP7-016] at 9.3.4, 9.3.7, 9.3.8 and 9.3.9.</p>



ExQ3	Question	NCC Response	Applicant Comment
		<p>NCC email 12 July 2023 - "We [NCC] have discussed this and have concluded that we wish to maintain our position. Whilst you [the Applicant] refer to the DCO deemed consent provisions for the Great Yarmouth Third River Crossing, our experience with that project (which was not the scale and did not raise the complexity of issues that the Medworth EfW EHP Facility would), and other DCO applications, is that the deemed consent provisions with similar limited timescales proposed are not adequate to enable them to work effectively from a local authority perspective, particularly where there are more complex issues involved which may take consultees some time to respond to or where additional information may be required".</p> <p>Chapter 9 Landscape and Visual - Table 9.3: Agreement Log: Landscape and Visual Impact 9.3.4 NCC: Not Agreed</p> <p>NCC Position: As set out in the Councils' Joint Local Impact Report (LIR) [REP1-064] NCC is concerned that the full extent of the stack and plume has not been included on the visualisations and that the Zone of Theoretical Visibility (ZTV) and viewpoint 16 may not represent the likely degree of visibility, especially on the villages to the east within NCC's area. The ExA will be notified if NCC's position changes.</p> <p>9.3.7 NCC: Not Agreed.</p> <p>NCC Position: As set out in its relevant representation [RR-004], NCC agrees that the landscape impacts of the grid connection in Norfolk are likely to be minimal. However, NCC has raised concerns about the scope of the assessment with regards to the stack and likely plume that could impact views from Norfolk and the wider landscape potentially to a greater degree than</p>	



ExQ3	Question	NCC Response	Applicant Comment
		<p>reported in the assessment conclusions. The ExA will be notified if NCC's position changes.</p> <p>9.3.8 NCC: Not Agreed. Paragraph 10.13 of the Joint LIR [REP1-065] emphasises that NCC's primary concern is the impact the stack and plume on residential receptors situated on the edge of villages to the east and other remote dwellings and that these effects would be difficult to mitigate given their height/scale. The ExA will be notified if NCC's position changes.</p> <p>9.3.9 NCC: Not Agreed. See above. Whilst neither authority has raised issues specifically on breaching the Residential Visual Amenity Threshold (RVAT), the Joint LIR [REP1-064] explains the councils' position and concerns regarding the impact of the Proposed Development, most notably the effects of its stack and plume on residential receptors within villages within Norfolk. The ExA will be notified if NCC's position changes.</p>	
GCT.3.4	<p>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.</p>	<p>NCC confirms that there are no "matters subject to further discussion".</p>	<p>Noted.</p>



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ExQ3	Question	NCC Response	Applicant Comment
Cumulative Effects			
CE.3.1	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.	NCC confirms that it has no comment to make on this matter as it did not submit a list of projects at Deadline 3.	Noted. BCKLWN has confirmed within the Draft Statement of Common Ground Between Medworth CHP Ltd and CCC and FDC (Volume 9.4B) [REP7-017] that it is in agreement with the Applicant's conclusions regarding cumulative effects.



4. Comments on the responses from Borough Council of King's Lynn and West Norfolk

Table 4.1 Comments on the responses from the Borough Council of King's Lynn and West Norfolk [REP7-041]

ExQ3	Question	BCKLWN Response	Applicant Comment
General and Cross Topic Questions			
GCT.3.1	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?	No additional technical comments to make.	Noted.
GCT.3.2	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?	No additional technical comments to make.	Noted.
GCT.3.4	The Applicant has highlighted a series of "matters subject to further discussion" (marked yellow in Table 4.1: Summary	No additional technical comments to make.	The Applicant notes that all matters applicable to BCKLWN have been agreed, (Statement of Common Ground Between Medworth CHP Ltd

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ExQ3	Question	BCKLWN Response	Applicant Comment
	<p>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.</p>		<p>and NCC and BCKLWN (Volume 9.4A) [REP7-016].</p>
Cumulative Effects			
CE.3.1	<p>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.</p>	<p>No additional technical comments to make.</p>	<p>Noted. BCKLWN has confirmed within the Statement of Common Ground Between Medworth CHP Ltd and NCC and BCKLWN (Volume 9.4A) [REP7-016] that it is in agreement with the Applicant's conclusions regarding cumulative effects.</p>



5. Comments on the responses from Wisbech Town Council

Table 5.1 Comments on the responses from Wisbech Town Council [REP7-052]

ExQ3	Question	Wisbech TC's Response	Applicant Comment
General & Cross Topic Questions			
GCT.3.3	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 objections to the ExA highlighting main points of contention.	<p>Need</p> <p>1.1 Wisbech Town Council maintains its position that the proposed Medworth EfW CHP facility will compete with greater waste prevention, re-use or recycling and will result in over-capacity of EfW waste treatment contrary to draft NPS EN-3 and as such the presumption in favour of energy infrastructure set out in draft NPS EN-1 and relied upon by the Applicant will not apply.</p> <p>1.2 Draft requirement 29 does nothing to ensure that waste is managed in accordance with the proximity principle. As drafted, it would allow 82.5% or 516,120 tpa to originate from locations beyond 75km.</p> <p>1.3 The Applicant is reliant on the study area defined in the WFAA to demonstrate that it will not result in over-capacity of EfW treatment at a local level to justify the need for the facility, but then only committing to a very small proportion of the total waste processed at the facility to have originated from within this area.</p>	<p>Need</p> <p>As the Applicant has highlighted throughout the Examination, the focus of the Waste Fuel Availability Assessment (WFAA) (Rev 3) [REP5-020] is on the availability of residual waste i.e., that part of the waste stream that is left over after reuse, recycling and other forms of recovery have taken place. In this regard, the assessment clearly illustrates that almost 2.4 million tonnes of suitable waste is presently sent to landfill – 625,6000 tonnes of which the Proposed Development would divert from landfill and manage in a manner further up the national waste management hierarchy.</p> <p>Draft Requirement 29, which has been agreed by Cambridgeshire County Council, would make a significant contribution to ensuring that waste would be managed in accordance with the proximity principle. The Applicant's definition of 'local area' is the study area – an area based upon Waste Planning Authorities within an indicative two-hour drive time form the Proposed development. Requirement 29 requires that at least 80% of waste is sourced from this area. Of this, at least 17.5% of the waste must originate from within a 75km radius of the Proposed Development. In this regard, it is considered that the Proposed Development</p>



ExQ3	Question	Wisbech TC's Response	Applicant Comment
		<p>1.4 The study area has been manipulated by the Applicant in an attempt to demonstrate that there is sufficient residual waste available. Had the study area been limited to the two hour catchment, it is quite clear that there would be insufficient waste to justify an EfW of the scale being proposed.</p> <p>1.5 The amount of waste genuinely available within the two hour drive time is only a fraction of that claimed by the Applicant once the capacity at Rookery South and other consented and shortly to be operational facilities at Rivenhall and Newhurst and the targets set out in the EIP are taken into account. This will be reduced further when the recently consented Boston Alternative Energy Facility is taken into account.</p> <p>1.6 Wisbech Town Council maintains its position that the Applicant is relying on waste from areas significantly beyond the two-hour drive time catchment. This is unsustainable and contrary to the proximity principle.</p> <p>1.7 Even if the need for a facility of the scale proposed could be justified, geographically, Wisbech is not well located to serve the needs of the wider region. It is some distance from the larger centres of population and would require waste to be transported significant distances to be processed.</p> <p>1.8 The Applicant's assessment of future residual waste requirements is also grossly</p>	<p>makes a significant contribution to the fulfilment of the proximity principle.</p> <p>Please also refer to the Applicant's response to PND.3.5 in the Applicant's response to ExQ3 [REP7-040].</p> <p>The Waste Fuel Availability Assessment (WFAA) (Rev 3) [REP5-020] provides a clear and robust case of need and is based upon a range of up to date, publicly available, credible and rigorously examined data sources. This has had full regard to Government residual waste reduction targets, which have emerged throughout the Examination process. The assessment has also adopted a flexible approach to reflect recent approvals/construction of other permitted EfW facilities, including Rivenhall and Newhurst (which have been fully considered in the Applicant's assessment).</p> <p>The Applicant has also considered the recently approved Boston Alternative Energy Recovery Facility (BAEF) in some detail – see responses to PND3.1 to 3.3 in the Applicant's response to the ExA's Written Questions (ExQ3), Volume 16.2 [REP7-040]. As highlighted in PND3.1 to 3.3, BAEF will not compete directly with the Proposed Development. Furthermore, on a national (England) basis, the surplus of available residual waste is ~3.5mtpa. If 1.2mtpa is diverted by boat to BAEF, a significant surplus remains to be diverted from landfill. See Graphic GCT.3.3 for the location of BAEF and the ports listed in the DCO documentation.</p> <p>At a local level, due to the import of RDF by boat and a restriction preventing the importation by road (Requirement 17 (Operational vehicle movements) in</p>



ExQ3	Question	Wisbech TC's Response	Applicant Comment
		<p>exaggerated. The suggestion that any waste exported by a waste planning authority amounts to an unmet need capable of being accommodated at the proposed Medworth EfW CHP facility is nonsensical. The proposed facility relies almost entirely on waste being imported significant distances from waste planning authorities outside Cambridgeshire.</p> <p>1.9 Notwithstanding the above and the fact that the Applicant again is reliant on shortfalls in capacity from outside the study area to justify the facility, the evidence base supporting Waste Local Plans to forecast future requirements does not take into account Government targets set out in the EIP to reduce the amount of residual waste by 50% by 2042.</p> <p>Alternatives</p> <p>1.10 The Applicant stated that it did not consider alternative sites, which appears contrary to the position advanced at ISH1 when it was suggested that sites in Norwich, Wisbech Essex and Peterborough were looked at. Where alternative sites have been considered they need to be documented in the Environmental Statement.</p> <p>1.11 The Applicant stated that the site was chosen by looking at sites with a capacity gap, a user for heat, proximity to the strategic road network and free from environmental constraints.</p>	<p>the Boston Order), BAEF did not consider a local waste supply; the Proposed Development does. Accounting for the one port within the Study Area (Great Yarmouth) the WFAA includes a conservative allowance (168,000tpa) and still demonstrates a shortfall in residual waste treatment capacity in the Study Area.</p> <div data-bbox="1352 518 1998 1340"> <p>Sites</p> <ul style="list-style-type: none"> M. Medworth EfW CHP Facility B. BAEF <p>Ports listed in BAEF</p> <ol style="list-style-type: none"> 1. Glasgow King George V 2. Montrose 3. Grangemouth 4. Fleetwood 5. Hartlepool 6. Hull 7. Great Yarmouth 8. Ridham 9. Sheerness 10. Southampton 11. Port Talbot 12. Belfast </div> <p>Source: Based on the information contained in paragraph 5.6.6 of the Boston Alternative Energy Facility – Environmental Statement,</p>



ExQ3	Question	Wisbech TC's Response	Applicant Comment
		<p>1.12 As the facility is stated to meet a regional need, the purported capacity gap is not specific to the application site – it could be met anywhere within the region. The only justification for the site is the potential for heat use (although no evidence has been put forward to substantiate this) and its proximity to the strategic road network. It does not make for good planning to locate a regional waste facility in Flood Zone 3 on the northern edge of the waste catchment, some distance from a major urban area.</p> <p>1.13 The failure to consider alternative sites is a serious omission given that the application site is within Flood Zone 3. The Sequential Test required by both the NPS EN-1 (paragraph 5.7.9) and the National Planning Policy Framework (NPPF) requires consideration of alternative sites at lower risk of flooding (i.e. Flood Zones 1 or 2) as part of site selection</p>	<p>Chapter 5 Project Description, Document Reference 6.2.5, dated 23 March 2021.</p> <p>It is the Applicant's view, when compared to the relatively simple logistics of delivering residual waste to the Proposed Development, to export RDF from within the Study Area via the port at Great Yarmouth to BAEF is unlikely to be economical. Factors include, added costs to shred, bail and wrap the RDF, multiple loading/unloading logistics and the further distances involved.</p> <p>Importantly, taking all of this into account, the WFAA concludes that there is insufficient existing or planned residual waste management capacity available to ensure that residual, non-recyclable waste can be managed as far up the waste hierarchy as possible (i.e., diverted from landfill) and in a manner which complies with the proximity principle (i.e., treating waste as close as possible to its point of arising). This capacity gap is greater than the 625,600 tonnes of capacity offered by the Proposed Development and will, therefore, not result in an over-capacity of waste treatment.</p> <p>Alternatives</p> <p>The Applicant's position with regard to alternatives is set out within ES Chapter 2 Alternatives (Volume 6.2) [APP-029] and within the Applicant's response to ISH3 Action Point 10: Position Statement on Site Selection and Alternatives - Revision 1.1 (Volume 14.6) [REP5-037]. The Applicant's approach to the consideration of alternatives is consistent with NPS EN-1 (paragraph 4.4.1) in that there is no general policy obligation to consider alternatives but that where these have been studied, the reasons for selection are presented (ES Chapter 2 and associated Appendix 2A).</p>

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ExQ3	Question	Wisbech TC's Response	Applicant Comment
			<p>The Applicant's approach to site selection is also consistent with NPS EN-3 paragraphs 2.5.22 to 2.5.29.</p> <p>Compliance with the sequential test, including consideration of alternative sites is demonstrated by ES Chapter 12 Hydrology, Appendix 12A FRA (Volume 6.4) [APP-084] summarised by the Applicant at ISH5, see agenda item 5a of the Written Summary of the Applicant's Oral Submissions at ISH5 (Volume 12.2c) [REP4-021] and through the agreement of its approach and conclusions as recorded within Statements of Common Ground with the Environment Agency [REP4-010], CCC and FDC [REP7-016] and with NCC and BCKLWN [REP7-017].</p>



6. Comments on the responses from Network Rail

Table 6.1 Comments on the responses from Network Rail [REP7-048]

ExQ3	Question	Network Rail's Response	Applicant Comment
General & Cross Topic Questions			
GCT.3.4	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.	<p>Network Rail and the Promoter held a further meeting on 4 August 2023 to discuss outstanding points and progress was made towards finalising outstanding issues. The parties are close to agreeing a private agreement which provides for entry into property agreements relating to Network Rail property and for inclusion of Network Rail's standard protective provisions in the Order. We would note, however, that the most recent form of the Order submitted at Deadline 6 (REP6-004) includes Network Rail's standard protective provisions and it is these provisions that Network Rail seek to have included in the final form of granted Order.</p> <p>Network Rail are hopeful that all outstanding points can be agreed by the end of the Examination and that it will be able to withdraw its objection by Deadline 8 or shortly thereafter.</p>	<p>Subsequent to Deadline 7 Network Rail issued the business and technical clearance certificates to the Applicant with regard to the use of the disused March to Wisbech Railway for the routing of the CHP pipeline and Access Improvements crossing the discussed railway on New Bridge Lane.</p> <p>The parties have agreed a form of private agreement to regulate the ongoing relationship between the parties and to make provision for entry into a voluntary agreement to grant the Applicant the land and rights necessary to deliver the Proposed Development. Engrossments of the private agreement are being prepared, subject to final formal approvals and sign off from Network Rail. Once the private agreement has been completed, Network Rail will be able to withdraw its objection to the Proposed Development and will update the ExA accordingly.</p> <p>The agreed position is reflected in the Statement of Common Ground between Medworth CHP Limited and Network Rail (Rev 3.0) Volume 8.2) provided at Deadline 8.</p>



7. Comments on the responses from Hundred of Wisbech Internal Drainage Board

Table 7.1 Comments on the responses from Hundred of Wisbech IDB [REP7-046]

ExQ3	Question	Hundred of Wisbech IDB Response	Applicant Comment
General & Cross Topic Questions			
GCT.3.4	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.	<p>Further to the Board's previous comments it is confirmed that following further discussion:</p> <ul style="list-style-type: none"> A. The content of the Statement of Common Ground is agreed; B. The content of the Protective Provisions is being finalised. <p>It is anticipated that signed versions of both documents will be submitted for Deadline 7.</p>	Noted. The signed Statement of Common Ground Between Medworth CHP Ltd and the HWIDB was submitted at Deadline 7 [REP7-018] . The Protective Provisions included in the draft DCO have been agreed between the Applicant and HWIDB, with the Side Agreement completed on 17 August 2023.



8. Comments on the responses from the Environment Agency

Table 8.1 Comments on the responses from the Environment Agency [REP7-045]

ExQ3	Question	Environment Agency's Response	Applicant Comment
Planning Policy			
PP.3.1	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 that ends up at landfill or incineration by 2042 is adopted and in place.	The Environmental Targets (Residual Waste) (England) Regulations 2023 came into force in January 2023. This long-term target is indeed to halve the waste that ends up at landfill or incineration by 2042. More specifically, by 31 st December 2042 the total mass of residual waste per capita in England will not exceed 287 kilograms, which is half the 2019 level of 574 kilograms per capita. Residual waste is defined as waste that originated in England which is sent to landfill, put through incineration, or used in energy recovering in the UK or overseas. Further information may be found in the Environmental Improvement Plan 2023.	The Environment Agency's clarification is noted and welcomed. In accordance with the Environment Agency's position on the Government's Environmental Improvement Plan's (EIP) targets the Applicant, in their Waste Fuel Availability Assessment (WFAA) (Rev 3) [REP5-020] gives full and robust consideration to the implications of achieving these targets. Furthermore, in doing so, there remains a clear need for the capacity offered by the Proposed Development – both currently and in the future.

