



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**MEDWORTH ENERGY FROM WASTE COMBINED HEAT
AND POWER FACILITY**

Examining Authority's / Inspector's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Energy Security and Net Zero

Examining Authority

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Claire Megginson BA DipTP MRTPI

21 November 2023

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OVERVIEW

File Ref: EN010110

The application, dated 07 July 2022, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on that date.

The Applicant is Medworth CHP Limited.

The application was accepted for Examination on 02 August 2022.

The Examination of the application began on 21 February 2023 and was completed on 21 August 2023.

The development proposed comprises an energy from waste combined heat and power facility with a maximum gross capacity of 58MW.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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The Planning Inspectorate

ERRATA SHEET – Medworth Energy from Waste Combined Heat and Power Facility - File Ref: EN010110

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security & Net Zero dated 21 November 2023

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	Paragraph	Error	Correction
15	3.2.7	"As stated in in paragraph 4.1.2, given..."	Delete one "in"
25	3.2.78	"it is therefore the Applicant's position..."	"it" should be capitalised to "It"
39	3.2.169	"Paragraph 3.7.7 of the dNPS EN-3 doe state that..."	"doe" should be "does"
48	3.2.190	"...would have the capacity to process up to 625,600 tonnes of residual waste per annum, positively contribution to the creation"	"contribution" should be "contributing"
45	3.2.175	"... included in the NPS EN-3 or the dNPS EN-3 and that the that a clear precedent is established in terms of considering waste regional authorities for waste planning"	Delete highlighted "that the" after "dNPS EN-3 and"
175	6.9.1	"... and Section 7 (Purpose for which Acquisition Powers are Sought) of the SoR [REP7-008] and the	Delete highlighted "and the Applicant"

Page No.	Paragraph	Error	Correction
		Applicant explains how it considers its proposals meet the tests set out in s122 of PA2008"	
188	6.12.80	"This work is identified and secured in the dDCO as Work No. 10 and Requirement 19 – Noise Management of Schedule 2 does state that The Applicant does state that no part of Work No. 4A may commence until Work No. 10 has been constructed".	Delete highlighted "that The Applicant does state that"
112	3.12.23	" ...impacts will be reduced such that the resultant effects are not significant. Given the number of dwellings involved, the Applicant concludes that the operational noise will not impact on health within the wider population, including vulnerable groups".	First part of paragraph was missing but resolved by the ExA on 08/01/24. Noting here for transparency.

INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

- 1.1.1. An application (the application) for the Medworth Energy from Waste (EfW) Combined Heat and Power (CHP) Facility was submitted by Medworth CHP Limited (the Applicant) to the Planning Inspectorate on 7 July 2022 under section (s) 31 of the Planning Act 2008 (as amended) (PA2008) and accepted for Examination under s55 of the PA2008 on 2 August 2022 [PD-001]. This report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State (SoS) for Energy Security and Net Zero.
- 1.1.2. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Planning Inspectorate on behalf of the SoS for the Department of Levelling Up, Housing and Communities (DLUHC) in its decision to accept the application for Examination in accordance with s55 of the PA2008 [PD-001].
- 1.1.3. The Proposed Development is the construction of an onshore generating station that would not generate electricity from wind and with a capacity of more than 50 megawatts (MW). It would be located wholly in England. As such, it meets the definition of a NSIP as set out in s14(1)(a) and s15(2) of the PA2008 and requires development consent in accordance with s31 of the PA2008.
- 1.1.4. The Examination Library (EL) included at Appendix E of this report provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number e.g. [APP-001]. The reference numbers are used throughout this report.
- 1.1.5. This report does not contain extensive summaries of all documents and representations received, although full regard has been had to them and all important and relevant matters arising. Key written sources are set out further below.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 25 October 2022 André Pinto, was appointed as the ExA for the application under s61 and s79 of the PA2008 [PD-004]. On 3 March 2023, the ExA was amended to a panel of two Examining Inspectors under s62 of the PA2008 and Claire Megginson was appointed to the ExA for the application under s65 of the PA2008 [PD-007]. André Pinto was appointed to chair the panel under s65 of the PA2008.

1.3. THE APPLICATION

Description of the Proposed Development

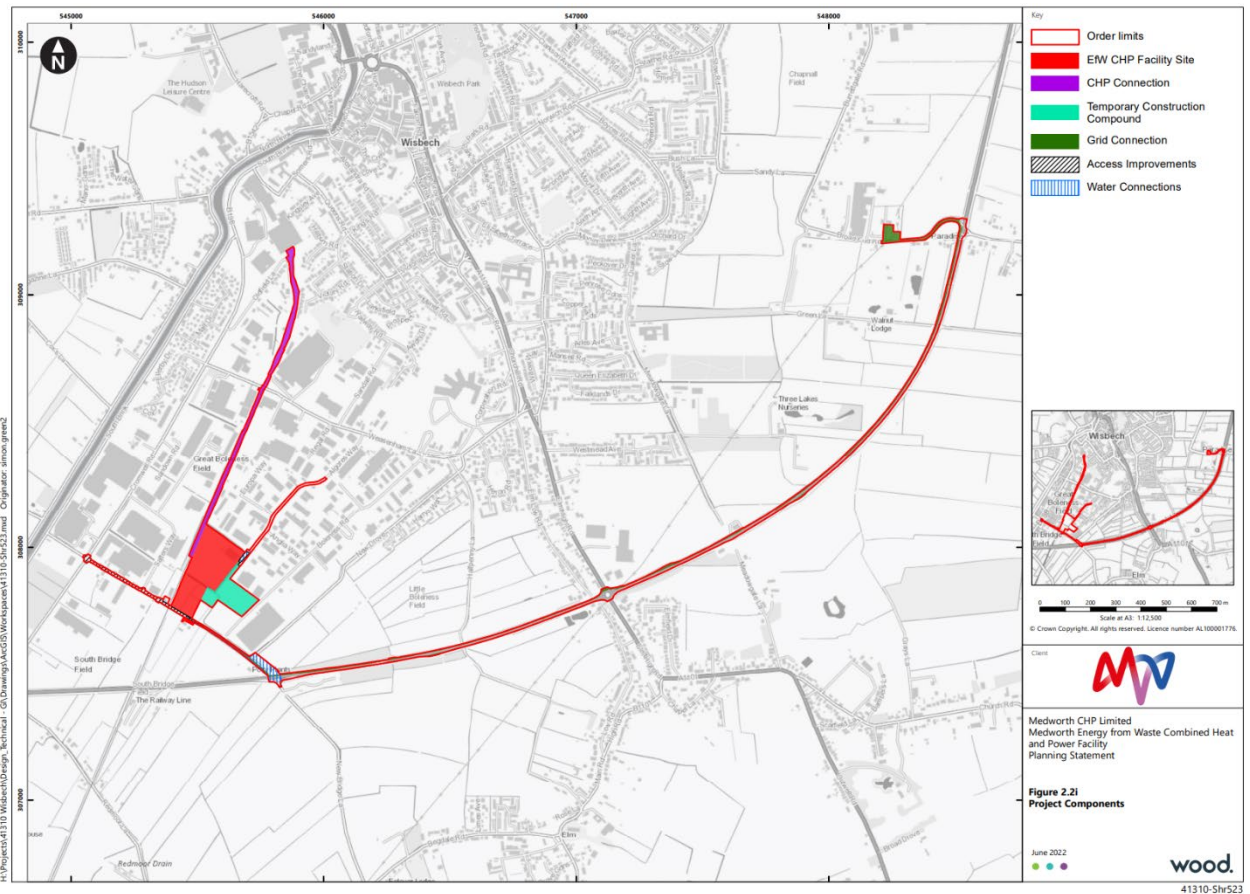
- 1.3.1. The Proposed Development would recover useful energy in the form of electricity and steam from non-recyclable (residual), non-hazardous municipal, commercial and industrial waste. Chapter 3 of the Environmental Statement (ES) provides a full description of the Proposed Development [APP-030]. Figure 1.1 shows the main project components. The main works comprising the Proposed Development are summarised below:

- The EfW CHP Facility;
- CHP Connection;
- Access Improvements;
- Water Connections;
- Grid Connection; and
- Temporary Construction Compound (TCC).

1.3.2. The EfW CHP Facility would have the capacity to process up to 625,600 tonnes of residual waste per annum and a generating capacity of over 50MW of electricity available to export to local users (inc. via a CHP connection) and the electricity distribution network. It would house many development elements including the tipping hall, waste bunkers, boiler house, turbine hall, air cooled condenser, air pollution control building, chimneys and administration building. The CHP connection would allow for the export of steam and electricity from the EfW CHP Facility to surrounding business users via dedicated pipelines and private wire cables. The EfW CHP Facility would be connected to the electricity distribution network via a new 132 kilovolt (kV) underground electricity cable connection into a new Walsoken Substation, proposed by the Applicant. From there, a cable would run underground to the above ground existing substation infrastructure at the Walsoken DNO Substation. This would provide the electrical connection point to the National Grid and facilitate the import and export of electricity to and from the EfW facility. The Access Improvements consist of two proposals, including road widening and a site access point on New Bridge Lane and the reconfiguration of a site access point on Algores Way. A new water main connecting the EfW CHP Facility into the local network and an additional foul sewer connection to an existing pumping station is also proposed. The TCC would be located adjacent to the eastern boundary of the EfW CHP Facility Site and would be in place for the duration of construction.

1.3.3. The Access Improvements consist of two proposals, including road widening and a site access point on New Bridge Lane and the reconfiguration of a site access point on Algores Way. A new water main connecting the EfW CHP Facility into the local network and an additional foul sewer connection to an existing pumping station are also proposed. The TCC would be located adjacent to the eastern boundary of the EfW CHP Facility Site and would be in place for the duration of construction.

Figure 1.1 – Project Components (Extract from [APP-091])



Location of the Proposed Development

- 1.3.4. The location of the Proposed Development is shown in the Site Location Plan [REP7-001] and the Land Plan [REP7-002], final updated versions of which were received at Deadline (DL) 7. Chapter 9 of the ES provides a detailed description of the site location and its surrounding area [APP-036].
- 1.3.5. The EfW CHP Facility Site would be approximately 5.3 hectares (ha) in size and would be located to the southwest of the town of Wisbech. The site lies within the administrative areas of Fenland District Council (Fenland DC) and Cambridgeshire County Council (Cambs CC). The Grid Connection would also extend into the administrative areas of Norfolk County Council (Norfolk CC) and the Borough Council of King's Lynn and West Norfolk (BCKLWN).
- 1.3.6. The EfW CHP Facility Site would be bounded to the west, north and east by an established industrial estate, which contains buildings of varied construction and detailing, and is bounded to its south by New Bridge Lane. The Site is located predominantly on land occupied by a Waste Transfer Station (WTS); however, the southeast section is undeveloped scrubland owned by Fenland DC.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

Relevant Representations

- 1.4.1. A total of 666 Relevant Representations (RRs) were received by the Planning Inspectorate. All persons who made RRs received a letter under Rule 6 [PD-005] of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) explaining the opportunity to become involved in the Examination as Interested Parties (IPs). All RRs have been fully considered by the ExA and the issues they raise are considered in the relevant sections of this report.

Start of the Examination

- 1.4.2. The Examination began on 21 February 2023 and concluded on 21 August 2023. The principal components of the Examination are summarised below.
- 1.4.3. The Preliminary Meeting (PM) took place on 21 February 2023 [EV-002]. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-006], dated 2 March 2023.

Procedural Decisions

- 1.4.4. The procedural decisions taken by the ExA are recorded in the EL referenced [PD-]. They detail the ExA's decisions relating to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development.

Statements of Common Ground

- 1.4.5. By the end of the Examination, the following bodies had concluded and signed Statements of Common Ground (SoCGs) with the Applicant:
- Historic England [REP3-027];
 - Natural England [REP4-011];
 - Environment Agency [REP4-010];
 - UK Health Security Agency [REP2-013];
 - East of England Ambulance Service NHS Trust and Cambridgeshire and Peterborough Integrated Care System [REP2-014];
 - Walsoken Parish Council [REP5-024];
 - Wisbech Town Council [REP6-020];
 - Anglian Water [REP6-021];
 - Hundred of Wisbech Internal Drainage Board [REP7-018];
 - King's Lynn Internal Drainage Board [REP7-019];
 - Norfolk County Council and Borough Council of King's Lynn and West Norfolk [REP7-016];
 - National Highways [REP7-020];
 - Cambridgeshire County Council and Fenland District Council [REP8-011];
 - and
 - Network Rail [REP8-010].
- 1.4.6. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report.

Written Questions, Site Inspections and Hearings

- 1.4.7. The ExA asked three rounds of Written Questions [PD-008, PD-013, PD-017] and made one request for further information and comments under Rule 17 of the EPR [PD-019].
- 1.4.8. The ExA undertook three Unaccompanied Site Inspections (USI) [EV-001, EV-029, EV-060] and held one Accompanied Site Inspection (ASI) [EV-033].
- 1.4.9. Seven Issue Specific Hearings (ISHs) [EV-004, EV-005, EV-006, EV-023, EV-025, EV-027, EV-037, EV-038, EV-039, EV-043, EV-044, EV-045, EV-046, EV-051, EV-052, EV-053, EV-054, EV-065, EV-066, EV-067, EV-071, EV-072, EV-073], three Compulsory Acquisition Hearings (CAHs) [EV-019, EV-021, EV-077] and three Open Floor Hearings (OFHs) [EV-010, EV-012, EV-079] were held.

1.5. CHANGES TO THE APPLICATION

- 1.5.1. Changes to the key application documents, including the wording of the recommended Development Consent Order (rDCO), were submitted and updated during the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.
- 1.5.2. The Applicant's changes to the application documents, together with any additional information submitted, are detailed in the final Guide to the Application (Revision 10) submitted at DL8 [REP8-001]. This provides a guide to all documents submitted as part of the application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the Examination.

Request for Changes

- 1.5.3. On 16 May 2023, the Applicant gave notice to the ExA of its intention to submit a request for changes to the application [AS-015]. The ExA used its discretion and accepted the Notification of Intention to submit the request for changes on 17 May 2023 [PD-012].
- 1.5.4. The Applicant submitted a formal change request on 5 June 2023 [AS-017 to AS-030]. Two changes were proposed, which are detailed in the Change Application Report [AS-028].
- 1.5.5. The ExA agreed with the Applicant that neither of the proposed changes were so material that they constituted a materially different project. The proposed changes were not considered, individually or cumulatively, to lead to the project being different in nature or substance to that which was originally accepted for Examination on 2 August 2023.
- 1.5.6. Nevertheless, the ExA considered that, in the absence of compelling evidence demonstrating that all known directly affected parties were aware of the changes, reasonable and proportionate non-statutory consultation should be carried out before the change request could be accepted. The ExA issued a procedural decision [PD-016] to accept both changes into the Examination, subject to the Applicant undertaking non-statutory consultation.

- 1.5.7. On 19 July 2023, following a period of consultation on the proposed changes, the Applicant submitted a Non-Statutory Consultation Report [AS-034] for the ExA's consideration in support of its change request. The ExA was satisfied that the Applicant had met the necessary requirements and accepted the request for changes [PD-018].

1.6. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.6.1. During the Examination, the Applicant, Alboro Developments Limited and Cambs CC entered negotiations pertaining to a s106 of the Town and Country Planning Act 1990 agreement (s106 agreement) [REP6-031]. The unsigned s106 agreement relates to public access to Biodiversity Net Gain Land and a public right of way (PROW) and non-motorised user (NMU) enhancement contribution [REP8-033]. The agreement also contains a s278 of the Highways Act 1980 agreement between the Applicant and Cambs CC.
- 1.6.2. The Applicant submitted an Outline Community Benefits Strategy which includes details of a community fund that would be secured via a separate agreement with Cambs CC pursuant to s111 of the Local Government Act 1972 [REP7-014].

1.7. OTHER CONSENTS

- 1.7.1. In addition to the consents required under PA2008, the Applicant would require other consents to construct, operate and maintain the Proposed Development. These are set out by the Applicant in the List of Other Consents and Licences [APP-026], subsequently updated at DL6 [REP6-005] These other consents are considered where appropriate within the relevant chapters of this report.

1.8. STRUCTURE OF THIS REPORT

- 1.8.1. The structure of the remainder of this report is as follows:
- **Chapter 2** identifies the planning issues and summarises the key legislation and policy context.
 - **Chapter 3** sets out the findings and conclusions in relation to the planning issues that arose from the application and during the Examination.
 - **Chapter 4** provides a summary of the Habitats Regulations Assessment (HRA).
 - **Chapter 5** sets out the balance of planning considerations arising from Chapters 3 and 4 in the light of important and relevant factual, legal and policy considerations.
 - **Chapter 6** sets out the ExA's examination of land rights and related matters.
 - **Chapter 7** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
 - **Chapter 8** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.
- 1.8.2. This report is supported by the following Appendices:
- **Appendix A** – List of Abbreviations
 - **Appendix B** – Legislation and Policy
 - **Appendix C** – Habitats Regulations Assessment

- **Appendix D** – The Recommended Development Consent Order
- **Appendix E** – Examination Library

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

2.1.1. This chapter identifies the project specific legislation, policy context and Local Impact Reports (LIRs) for the application and outlines relevant documents that the ExA considers to be important to its findings and recommendations to the SoS. A full list of the legislation and policy considered relevant to this application is provided in Appendix B to this report.

2.2. PROJECT SPECIFIC LEGISLATION

Planning Act 2008

2.2.1. The PA2008 provides a different basis for decision-making for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) has effect (s104) and where no NPS has effect (s105). Paragraphs 1.1.2 and 1.1.3 above identify that the application is for NSIP development. For reasons expanded upon in paragraph 2.3.1 below, this is an application to which s104 is applicable because it is subject to policy in a designated NPS.

2.2.2. Section 104(3) of the PA2008 requires the Secretary of State (SoS) to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to the exceptions in s104(4) to (8) as follows:

- deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her or him by or under any enactment;
- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the Proposed Development would outweigh its benefits; and
- any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

2.2.3. Section 104(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application. In summary, the matters set out include:

- any relevant NPSs;
- any LIRs;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters the SoS considers are both important and relevant to the decision.

2.2.4. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s104 of the PA2008.

- 2.2.5. A full list of relevant legislation, including details of the Equalities Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in Appendix B of this Report.

Consultation

- 2.2.6. The applicant of a proposed NSIP must, when meeting their statutory pre-application consultation obligations under s42 of the PA2008, where relevant, make diligent inquiries carrying out their own investigations and taking their own legal advice, as appropriate. It is the responsibility of the applicant to ensure that their pre-application consultation fully accords with the requirements of the PA2008, including associated regulations, and that they have regard to relevant guidance.
- 2.2.7. All Environmental Impact Assessment (EIA) notification and consultation has been made in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations).

Acceptance Stage

- 2.2.8. During the acceptance stage of this application for development consent, the Planning Inspectorate, on behalf of the SoS, determined that the Applicant had complied with Chapter 2 of Part 5 of the PA2008 (Pre-application procedure).

Applicant's Approach

- 2.2.9. The Applicant's approach to consultation is detailed in the Consultation Report [APP-018] and its appendices [APP-019, APP-020, APP-021, APP-022, APP-023]. The ExA concludes that the Applicant has ensured that the Pre-application consultation fully accords with the requirements of the PA2008 [PD-001].

2.3. NATIONAL POLICY STATEMENTS

- 2.3.1. NPSs set out Government policy on different types of national infrastructure development. With regard to the purposes of s104(2)(a) of the PA2008, the ExA considers that the Overarching National Policy Statement for Energy (NPS EN-1), National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) and National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) are relevant to the application.
- 2.3.2. The NPSs form the primary policy context for this Examination. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying the approach set out in s104 of the PA2008. The purpose and broad content of these NPSs is summarised below.

Overarching National Policy Statement for Energy (NPS EN-1)

- 2.3.3. NPS EN-1 (July 2011) sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit under the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are used together with this NPS.
- 2.3.4. NPS EN-1 paragraph 1.4.2 sets out that for onshore electricity generating stations generating more than 50 megawatts (MW), including generation from waste, that

NPS EN-1 in conjunction with the relevant technology-specific NPS will be the primary basis for decision making.

National Policy Statement for Renewable Energy (NPS EN-3)

- 2.3.5. NPS EN-3 (July 2011) details assessment criteria specific to different types of renewable energy infrastructure including Energy from Waste (EfW) and Combined Heat and Power (CHP) proposals. The assessment criteria for EfW proposals include impacts relating to air quality and emissions; landscape and visual; noise and vibration; odour, insect and vermin infestation; waste management; residue management; and water quality and resources.
- 2.3.6. NPS EN-3 is the relevant technology-specific NPS to the Proposed Development. Paragraph 2.5.3 sets out that the combustion generating stations covered by NPS EN-3 are those which generate electricity using waste (possibly including non-renewable sources of waste) and which generate more than 50MW of electricity.

National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)

- 2.3.7. NPS EN-5 (July 2011) sets out assessment and technology-specific information relating to electricity networks infrastructure. The assessment criteria for electricity network proposals includes impacts on biodiversity and geological conservation; landscape and visual; noise and vibration; and electric and magnetic fields.
- 2.3.8. Paragraph 1.8.2 confirms that NPS EN-5 covers underground cables at any voltage within England which constitute associated development for which consent is sought along with an NSIP, such as a generating station.

Draft National Policy Statements (dNPS)

- 2.3.9. In March 2023 the Department for Energy Security and Net Zero (DESNZ) published revised dNPSs in relation to energy (dNPS EN-1 to dNPS EN-5 (inclusive)) for consultation. These dNPSs reiterate the urgent need for a secure, reliable, and affordable supply of energy, while also meeting decarbonisation targets and reaffirmed, in paragraph 1.6.3 that the current NPS (2011) remain relevant government policy and NPS EN-1 to NPS EN-5 have effect for the purposes of the PA2008.
- 2.3.10. As the Proposed Development was accepted for examination before the designation of the 2023 amendments, the 2011 energy NPSs remain in force in their entirety and have effect as per the 'Consultation Planning for New Energy Infrastructure' from DESNZ. The draft Energy NPSs are potentially capable of being important and relevant considerations in the decision-making process and therefore, where relevant have been considered throughout this report.
- 2.3.11. The ExA requested that the Applicant take the dNPSs into consideration and provide a NPS Tracker, which was to be updated throughout the Examination process [REP7-038]. The NPS Tracker has demonstrated that the Applicant has considered the dNPSs and their effect on the development proposal. The ExA concludes that compliance with the dNPSs is not mandatory and, where compliance is not achieved, have considered such issues individually in the relevant chapters of this report.

2.4. OTHER RELEVANT NATIONAL POLICIES

2.4.1. Other important and relevant Government policy has been taken into account by the ExA, including the following:

- The National Planning Policy Framework;
- The National Planning Policy for Waste;
- The Waste Management Plan for England (DEFRA, 2021);
- Build Back Better: Our Plan for Growth (HM Treasury, 2021);
- Our Waste, Our Resources: Strategy for England (HM Government, 2018);
- The Clean Growth Strategy: Leading the Way to a Low Carbon Future (BEIS, 2017);
- National Infrastructure Strategy (HM Government, 2020);
- A Green Future: Our 25 Year Plan to Improve the Environment (HM Government, 2018);
- Net Zero Strategy: Build Back Greener (HM Government, 2021); and
- British Energy Security Strategy (HM Government, 2022)
- Environmental Improvement Plan 2023 – First Revision of the 25 Year Environment Plan (2023)

2.4.2. The Applicant has submitted a Planning Statement [APP-091] and Planning Statement Executive Summary [APP-092] which provide further detail on relevant national plans and policies.

2.5. LOCAL IMPACT REPORTS

2.5.1. Section 104 and s105 of PA2008 state that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3). There is a requirement under s60(2) of the PA2008 to give notice in writing to each Local Authority falling under s56A inviting them to submit LIRs. This notice was given as part of the Rule 6 letter [PD-005] dated 24 January 2023 and reiterated in the Rule 8 letter [PD-006] dated 2 March 2023 following the PM.

2.5.2. There are two LIRs which were submitted into the Examination at DL1. One was submitted jointly by Cambridgeshire County Council (Cams CC) and Fenland District Council (Fenland DC) [REP1-074] and the other was submitted jointly by Norfolk County Council (Norfolk CC) and Borough Council of King's Lynn and West Norfolk (BCKLWN) [REP1-064]. The LIRs set out their respective local planning policy context and identify concerns relating to, but not limited to, the following issues:

- traffic and transport;
- noise and vibration;
- air quality;
- landscape and visual impact;
- historic environment;
- biodiversity;
- hydrology;
- climate change;
- socio-economic and community issues;
- health;

- major accidents and disasters; and
- cumulative impacts.

2.5.3. The issues raised are considered in further detail in relation to relevant planning issues in Chapter 3 of this report and individual policies are referred to as required in Chapters 3 and 4 of this report.

2.6. ENVIRONMENTAL IMPACT ASSESSMENT

2.6.1. The Proposed Development is development for which an EIA is required.

2.6.2. On 3 December 2019, the Applicant submitted a Scoping Report to the Planning Inspectorate under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) in order to request an opinion regarding the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) [APP-031]. The Applicant notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.

2.6.3. On 13 January 2020, the Planning Inspectorate provided a Scoping Opinion [APP-068]. In accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES.

2.6.4. During the Examination, there were changes to the ES documentation as well as a Change Request. The ExA did not consider that these changes individually or cumulatively undermined the scope and assessment of the ES.

2.7. HABITATS REGULATIONS ASSESSMENT (HRA)

2.7.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided [AS-007].

2.7.2. Consideration is given to the adequacy of the HRA Report and associated information in Chapter 4 and Appendix C of this report.

2.8. TRANSBOUNDARY EFFECTS

2.8.1. The Proposed Development is of local and regional impact. Transboundary effects are those which would affect the environment in another state within the European Economic Area (EEA). On 20 January 2020, the Planning Inspectorate undertook a transboundary screening on behalf of the SoS for the purposes of Regulation 32 of the EIA Regulations 2017 following the Applicant's request for an EIA Scoping Opinion. No significant effects that could impact on another EEA state in terms of extent, magnitude, probability, duration, frequency or reversibility were identified.

3. PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This chapter contains a number of sections, each of which deals with a significant topic that was assessed during the Examination. These are based upon the Initial Assessment of Principal Issues (IAP) and other issues which were important and relevant raised during the course of the Examination. The issues are not organised in any particular order.

3.1.2. The sections all follow a common structure:

- Policy Considerations – which identifies the main policies against which the issue has been examined, principally from The National Policy Statement for Energy (NPS EN-1), The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) and The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5);
- The Application – which summarises the main relevant features of the application and of the Applicant’s approach, as described in the application documents;
- Issues Considered During the Examination – which identifies matters that arose in the course of the Examination and the ExA’s reasoning in respect of these issues; and
- Conclusions – which set out the ExA’s conclusions on each issue to be carried forward to Chapter 8.

3.1.3. The position between the Applicant and most of the main parties was updated through the course of the Examination and is summarised in the Statement of Commonality (SoC) submitted at Deadline (DL) 8 [REP8-012]. Table 3.1 of the final version of the SoC [REP8-012] details the final status of each one of the Statement of Common Ground (SoCG) and confirms that a signed version of a SoCG was signed and submitted by the Applicant and all the parties.

3.1.4. Nevertheless, Table 4.1 of the SoC [REP8-012] does show that, although SoCGs were signed, there are some matters where no agreement was reached between the Applicant and some main parties by the end of the Examination. These are:

- Between the Applicant and Fenland District Council (Fenland DC) – Matters not agreed in relation to Environmental Impact Assessment (EIA) and adequacy of assessment, Alternatives considered, Landscape and Visual effects, Climate Change and Waste Fuel Availability & Waste Hierarchy. Matters in relation to Traffic and Transport, Socio-Economic and Health, Employment & community benefits and Planning Policy only partially agreed.
- Between the Applicant and Cambridgeshire County Council (Cambs CC) – Matters not agreed are the Alternatives considered, Landscape and Visual effects, Climate Change (inc. Greenhouse Gas (GHG)), Waste Fuel Availability & Waste Hierarchy. Matters in relation to Traffic and Transport, Socio-Economic and Health and Employment & community benefits are only partially agreed.

- Between the Applicant and Norfolk County Council (Norfolk CC) – Matters not agreed are Landscape and Visual and Requirements in the draft Development Consent Order (dDCO).
- Between the Applicant and Walsoken Parish Council – Matters not agreed are Traffic and Transport, Air Quality, Health, Landscape and Visual and Requirements in the dDCO.
- Between the Applicant and Wisbech Town Council – Matters not agreed are EIA and adequacy of assessment, Alternatives considered, Traffic and Transport, Noise and Vibration, Air Quality, Landscape and Visual, Historic Environment, Biodiversity, Hydrology and Contaminated Land, Climate Change (inc. GHG), Waste Fuel Availability & Waste Hierarchy, Planning Policy, and Requirements in the dDCO.

3.1.5. Agreement has been reached between the Applicant and all other main parties listed in Table 4.1 of the SoC [REP8-012] across all relevant topics.

3.2. PRINCIPLE OF THE PROPOSED DEVELOPMENT

INTRODUCTION

3.2.1. This section of the report deals with the case for need for the Proposed Development established in policy, consideration of the benefits arising from the main purpose(s) of the Proposed Development and waste fuel and waste management issues. This chapter will also deal with the scale of the of the Proposed Development, insofar as how it meets the requirements for being considered a Nationally Significant Infrastructure Project (NSIP) and how it would affect the achievement of local or national waste management targets in England.

3.2.2. Matters that relate to the composition of waste and its implications for greenhouse gas emissions (GHG Emissions) are dealt with in Section 3.5. The Combined Heat and Power (CHP) component of the Proposed Development is dealt with under Section 3.7 and the Carbon Capture under Section 3.6 of this report.

3.2.3. The Applicant's case for need and in principle support for the Proposed Development is mainly detailed in the Planning Statement [APP-091] supported by the Waste Fuel Availability Assessment [APP-094]. Several versions of the Waste Fuel Availability Assessment were submitted to Examination, the last version of which being Rev.3.0 [REP5-019/020].

POLICY CONSIDERATIONS

NPS EN-1

3.2.4. NPS EN-1, which sets out the policy context for the development of nationally significant energy infrastructure, states that energy is vital to economic prosperity and social well-being and so it is important to ensure that the UK has secure and affordable energy. Paragraph 3.2.2 recognises the increasing importance of electricity within the context of different forms of energy and paragraph 3.2.3 states that the weight, which is attributed to need, in any given case, should be proportionate to the anticipated extent of the project's actual contribution to satisfying the need for a particular type of infrastructure.

- 3.2.5. Paragraph 3.3.10 states that, as part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity.
- 3.2.6. Specifically in relation to energy from waste (EfW), paragraph 3.4.3 of the NPS EN-1 states that the principal purpose of the combustion of waste is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy, as set out in Article 4 of the revised Waste Framework Directive and the Waste (England and Wales) Regulations 2011, and to recover energy from that waste as electricity or heat. It goes on to say that only waste that cannot be re-used or recycled and would otherwise go to landfill should be used for energy recovery.
- 3.2.7. As stated in in paragraph 4.1.2, given the level and urgency of the identified need, it advises that the consideration of applications for development consent should start with a presumption in favour of granting consent unless more specific and relevant policies in the related NPSs and/ or any other matters that the SoS thinks are both important and relevant to the decision clearly indicate that consent should be refused.
- 3.2.8. Paragraph 4.1.3 does state that, in considering any Proposed Development, and in particular when weighing its adverse impacts against its benefits, the SoS should take into account the potential benefits of the Proposed Development, including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits and its potential adverse impacts, including any long-term and cumulative adverse impacts as well as measures to avoid, reduce or compensate for any adverse impacts.
- 3.2.9. Paragraphs 5.14.7 to 5.14.9 of the NPS EN-1 state that the SoS should consider the extent to which the Applicant has proposed an effective system for managing hazardous and non-hazardous waste from the construction, operation and decommissioning of the Proposed Development.

NPS EN-3

- 3.2.10. NPS EN-3 deals with renewable energy infrastructure and, alongside NPS EN-1, forms part of the basis for decisions on nationally significant renewable energy infrastructure which includes energy from biomass and/or waste projects with a generating capacity greater than 50MW. As stated within Chapter 1, the facility would have a generating capacity of more than 50MW of electricity available to export to local users (inc. via a CHP connection) and the national electricity distribution network.
- 3.2.11. Section 2.5 of NPS EN-3 deals specifically with Biomass and Waste Combustion facilities. Paragraphs 2.5.64 to 2.5.70 specifically relate to waste management issues when considering waste combustion generating station. Paragraphs 2.5.66 states that an assessment should be undertaken that examines the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant waste plans. Paragraph 2.5.70 states that the SoS should be satisfied that the proposed waste combustion generating station is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England.
- 3.2.12. Paragraphs 2.5.77 to 2.5.83 of NPS EN-3 relate to residue management. Paragraph 2.5.77 states that the assessment for a facility should include the production and

disposal of residues as part of the Environmental Statement (ES). Paragraph 2.5.83 states that the SoS should give substantial positive weight to development proposals that have a realistic prospect of recovering these materials. It also states that the management of hazardous waste would be considered by the Environment Agency (EA) through the Environmental Permitting regime.

Draft NPS (dNPS) EN-1

- 3.2.13. The dNPS EN-1, when addressing need for new nationally significant electricity infrastructure states in paragraph 3.3.3, that there is a need to ensure there is sufficient electricity to meet demands and that new electricity infrastructure will have to be built to replace output from retiring plants and to ensure that we can meet increased demands.
- 3.2.14. Although the dNPS EN-1 does recognise the role that combustion power station can play in providing energy when the output from intermittent renewables is low, it also recognises that most forms of combustion power also produce residual emission and, particularly in relation to EfW, it states that the amount of electricity that can be generated is constrained by the availability of feedstock, which is set to reduce further by 2035 as a result of government policies on waste and environmental management.
- 3.2.15. Paragraphs 3.3.37 to 3.3.42 of the dNPS EN-1 deal specifically with EfW proposals. Paragraph 3.3.38, in line with the NPS EN-1, states that only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery.
- 3.2.16. Paragraph 3.3.39 states that as the primary function of EfW plants, or similar processes is to treat waste, applicant must demonstrate that proposed facilities are in line with Defra's policy position on the role of EfW in treating municipal waste, as per the 2021 Waste Management Plan for England.
- 3.2.17. Paragraph 3.3.41 states that energy recovery from residual waste has a lower Greenhouse Gas (GHG) impact than landfill with the possibility for reducing emissions if plants are equipped with Carbon Capture Storage (CCS).

Draft NPS EN-3

- 3.2.18. Like the NPS EN-3, the dNPS EN-3 covers EfW projects with a generating capacity greater than 50MW and it re-iterates that the recovery of energy from the combustion of waste plays an important role in meeting the UK's energy needs. It also states that it forms an important element of waste management strategies in England and, in paragraph 3.7.6 it re-iterates that applicants must demonstrate that the proposed plants are in line with Defra's policy position on the role of energy from waste in treating waste from municipal or commercial and industrial sources, as set in the 2021 Waste Management Plan for England and, in paragraph 3.7.7 that the proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EfW waste treatment at national or local level.
- 3.2.19. Paragraph 3.7.8 recognises that EfW generating stations are likely to generate considerable transport movements and, as such, in paragraph 3.7.9 the government encourages multi-modal transport and it is expected that applicants will transport materials by water or rail routes where possible, with road transport expected where this is not feasible or for shorter journeys. Paragraph 3.7.11 goes on to state that,

although there may in some instances be environmental advantages to rail or water transport, whether such methods are viable is likely to be determined by the economics of the scheme.

- 3.2.20. Paragraph 3.7.44 states that applicants should undertake an assessment of the proposed waste combustion generating station examining the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant Waste Local Plans.
- 3.2.21. Paragraph 3.7.45 states that applicants should set out the extent to which the generating station and capacity proposed is compatible with, and supports long-term recycling targets, taking into account existing residual waste treatment capacity and that already in development.
- 3.2.22. Paragraph 3.7.27 states that the results of an assessment of the conformity with the waste hierarchy and the effect on relevant waste plans should be included in the Application to the SoS.
- 3.2.23. Paragraph 3.7.53 states that Applicants should include the production and disposal of residues as part of the ES. Any proposals for recovery of ash and mitigation measures should be described.
- 3.2.24. Paragraph 3.7.69 states that the environmental burdens associated with the management of combustion residues can be mitigated through recovery of secondary products, for example aggregate or fertiliser, rather than disposal to landfill.
- 3.2.25. Paragraphs 3.7.81 to 3.7.84 deal with combustion plant types and scale. Paragraph 3.7.84 states that throughput volumes are not, in themselves, a factor in SoS decision-making as there are no specific minimum or maximum fuel throughput limits for different technologies or levels of electricity generation; this is a matter for the applicant. However, the increase in traffic volumes, any change in air quality, and any other adverse impacts as a result of the increase in throughput should be considered by the SoS in accordance with this NPS and balanced against the net benefits of the combustion of waste and biomass as described in paragraph 2.7.1 above and in Section 3.3.36 of NPS EN-1.
- 3.2.26. Paragraphs 3.7.104 to 3.7.106 relate to the consideration of waste management impacts. Paragraph 3.7.104 re-iterates the need for the SoS to be satisfied that the proposed combustion generating station is in accordance with the waste hierarchy and of a type and scope so as to not prejudice the achievement of local or national waste management targets and paragraph 3.7.106 states that the SoS should also consider whether a requirement, including monitoring, is appropriate to ensure compliance.
- 3.2.27. Paragraph 3.7.107 states that the SoS should give substantial weight to development proposals that have a realistic prospect of recovering materials as described in section 2.7.69 of dNPS EN-3 and, in paragraph 3.7.111 that, If the EA has indicated that there are no known barriers to it issuing an Environmental Permit for operation of the proposed biomass/ waste fuelled generating station and agrees that management plans suitably minimise the wider impacts from ash disposal, any residual ash disposal impacts should have limited weight.

Draft NPS EN-5

- 3.2.28. The dNPS EN-5 covers the same type of infrastructure for electricity networks and, as far as relevant to the Proposed Development, has largely similar provisions to those included in the NPS EN-5.
- 3.2.29. *2021 Waste Management Plan for England*
- 3.2.30. The 2021 Waste Management Plan for England (2021 WMP for England) focuses on waste arisings and their management. It is a high-level, non-site specific document that provides an analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of the Waste (England and Wales) Regulations 2011.
- 3.2.31. It is supplemented by a Waste Prevention Programme for England which sets out the Government's plans for preventing products and materials from becoming waste, including by greater reuse, repair and remanufacture supported by action to ensure better design to enable this to be done more easily.
- 3.2.32. The 2021 WMP for England states that the Government are committed in the Resources and Waste Strategy to drive greater efficiency of energy from waste plants by encouraging use of the heat the plants produce. The Government want to work closely with industry to secure a substantial increase in the number of EfW plants that are formally recognised as achieving recovery (R1) status, and to ensure all future energy from waste plants achieve recovery status. To deliver net zero virtually all heat will need to be decarbonised and heat networks will form a vital component of this. EfW has a role to play in supplying this heat, but currently only around a quarter of energy from waste plants operate in combined heat and power (CHP) mode, despite most being enabled to do so. The Government want to see this number increase.
- 3.2.33. It goes on to state that the government supports efficient energy recovery from residual waste – energy from waste is generally the best management option for waste that cannot be reused or recycled in terms of environmental impact and getting value from the waste as a resource. It plays an important role in diverting waste from landfill.
- 3.2.34. The 2021 WMP for England also states, under the assessment of need for new collection schemes and infrastructure, the closure of waste infrastructure, including an assessment of the investments and other financial means section, that the proximity principle must be applied when decisions are taken on the location of appropriate waste facilities.
- 3.2.35. It goes on to state that the principle of 'proximity' is set out in paragraph 4 of Part 1 of Schedule 1 to the Waste (England and Wales) Regulations 2011 and that it is within the context of the requirement to establish an integrated and adequate network of waste disposal installations for recovery of mixed municipal waste collected from private households. It goes on to state that the network shall be designed in such a way as to enable a movement towards the aim of self-sufficiency in waste disposal and the recovery of waste. However, consideration must be given to the geographical circumstances or the need for specialised installations for certain types of waste.

3.2.36. In the Technologies for managing residual waste section, the 2021 WMP for England states that efficient energy recovery from residual waste which can deliver environmental benefits, reduce carbon impacts and provide economic opportunities, and innovative technologies which improve the environmental outcome for the treatment of residual waste are welcomed. It goes on to state that the Resources and Waste Strategy considered whether further capacity was needed to manage residual waste and welcomed further continued investment in energy from waste facilities that raises efficiency standards and minimises impacts on the environment.

Resources and Waste Strategy (2018)

3.2.37. The Resources and Waste Strategy sets out how to preserve country's stock of material resources by minimising waste, promoting resource efficiency and moving towards a circular economy.

3.2.38. Chapter 3 of the Resources and Waste Strategy sets out how the Government will, amongst other aims, drive greater efficiency of EfW plants. It states that, currently, England manages waste in three main ways: sending it for energy recovery, exporting it as a refuse-derived fuel (RDF), and landfilling it. It goes on to state that landfill is the least preferred option given its environmental impact and long-lasting nature.

3.2.39. It goes on to state that Defra will work with the Ministry of Housing, Communities and Local Government (now Department for Levelling Up, Housing and Communities) to ensure that the Waste Management Plan for England and the National Planning Policy for Waste and its supporting planning practice guidance reflects the policies set out in this Strategy, including considering how to ensure, where appropriate, future EfW plants are situated near potential heat customers.

A Green Future: Our 25 Year Plan to Improve the Environment

3.2.40. The 25 Year Environment Plan (25YEP) This 25 Year Environment Plan sets out the government action to help the natural world regain and retain good health. It aims to deliver cleaner air and water in our cities and rural landscapes, protect threatened species and provide richer wildlife habitats. It calls for an approach to agriculture, forestry, land use and fishing that puts the environment first.

3.2.41. The 25-year goals of the plan are to achieve clean air, clean and plentiful water, thriving plants and wildlife, reduce risk of harm from environmental hazards, promoting more sustainable and efficient use of resources from nature, enhance beauty, heritage and engagement with the natural environment. It also seeks to manage pressures on the environment including minimising waste.

3.2.42. The 25YEP also identifies six areas around which action will be focused, including increasing resource efficiency, and reducing pollution and waste. Chapter 4 of the 25YEP, which deals specific with this area of action, states that, as part of maximising resource efficiency and minimising environmental impacts at the end of life, actions proposed by the Government include achieving zero avoidable plastic waste by the end of 2042 and improving management of residual waste.

3.2.43. In relation to improving management of residual waste, the 25YEP states that, since 2000, significant quantities of residual waste – i.e. waste that cannot be reused or recycled – have been diverted from landfill through the development of EfW facilities. It goes on to state that the Government will continue to encourage

operators to maximise the amount of energy recovered from residual waste while minimising the environmental impact of managing it, for example by utilising the heat as well as electricity produced. The actions set out in this Plan will help build on this to ensure that the value of residual waste as a resource is fully realised and that emissions of carbon dioxide during the energy recovery process are kept as low as possible.

Environmental Improvement Plan 2023

3.2.44. The Environmental Improvement Plan 2023 (EIP 2023) is the first revision of the 25 Year Environment Plan. It builds on the ten goals set in the 25YEP by setting out the progress made against all ten, the specific targets and commitments made in relation to each goal and the Government's plan to continue to deliver of those targets and overarching goals.

3.2.45. *Goal 5 – maximise our resources, minimise our waste* includes a commitment to halve 'residual' waste (excluding major mineral waste) produced per person by 2042. For the purposes of the target, the Government defined 'residual' waste as waste that is sent to landfill, put through incineration or used in energy recovery in the UK, or that is sent overseas to be used in energy recovery.

Cambridgeshire And Peterborough Minerals and Waste Local Plan 2036 (C&PMWLP) (2021)

3.2.46. The C&PMWLP provides a spatial strategy for minerals and waste development in the county and contains policies governing decisions about applications for planning permission.

3.2.47. The C&PMWLP also contains policies affecting other kinds of development to the extent to which they affect safeguarded minerals and waste development or potential minerals reserves.

3.2.48. Policy 1 Sustainable Development and Climate Change (insofar relating to moving waste up the waste hierarchy) Policy 3 Waste Management Needs, Policy 4 Providing for Waste Management are particularly relevance to the waste element of the proposal.

3.2.49. Policy 1: Sustainable Development and Climate Change states that Mineral and waste management proposals will be assessed against the overarching principle of whether the proposal would play an active role in guiding development towards sustainable solutions. It also states that waste management proposals should, to a degree which is proportionate to the scale and nature of the scheme, set out (i) how the principles of the waste hierarchy have been considered and addressed; and (ii) broadly quantifying the reduction in carbon dioxide and other relevant greenhouse gases e.g. methane, that should be achieved as part of the proposal, and how this will be monitored and addressed in future.

3.2.50. Policy 3: Waste Management Needs states the Waste Planning Authorities will seek to achieve net self-sufficiency in relation to the management of wastes arising from within the plan area, plus additional provision until 2026 in order to accommodate needs arising from London (specifically regarding non-apportioned household and commercial & industrial waste).

- 3.2.51. Policy 4: Providing for Waste Management states that, since existing and committed waste sites meet the majority of identified needs, this policy sets out a broad spatial strategy for the location of new waste management development; and criteria which will direct proposals to suitable sites, consistent with the spatial strategy. It goes on to state that the Councils aim to actively encourage, and will in principle support the sustainable management of waste, which includes encouraging waste to move as far up the waste hierarchy as possible, whilst also ensuring net self-sufficiency over the Plan area. In order to ensure this aim can be met, waste management proposals must demonstrably contribute towards sustainable waste management, by moving waste up the waste hierarchy; and proposals for disposal must demonstrate that the waste has been pre-treated and cannot practicably be recycled.
- 3.2.52. It goes on to state that the locational strategy of this Plan is that new or extended waste management facilities should be located within the settlement boundary of the existing or planned main urban areas of several locations including Wisbech, where the EfW CHP Facility Site is located.

THE APPLICATION

- 3.2.53. Chapter 4.2 of the Planning Statement [APP-091] deals with the need for, and principle of, the Proposed Development and its then supported by the Waste Fuel Availability Assessment (WFAA). In this chapter, the Applicant makes its case in relation to need for new energy infrastructure, the need for renewable and low carbon energy generation capacity, the need to divert waste from landfill and the need to minimise carbon emissions. The chapter also goes on to cover the CHP component of the proposal and the environmental, social and economic benefits of the Proposed Development.
- 3.2.54. By generating electricity from residual waste, the Proposed Development would have the capacity of exporting 55MW of electricity to the national grid. Operating at 90%+ availability, the Proposed Development would be able to provide a near constant supply of electricity to a UK electricity generating industry, delivering increased energy security and resilience. The burning of residual waste would also allow for the diversion of residual waste from landfill thus providing for a more efficient use of this resource. The Applicant also states that this is in accordance with the waste hierarchy and aligned with the proximity principle, two of the central pillars, as recognised by the applicant, of national and local waste management policy.
- 3.2.55. The Applicant goes on to say that a WFAA has been prepared which demonstrates there is potential for around 2.5 million tonnes of material to be managed further up the waste hierarchy and/ or at a location that is more proximate to the point of arising. The Proposed Development could offer up to 625,600 tonnes per annum of capacity, helping to address the shortfall identified in the assessment. This, in-turn and according to the Applicant, responds to the Government's policy objective of diverting waste from continued management at the bottom of the waste hierarchy. It would also avoid significant quantities of residual Household, Industrial and Commercial waste (HIC) waste being exported for management abroad, allowing waste to be managed in accordance with the proximity principle.
- 3.2.56. As part of its overall case in relation to need, the Applicant also highlights the role that the CHP component of the proposal would have in delivering further benefits in relation to GHG emissions and also reducing the need for fossil fuel derived energy.

- 3.2.57. The Applicant also states that there is clear, in principle, support for the Proposed Development in local planning policy since the Proposed Development would move waste capacity up the waste hierarchy, therefore positively contributing to the management of residual waste that would otherwise be sent to landfill. The Applicant goes on to state that the EfW CHP Facility is located within the defined settlement boundary of Wisbech and in an employment area and, as such, is in accordance with the broad spatial strategy set in the Local Plan. On this basis, the Proposed Development meets the test set out in Policy 3 and, therefore, benefits from in principle Local Plan policy support.

The WFAA

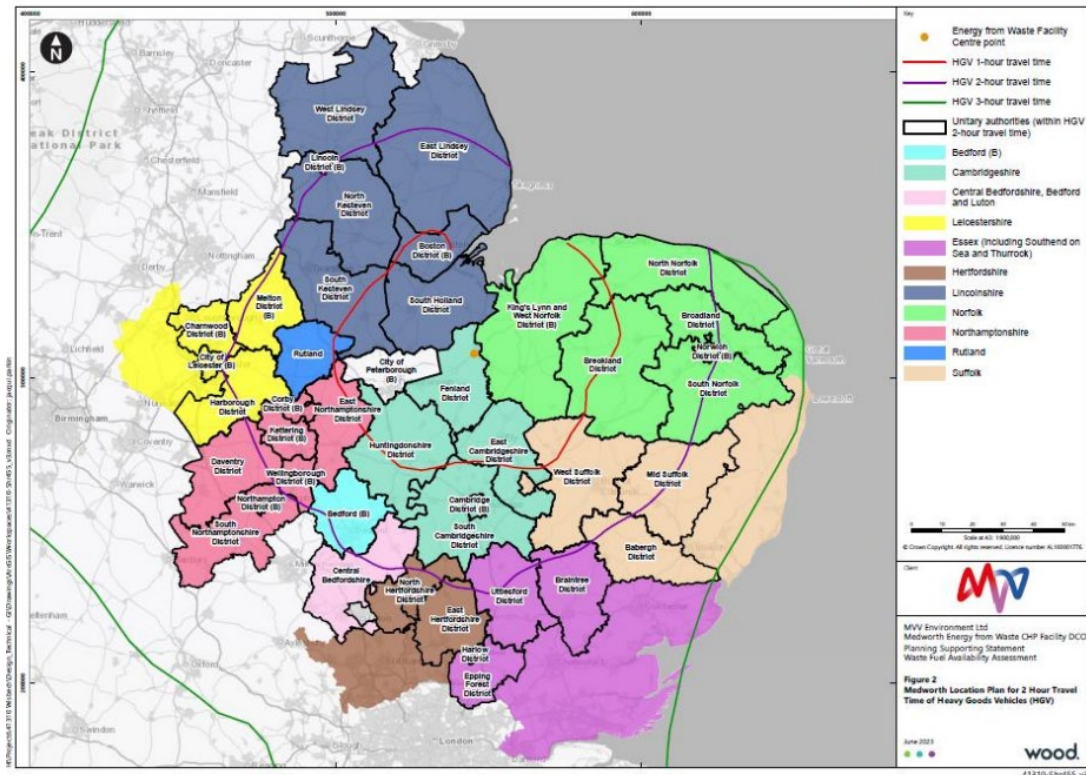
- 3.2.58. In support of the Proposed Development, the Applicant has prepared a WFAA, the last version of which was submitted at DL5 [REP5-020].
- 3.2.59. The methodology used for the WFAA [REP5-020] is set in section 3. It includes the key tasks that the Applicant has carried out for the assessment, including the definition of the spatial scope of the document: the Study Area.

Task 1 – Define the scope of the Fuel Availability Assessment

- 3.2.60. In relation to the Study Area the Applicant acknowledges the emerging NPS EN-3 which states that a new EfW plant must not result in over capacity of EfW at a national or local level, indicating therefore that assessments for new facilities should therefore address both local and national position.
- 3.2.61. When defining the scope of the Fuel Availability Assessment, the Applicant states that the starting point for defining a Study Area was to look at the broad geographic area that the facility is likely to draw waste from, in order to identify the relevant waste planning authority areas. The Applicant goes on to state that: “Professional judgement is that it is generally commercially viable to transport non-hazardous household, industrial and commercial waste from up to approximately two hours away from the Proposed Development. Distances over two hours travel time from the Proposed Development can become increasingly expensive”.
- 3.2.62. An approximate two hour travel time pulls in all Waste Planning Authorities (except Thurrock and Southend) which make up the former East of England planning region. As such, and because waste data is generally presented on a ‘regional’ basis and because a proportion of waste may come to the facility from outside the approximate two hour travel time area, the Applicant has considered appropriate to use the former East of England planning region as the basis for this WFAA. In addition, the Applicant has also included Leicestershire (and Leicester City); Northamptonshire; Lincolnshire and Rutland as these areas are within an approximate two hour travel time from the site.
- 3.2.63. The Applicant recognises in the WFAA that, during the Examination, there have been material discussions about the appropriateness of including the entirety of WPAs, most notably Essex, within the Study Area, where only part of this area falls within the indicative two hour drive time of the Proposed Development. In relation to this, the Applicant states that, since waste arisings and disposal data for HIC waste are presented on a WPA basis only, the whole WPA must be included in the WFAA Study Area in order to render that study robust. It also states that, since future waste needs are planned at WPA level, for the WFAA to be robust and realistic, the entire WPAs has therefore been considered. Finally, it states that it must be

recognised that waste is collected over a wide area and then taken to one or more waste transfer stations before despatch to its final treatment destination. Therefore, the applicant believes it would not be reasonable to have regard only to that portion of the Study Area which lies within the two hour indicative drive time of the Proposed Development.

Figure 1.2 - Medworth Location Plan for 2 Hour Travel Time of Heavy Goods Vehicles (HGV). Source: WFAA [REP5-020]



Task 2 – Fuel Scope

- 3.2.64. Having identified the local and national Study Areas, it was important for the Applicant to then understand and identify the type of fuel that the Proposed Development would be able to accept.
- 3.2.65. The Proposed Development would be designed to accept residual HIC waste streams. Such waste would comprise loose residual waste and, in some cases, RDF which is presently exported for final treatment in EfW facilities in continental Europe. Moreover, to ensure that the facility would not divert waste from management methods further up the waste hierarchy, it has been important to consider only those parts of the HIC waste stream that are presently managed at domestic landfill sites.
- 3.2.66. Following consideration of the issues mentioned above, in order for the WFAA to only take into account relevant fuel sources and to avoid an over-estimation of available fuel, the WFAA has excluded waste types that are not suitable for combustion at the Proposed Development. Consequently, the Applicant has identified the following waste combustible types as the primary feed for the Proposed Development within the two shortlisted List of Waste (LoW) categories:

- 19 - waste from waste management facilities, off-site wastewater treatment plants and the preparation of water intended for human consumption and water for industrial use:
 - 19 12 - wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified:
 - 19 12 10 combustible waste (refuse derived fuel); and
 - 19 12 12 other wastes (including mixtures of materials) from mechanical treatment of wastes.
- 20 - municipal waste (household waste and similar commercial, industrial and institutional wastes) including separately collected fractions:
 - 20 03 other municipal wastes:
 - 20 03 01 mixed municipal waste; and
 - 20 03 07 bulky waste.

3.2.67. These specific waste types have been selected by the Applicant because they predominantly comprise wastes suitable for combustion at the Proposed Development and as such, have formed the basis of the statistical analysis in the WFAA. By limiting the assessment to only these specific types of waste within LoW categories 19 and 20, the WFAA ensures that the worst-case scenario is assessed.

Task 3 – Analysis of existing and future capacity requirements

3.2.68. The Applicant carried out a national and local analysis of need. For the national analysis of need, the baseline of the WFAA is based on 2021 figures with projections of future requirements extending to 2030. For the local analysis, the Applicant has provided in the WFAA a current ‘snapshot’ of the present-day position within the Study Area and a forecast of future requirements for EfW facilities to manage anticipated future HIC wastes.

3.2.69. The Applicant also recognises, in relation to the local analysis, the importance of focussing on the extent to which the Proposed Development would divert suitable material from landfill, as it reflects the need to implement the waste hierarchy and drive the management of material up the hierarchy from simple disposal.

Task 4 - Reporting

3.2.70. The WFAA states that the local analysis has concluded that, of the potentially suitable waste generated in the Study Area, almost 2.4 million tonnes were managed at the bottom of the waste hierarchy and sent to non-hazardous landfill in 2021. In addition, the WFAA also states that exports of RDF from England stood at 1.7 million tonnes at the end of 2021, falling to 1.5 million tonnes at the end of 2022, with approximately 181,000 tonnes in 2021 likely exported to Europe directly from within the Study Area. The Applicant has therefore concluded that, based upon the current pattern of waste arising and management across the spatial scope of this assessment, there is potential for over 2.5 million tonnes of material to be managed further up the waste hierarchy and/or at a location that is more proximate to the point of arising.

3.2.71. In relation to the national context, the Applicant’s analysis has further concluded that, in 2028, even with the Government’s ambitious interim residual waste reduction targets set out in the 2023 Environmental Improvement Plan, it is anticipated there would be 21.4 million tonnes of residual HIC waste in England requiring management. Based on the operational capacity available by 2027, there

would remain a minimum shortfall of 3.5 million tonnes of residual HIC capacity in England.

- 3.2.72. The Waste Fuel Availability Assessment: national Analysis in relation to future baseline position as assessed by the Applicant is set in section 5.2 of the WFAA [REP5-020]. In paragraph 5.2.9 the Applicant states that, to achieve the Government's new, more stringent target of 65% by 2035, there needs to be an increase of 21% in recycling in England over the next 15 years. There would also need to be a likely substantial increase in municipal type Commercial & Industrial waste recycling – a waste stream for which there is little reliable data – which under the 'high recycling' scenario would be to a level which exceeds the Government's current municipal waste recycling target by 13%.
- 3.2.73. The Applicant goes on to state, in paragraph 5.2.16 that it is considered that whilst the provisions of the Environment Act 2021 and the Government's Net Zero Strategy will undoubtedly have a positive effect on increasing municipal recycling rates at a national level, given that a large percentage of WCAs within the local Study Area of this WFAA already engage in the separate collection of food waste, it is questionable whether this measure will readily facilitate the national achievement of a further 21% points in municipal waste recycling, to achieve an overall target of 65%.
- 3.2.74. The Applicant goes on to state that, in paragraph 5.2.18 that it is considered unrealistic for this WFAA to adopt the 'high recycling' scenario when seeking to establish future likely quantities of residual HIC waste and that, as per paragraph 5.2.19 WFAA it is considered appropriate to adopt the median scenario, given that this aligns most closely with extant Government policy.
- 3.2.75. In relation to the local analysis, the Applicant in the WFAA [REP5-020] has concluded, as set in paragraph 6.2.1 to 6.2.4, that in 2021 there was a total of approximately 9.7 million tonnes of such residual HIC waste arising in the Study Area and that of the potentially suitable waste generated in the Study Area, almost 2.4 million tonnes were managed at the bottom of the waste hierarchy and sent to non-hazardous landfill in 2021. In addition to this, exports of RDF from England stood at 1.7 million tonnes at the end of 2021 falling to 1.5 million tonnes at the end of 2022, approximately 163,000 tonnes of which was likely exported directly from within the Study Area of this WFAA.
- 3.2.76. The Applicant concludes that based upon the current pattern of waste arising and management across the spatial scope of this assessment, there is potential for around 2.6 million tonnes of material to be managed further up the waste hierarchy and/or at a location that is more proximate to the point of arising.
- 3.2.77. In relation to the Applicant's analysis of future waste arising, these are set in section 4.2 of the WFAA [REP5-020]. The Applicant states that the evidence bases that the Applicant has used points to a shortfall of 1.3 million tonnes per annum up to 2030 and 1.5 million tonnes per annum up to 2035.
- 3.2.78. it is therefore the Applicant's position that the Proposed Development would not result in an over-supply of EfW capacity at either the local/regional level or national level.
- 3.2.79. The Applicant also confirms, in paragraph 2.2.5 of the WFAA [REP5-020], that the EfW CHP Facility would be designed to achieve an R1 value of 0.81 which

signifies that the proposal would achieve an energy recovery efficiency of 0.65 or more.

- 3.2.80. In relation to the management of the waste originated from the construction, operation and decommissioning of the Proposed Development, the Applicant's approach is set out in Appendix E of the Outline Construction Environmental Management Plan [REP6-012], which describes the procedure by which waste would be managed during construction phase. The Outline Decommissioning Plan [REP4-025] sets out the Applicant's approach to waste management in relation to the decommissioning of the Proposed Development and that where the Proposed Development would be subject to the Environmental Permitting regime, waste management arrangements during operations would be covered by the permit.

ISSUES CONSIDERED DURING THE EXAMINATION

Wisbech Town Council

- 3.2.81. The majority of the outstanding concerns relate to the WFAA, namely: the appropriateness of the study area; the methodology used for the identification and calculation of suitable residual waste, both in relation to current and planned provisions; whether the conclusions in the WFAA are correct in relation to there being a shortfall in waste management facilities; whether the scale of the Proposed Development would result in over-capacity of EfW treatment at a national or local level therefore resulting in a conflict with the waste hierarchy and waste management targets, and; whether there is sufficient evidence of potential demand from heat and electricity customers to justify the need for the Proposed Development.
- 3.2.82. These are the main areas of disagreement in relation to need and the WFAA as identified in the SoCG between the Applicant and Wisbech Town Council [REP6-020].
- 3.2.83. In relation to the waste catchment area, in [REP6-039] the Wisbech Town Council states that Applicant's methodology for defining the waste catchment area has been inconsistently applied. It states that, since Milton Keynes has been removed as it is not within the two hour drive time and neither is it within the former East of England planning region, so should West Northamptonshire have been removed as it is also outside the two hour drive time and is also not within the former East of England planning region either.
- 3.2.84. It goes on to state, in the same document that Luton, Leicester City and West Northamptonshire should be removed alongside Milton Keynes as also not within the two hour catchment. The removal of Milton Keynes only is a cynical attempt by the Applicant to inflate the residual need given that Milton Keynes currently has a surplus of waste management capacity of 193,000 tonnes per annum (tpa).
- 3.2.85. In the Wisbech Town Council's Response to Further Written Questions [REP7-052], the Council maintains that the proposed Medworth EfW CHP facility would compete with greater waste prevention, re-use or recycling and would result in overcapacity of EfW waste treatment contrary to dNPS EN-3 and that, as such, the presumption in favour of energy infrastructure set out in dNPS EN-1 and relied upon by the Applicant would not apply.

- 3.2.86. Furthermore, Wisbech Town Council also states that draft requirement 29 in the dDCO does nothing to ensure that waste is managed in accordance with the proximity principle. It states that the Applicant is reliant on the study area defined in the WFAA to demonstrate that it would 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.
- 3.2.87. In the same document, Wisbech also states that the amount of waste genuinely available within the two hour drive time, which is the study area defined by the Applicant, is only a fraction of that claimed by the Applicant once the capacity from other facilities, namely Rookery South, and other consented and shortly to be operational facilities at Rivenhall and Newhurst, as well as Boston Alternative Energy Facility. This position is then exacerbated by the targets set out in the EIP 2023 are taken into account.
- 3.2.88. Wisbech Town Council also states that the Applicant's assessment of future residual waste requirements is exaggerated as 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 not justifiable.
- 3.2.89. 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 2023 to reduce the amount of residual waste by 50% by 2042.

Cambs CC and Fenland DC

- 3.2.90. The SoCG between the Applicant and Cambs CC and Fenland DC [REP8-011] also reports that agreement has not been reached in relation to Waste Matters and Planning Policy, mainly the impact of the Proposed Development on the deliverability of recovery capacity established in Waste Local Plans for areas outside of Cambridgeshire.
- 3.2.91. Cambs CC and Fenland DC's position is further explained and reiterated in their Final Position Statement [REP8-026] in which, in relation to Waste Matters, they state that whilst Cambs CC considers that the additional criteria included by the Applicant to the dDCO are essential to provide minimal assurance that waste is managed as far up the waste hierarchy as possible, they still do not equate to the proximity principle and waste hierarchy being observed.

UKWIN – United Kingdom Without Incineration Network

UKWIN has raised, at several different points in the Examination, concerns regarding the Applicant's WFAA, particularly in relation to the estimates of waste arising, with UKWIN stating that the Applicant's estimates generally overstate the level of current and future combustible feedstock available for incineration. UKWIN's position by the end of the examination is summarised in [REP8-031] and [REP8-032].

- 3.2.92. In [REP8-031] UKWIN summarises some of the Applicant's key estimates and outlines a number of criticisms relating to the Applicant's key tables before providing examples of where the Applicant, in their view, has failed to respond to criticisms of

their approach. Furthermore, UKWIN also states that the Applicant has failed to provide a robust response to concerns raised in relation to non-combustibility of 19 12 12 waste¹ and the unsuitability of that waste stream to act as a potential incinerator feedstock, especially the fraction of such waste currently sent to landfill.

- 3.2.93. The Applicant replied to these concerns, in [REP8-017], which was drafted in response to UKWIN's submission at DL7 [REP7-051] where UKWIN raised similar points and concerns. The Applicant states that it has considered that waste code 19 12 12 is a suitable waste stream as it is a waste code the Applicant routinely receives waste from and that the focus of the fuel availability assessment 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.
- 3.2.94. Furthermore, the Applicant adds in [REP8-017], in response to paragraph 71 of [REP7-051] that, further to the November 2017 Tolvik analysis referenced in UKWIN's submission, guidance on waste classification has since been issued by the Government and the Environment Agency (Guidance on the Classification and Assessment of Waste – last updated in October 2021). This has provided further clarity on how waste operators/ handlers should categorise waste. Furthermore (and importantly), regardless of the fact that waste code 19 12 12 comprises the largest potential source of fuel for the Proposed Development, it is the Applicant's experience, from accepting waste of this category at their existing EfWs, that this waste stream is fully combustible.
- 3.2.95. UKWIN in [REP8-031] also states that it has concerns regarding the Applicant's definition of EfW 'in development' and notes that the Applicant did not accurately assess EfW capacity that benefits from planning permission and is currently in active development but that has yet to enter construction. UKWIN notes this is at odds with the draft EN-3 requirement that "Applicants should set out the extent to which the generating station and capacity proposed is compatible with, and supports long-term recycling targets, taking into account existing residual waste treatment capacity and that already in development". UKWIN also pointed to the approach taken on the North Lincolnshire EfW NSIP where EfW projects were considered to be in development even where those projects had yet to reach financial close.

Other Interested Parties (IPs)

- 3.2.96. Several other IPs, particularly at DL1, DL2 and DL6, have also raised concerns regarding the Applicant's case for need, particularly raising concerns in relation to local need, and also the robustness of the WFAA, particularly in relation to the suitability of the Study Area and the availability of combustible feedstock for the Proposed Development.

Appropriateness of the Study Area

- 3.2.97. The Examining Authority (ExA), at Examining Authority's Second Written Questions (ExQ2) [PD-013], asked a series of written question to the Applicant in relation to the appropriateness of the Study Area, following from representations made by Wisbech Town Council, Cambs CC and Fenland DC and UKWIN. This issue was

¹ Classify some waste electrical devices and components, and wastes from their treatment - GOV.UK (www.gov.uk)

then further explored at Issue Specific Hearing 7 (ISH7) [EV-062], under Waste Issues. Following from ISH7, At ExQ3 [PD-017], the ExA also asked further questions to the Applicant in relation to the Study Area.

- 3.2.98. Key concerns for the ExA were centred on the “proximity principal” and the criteria used by the Applicant to define an appropriate Study Area, mainly the appropriateness of the Study Area.
- 3.2.99. The Written summary of the Applicant’s Oral Submissions at ISH7 [REP6-025] states that the Study Area in the last version of the WFAA [REP5-020] was redefined, through discussion with IPs and other consultees, to exclude Milton Keynes from the local/regional assessment. The WFAA states that Milton Keynes was excluded from the Study Area because the boundary of this Waste Planning Authority area is at the limit of the indicative two hour drive time of the Proposed Development and due to the fact that the Waste Planning Authority area falls within a different region (the South-East) to all other waste planning areas forming the Study Area.
- 3.2.100. The Applicant recognises in the WFAA that, during the Examination, there have been material discussions about the appropriateness of including the entirety of WPAs, most notably Essex – within the Study Area, where only part of their area falls within the indicative two hour drive time of the Proposed Development.
- 3.2.101. It goes on to state that, due to the fluid nature of waste contracts and movements around the country, the two hour drive time has been used as an indicator (and not a limit) to inform which WPAs should be included within the Study Area for the WFAA. Nevertheless, and in order to address concerns raised during the Examination in relation to the Study Area and its appropriateness, particularly those linked to compliance with the ‘proximity principal’, the Applicant states in paragraph 2.3.5 of the DL5 update 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 dDCO [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 area closest to the Proposed Development.
- 3.2.102. The Waste Area 1, as defined in the dDCO [REP6-003/004] and as shown in the DCO Requirement 29: Waste Area Plan [REP6-015], represent a 75km radius from the Proposed Development. This equates, approximate, to the two hour travel distance which, as the Applicant’s explained in the WFAA, was the starting point in defining the Study Area. Waste Area 2 encompasses all of the Study Area taken into consideration by the Applicant as part of the WFAA for the reasons stated above.
- 3.2.103. Following the introduction of Requirement 29: Waste Area Plan, the ExA asked further questions to the Applicant in relation to its justification for the proposed requirement and relevance to the Proposed Development.
- 3.2.104. The Applicant’s response to ExQ3 PND.3.5 in the Applicant’s response to Further Written Questions [REP7-040] states that 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. The Applicant goes on to say that Requirement 29 is an additional

obligation that has been agreed with Cambs CC and that it 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.

3.2.105. The Applicant has also submitted at DL8 the Applicant's Closing Position Statement on Waste [REP8-020] which has been prepared to assist the ExA in preparing its Recommendation and the Secretary of State (SoS) in determining the DCO Application for the Proposed Development by collating and summarising the key points relating to waste need.

3.2.106. Section 6 of the Applicant's Closing Position Statement on Waste [REP8-020] addresses the 'proximity principal'. In it, the Applicant states that it is important to keep in mind that the proximity principle aims to enable waste to be disposed or recovered in one of the nearest appropriate installations, using the most appropriate methods and technologies. The Applicant goes on to state that: "The use of a two hour drive time as the starting point to identify the local area is a standard approach taken in similar projects, including the Boston Alternative Energy Facility (BAEF). North Lincolnshire Green Energy Park (NLGEP) goes further, identifying the local area, having regard to the proximity principle, as the two closest waste planning regions".

Methodology used for the identification and calculation of suitable residual waste

3.2.107. Concerns regarding the methodology for the identification and calculation of suitable residual waste were raised by Wisbech Town Council and UKWIN. The ExA also asked a series of written question to the Applicant in relation to the identification and calculation of suitable residual waste at ExQ2 [PD-013]. This issue was then further explored at ISH7 [EV-062], under Waste Issues. Following from ISH7, at ExQ3 [PD-017], the ExA also asked further written questions to the Applicant on this issue, particularly ExQ3.PND.3.7 and ExQ3.PND.3.9.

3.2.108. The Applicant sets out in sections 3, 4 and 5 of the WFAA [REP5-020], the methodology used for the identification and calculation of suitable residual waste. Section 3 of the WFAA sets out the general methodology used for the identification of suitable waste. Section 4 sets out the methodology used for carrying out the local analysis and section 5 the methodology for the national analysis.

3.2.109. Key concerns for the ExA were centred on the calculation of suitable residual waste, particularly at local level.

3.2.110. At ISH7 the Applicant was asked several questions regarding the identification and calculation of suitable residual waste. In the Written summary of the Applicant's Oral Submissions at ISH7 [REP6-025], the Applicant confirms that the WFAA remains a conservative assessment of the availability of suitable residual waste that is currently managed at the bottom of waste hierarchy and that conclusions are clear that there remains a minimum shortfall of non-landfill capacity for both household and industrial and commercial waste of approximately 1.5 million tonnes of non-landfill HIC residual waste management capacity in the local area. The Applicant goes on to say that the local assessment for the East of England region, along with the in scope East Midlands planning authorities, covers how reliant these areas are

on landfill. In 2021-22, around 23% of residual waste was landfilled in the East of England, in comparison to a national average of 8%.

- 3.2.111. In its response to ExQ2 PND.2.4 the Applicant stated, in [REP5-032] that, as waste arisings and disposal data for HIC waste are presented on a WPA basis only, the whole WPA must be included in the WFAA Study Area. Future waste needs are also planned for at this level, and for the WFAA to be robust and realistic, the entire WPAs have therefore been considered.
- 3.2.112. Further written questions were asked by the ExA on this issue to the Applicant, as part of ExQ3 [PD-017], particularly in relation to how the calculation of future suitable residual waste have taken into consideration, at a national and local level, the Government's targets in the EIP 2023. The Applicant's response to ExQ3 PND.3.7 [REP7-040] states the EIP 2023 sets a series of targets which are 'national', of which two are relevant to the Proposed Development. No local targets are identified and that the WFAA has considered the implications for residual waste fuel availability, were these targets to be met, on a national level. In relation to the impacts of the Government's targets at a local level, the Applicant states that it 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 would be required for the local area. The Applicant goes on to add it 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.
- 3.2.113. In response to the same question, the Applicant states that it does recognise that these ambitious national targets would ultimately need to be reflected in the plan making of the WPAs in the Study Area and that, 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, approximately 1.2 million tonnes of suitable material would remain which could be treated further up the waste hierarchy by the Proposed Development.

Over-capacity of EfW treatment at a national or local level

- 3.2.114. Concerns have also been raised in relation to the Applicant's conclusion that there is a shortfall in Waste Management facilities and that the Proposed Development would not result in an over-capacity of EfW treatment at national or local level.
- 3.2.115. The ExA's concerns centred on local level capacity and the capacity created by other Waste Management facilities, namely Rivenhall, Newhurst and Boston Alternative Energy Facility, and how these have been taken into consideration.
- 3.2.116. The ExA asked a series of written question to the Applicant in relation to this at ExQ2 [PD-013]. This issue was then further explored at ISH7 [EV-062], under Waste Issues. Following from ISH7, At ExQ3 [PD-017], the ExA also asked further written questions to the Applicant on this issue.
- 3.2.117. The Applicant's responses to ExQ2 PND.2.5, ExQ2 PND.2.6 and ExQ2 PND.2.7 [REP5-032] are based in the information contained in Appendix C Energy from Waste Capacity Data, the latest version of which was in the WFAA submitted at DL5

[REP5-019/020]. Appendix C sets out an up-to-date review of operational EfW capacity; capacity under construction; consented capacity (but not built); and capacity in the planning system.

- 3.2.118. In response to PND.2.5 the Applicant confirms that the consented and under construction capacity in the East of England of 595,000 tonnes, as set in Appendix C Energy from Waste Capacity Data [REP5-019/020], relates to the development of Rivenhall EfW. In addition, the Applicant also confirms that its calculation in relation to consented and under construction capacity in the East Midlands includes the 350,000 tonnes Newhurst EfW facility in Leicestershire and a 170,000 tonnes facility located in Derbyshire.
- 3.2.119. In relation to the Boston Alternative Energy Facility, at ExQ3, several questions were asked to the Applicant (ExQ3 PND.3.1 to PND.3.4 and PND.3.9) which concerned directly how the Applicant has included and taken into consideration the capacity created by this facility as part of its overall assessment of waste fuel availability. In [REP7-040], the Applicant's response to Further Written Questions, the Applicant confirmed that, of the 1 million tonnes per annum, of capacity recently permitted at the Boston Alternative Energy Facility, only a small amount of this capacity (approximately 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 Alternative Energy Facility only being able to process refused derived fuel (RDF), which is waste that has already undergone a treatment process, unlike the Proposed Development. The Applicant's estimates that only approximately 160,000 tonnes per annum of RDF are produced within the Study Area and therefore there remains a need for the Proposed Development.
- 3.2.120. The Applicant also confirms that this information is set out in Appendix C Energy from Waste Capacity Data [REP5-019/020].

Demand from heat and electricity customers

- 3.2.121. Throughout the Examination, several questions were asked of the Applicant in relation to demand from heat and electricity customers. This specific concern was raised by the ExA at ISH3, under Item 4. Alternatives and Design Options. Consequently, it is covered in greater detail under Item 3.3 of this Report. Nevertheless, it is worth noting that, in response to the ExA's questions, the Applicant was requested at ISH3, see ISH3 Action 10 [EV-059], to submit a Position Statement on Site Selection and Alternatives [REP5-037].
- 3.2.122. The Position Statement sets out, in accordance with the relevant legislation and national policy, how the Applicant has carried out its process of site selection process and the consideration of alternatives. It also identifies where such legislative requirements and policy have been addressed within the DCO application documentation.

CONCLUSION ON PRINCIPLE OF THE PROPOSED DEVELOPMENT (INC. NEED AND WASTE MATTERS)

Waste Management

- 3.2.123. Paragraphs 5.14.6 to 5.14.9 of the NPS EN-1 and paragraphs 2.5.77 to 2.5.83 of NPS EN-3 deal with waste and residue management. Paragraph 5.14.7 of the NPS

EN-1 states that consideration must be given to the extent to which the Applicant has proposed an effective system for managing hazardous and non-hazardous waste arising from the construction, operation and decommissioning of the Proposed Development.

- 3.2.124. This principle is also included in the dNPS EN-1, in paragraph 5.15.14 where it states that the SoS should consider the extent to which the applicant has proposed an effective system for managing hazardous and non-hazardous waste arising from the construction, operation and decommissioning of the Proposed Development and that it should be satisfied that any such waste will be properly managed, both on and off-site; that waste from the proposed facility can be dealt with by the waste infrastructure which is, or is likely to be available and that adequate steps have been taken to minimise the volume of waste arising.
- 3.2.125. The Applicant approach is set out in Appendix E of the Outline Construction Environmental Management Plan (OCEMP) [REP6-012] in relation to the construction phase and in the Outline Decommissioning Plan (ODP) [REP4-024] in relation to the decommissioning of the Proposed Development.
- 3.2.126. The Applicant's approach does provide sufficient detail in relation to how hazardous and non-hazardous waste arising from the construction and the decommissioning of the Proposed Development would be managed, both on and off-site. Appendix E of the OCEMP [REP6-012] proposes reviews of site waste procedures every 3 months or less if required with training being provided with roles and responsibilities for the management structure being defined. Section 1.9 of the OCEMP [REP6-012] includes proposal for the segregation of waste to minimise waste going into landfill and encourage re-use and recycling.
- 3.2.127. The ODP [REP4-024] sets out the responsibilities and environmental standards that the Applicant would comply with and would be contractually require its Demolition Contractor to comply with during the demolition of the Proposed Development, while also allowing for the Decommissioning Plan to be updated to take into account statutory requirements, guidance and industry best practice at the point of decommissioning. The ODP [REP4-024] provides a clear structure in relation to environmental responsibilities with clearly defined roles. The ODP [REP4-024] also sets out all of the anticipated decommissioning activities linked to the demolition works including the layout and management of the demolition sites, demolition hours with the core working hours proposed being between 07:00 and 19:00 Monday to Friday, 08:00 to 16:00 Saturdays and no demolition works on Sundays or Public Holidays. It also includes the Applicant's proposal in relation to Site Material and Waste Management in section 6.6 of the ODP [REP4-024].
- 3.2.128. As the Proposed Development would be subject to the Environmental Permitting regime, waste management arrangements during operations would be covered by the permit and the considerations set out in Section 4.10 of NPS-EN1 would apply.
- 3.2.129. The ExA sees no reason to disagree with the Applicant's overall conclusion and no concerns have been raised in relation to the management of waste in this regard.

Type of waste used for the EfW Facility

- 3.2.130. Section 3.4 of NPS EN-1, the role of renewable electricity generation, particularly paragraph 3.4.3 confirms that the main purpose of Energy from Waste (EfW) is to

reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat.

- 3.2.131. Paragraphs 3.3.38 of the dNPS EN-1 reiterates this by stating that the principal purpose of the combustion of waste, or similar processes (for example Advanced Conversion Technologies (ACTs) such as pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. It goes on to state, in the same paragraph that only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. Energy recovery from residual waste has a lower GHG impact than landfill.

Section 3.7 of NPS EN-3 deals specifically with Waste Combustion facilities. In paragraph 3.7.6, the NPS EN-3 states that applicants must demonstrate that the proposed plants are in line with Defra's policy position on the role of energy from waste in treating waste from municipal or commercial and industrial sources, as set in the 2021 Waste Management Plan for England and, in paragraph 3.7.7 that the proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EfW waste treatment at national or local level.

- 3.2.132. Paragraph 3.7.2 states that, in accordance the waste hierarchy, the recovery of energy from the combustion of waste, plays an important role in meeting the UK's energy needs. Furthermore, the recovery of energy from the combustion of waste forms an important element of waste management strategies in England.

- 3.2.133. Paragraph 2.7.43 of NPS EN-3 states that waste combustion generating stations need not disadvantage reuse or recycling initiatives where the Proposed Development accords with the waste hierarchy.

- 3.2.134. Paragraph 3.7.104 of NPS EN-3 states that the SoS should be satisfied, with reference to the relevant waste strategies and plans, that the proposed waste combustion generating station is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England.

- 3.2.135. The methodology for the identification of suitable types of waste is set out in the WFAA [REP5-020], particularly in paragraphs 3.2.20 Fuel scope. The Applicant states, in paragraph 3.2.21 that: *"The Proposed Development will be designed to accept residual Household, Industrial and Commercial (HIC) waste streams. Such waste will comprise loose residual waste and, in some cases, Refuse Derived Fuel (RDF), for example material which is presently exported for final treatment in EfW facilities in continental Europe. Moreover, to ensure that the facility would not divert waste from management methods further up the waste hierarchy, it has been important to consider only those parts of the HIC waste stream that are presently managed at domestic landfill sites."*

- 3.2.136. In order to achieve this, the Applicant in paragraph 3.2.28 of the WFAA the Applicant sets out the specific waste types in each of the two shortlisted LoW categories that have been selected because they comprise wastes suitable for combustion at the Proposed Development and, as such, have formed the basis of the statistical analysis in the WFAA. Furthermore, as the HIC waste streams considered by the Applicant are all residual waste presently managed a domestic landfill sites, the Applicant can therefore offer reassurances that only waste that is

currently being treated at the bottom of the waste hierarchy and being sent to landfill, would be targeted.

- 3.2.137. UKWIN raised concerns regarding the non-combustibility of 19 12 12 waste and its suitability to act as a potential incinerator feedstock. The Applicant responded to this point in its Comments on Deadline 6 submission Part 2 Other Interested Parties [REP7-029]. The Applicant states that its WFAA has only considered, based on a national assessment data and categories, residual waste that would be suitable for treatment at the Proposed Development. In the same response, the Applicant also identifies the particularly waste stream that were used from national assessment data and why these are suitable as feedstock for the Proposed Development.
- 3.2.138. Having reviewed the information in relation to types of waste, it is the ExA's view that the methodology used for the identification of waste is sound and robust and therefore the ExA sees no reason to disagree with the Applicant's overall conclusion in relation to the identification of the types of waste. Consequently, the ExA finds that the Applicant has demonstrated how it has identified waste that is currently being sent to landfill and could be used for the production of energy from that waste as electricity or heat in accordance with NPS EN-1 and dNPS EN-1 and that, since it is residual waste, that it would not disadvantage reuse or recycling initiatives in accordance with NPS EN-3 and dNPS EN-3.

Waste Hierarchy

- 3.2.139. Paragraph 3.4.3 of the NPS EN-1 does state that the principal purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat.
- 3.2.140. Paragraph 3.3.38 of the dNPS EN-1 also reiterates that the principal purpose of the combustion of waste is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. The dNPS EN-1 also states, in paragraph 5.15.2 that sustainable waste management is implemented through the "waste hierarchy", which sets out the priorities that must be applied when managing waste, with other recovery (including energy recovery) being preferred to disposal.
- 3.2.141. Paragraph 2.5.64 of NPS EN-3 states that waste combustion generating stations need not disadvantage reuse or recycling initiatives where the Proposed Development accords with the waste hierarchy.
- 3.2.142. Paragraph 2.5.70 of NPS EN-3 and paragraph 3.7.104 of the dNPS EN-3 both state that the SoS should be satisfied, with reference to the relevant waste strategies and plans, that the proposed waste combustion generating station is in accordance with the waste hierarchy.
- 3.2.143. The dNPS EN-3, in paragraph 3.7.106 adds that the SoS should also consider whether a requirement, including monitoring, is appropriate to ensure compliance with the waste hierarchy.
- 3.2.144. The Resources and Waste Strategy (2018) confirms that landfill is the least preferred option to deal with waste.

- 3.2.145. In relation to the waste hierarchy, the Applicant's approach, as set in Section 4 of the WFAA [REP5-020], was to identify how much potentially suitable 'in scope' waste is produced in the Study Area that was being treated at the bottom of the hierarchy. Table 4.4 HIC waste disposed to non-hazardous landfill (tonnes) shows that almost 2.4 million tonnes of suitable HIC waste, originating from the WPAs within the spatial scope, was sent to non-hazardous landfill in 2021. It is also worth noting that Table 4.4 of the WFAA [REP5-020] does show both the tonnage of waste from all EWC codes 19 and 20 received at permitted non-hazardous landfill sites as well as the tonnage of waste from those EWC codes 19 and 20 that were defined as part of the fuel scope and that the 2.4 million tonnes of suitable HIC waste identified represent the quantity of waste from the in scope EWC codes 19 and 20.
- 3.2.146. The Applicant's calculations reflect up-to-date data sources as set out in table 3.2 of the WFAA [REP5-020] and the Applicant has found that there are 2.4 million tonnes of non-hazardous waste HIC waste being treated at the bottom of the waste hierarchy which could use as fuel for the Proposed Development. This would represent a more favourable option according to the waste hierarchy as it would be moving waste from the bottom of the hierarchy (disposal) to recovery of waste.
- 3.2.147. It is also worth noting that, as the Applicant has demonstrated, the WFAA [REP5-020] focuses on the availability of residual HIC waste being the fraction of waste which is left over after the removal of reusable and recyclable materials and which is currently being sent to landfill or exported abroad. Consequently, the amount of waste considered as suitable 'in scope' fuel does not include waste that could be treated further up the hierarchy by other means.
- 3.2.148. The ExA also notes that Requirement 14 Waste hierarchy scheme of the dDCO [REP7-033] has been added in order to ensure compliance with the waste hierarchy, including monitoring.
- 3.2.149. Consequently, and insofar as it relates to the waste hierarchy, the Proposed Development meets the requirements set out in NPS EN-1, NPS EN-3, dNPS EN-1, dNPS EN-3 and the Resources and Waste Strategy (2018).

Need

- 3.2.150. Part 3 of the NPS EN-1 clearly establishes the need for new nationally significant energy infrastructure and it states, in paragraph, 3.1.1 that all types of energy infrastructure covered by this NPS in order to achieve energy security are needed. It also states, in paragraph 3.1.3 that all applications for development consent for the types of infrastructure covered by the energy NPSs should be assessed on the basis that the Government has demonstrated that there is a need for those types of infrastructure.
- 3.2.151. Paragraph 3.3.10 of NPS EN-1 does state that, as part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity. EfW is a type of energy infrastructure covered by NPS EN-1 and it is considered, as per the NPS EN-1, part of the Government's strategy to dramatically increase the amount of renewable generation capacity.
- 3.2.152. Paragraph 3.4.3 of the NPS EN-1 confirms that the principal purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is

to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat.

- 3.2.153. Paragraph 3.4.4 of the NPS EN-1 states that EfW can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand. As more intermittent renewable electricity comes onto the UK grid, the ability of EfW to deliver predictable, controllable electricity is increasingly important in ensuring the security of UK supplies.
- 3.2.154. Section 3 of the dNPS EN-1 deals with the need for new nationally significant infrastructure projects. Paragraph 3.2.6 of the dNPS EN-1 states that the SoS should give substantial weight to considerations of need.
- 3.2.155. Paragraph 3.3.1 of the dNPS EN-1 states that electricity meets a significant proportion of our overall energy needs and our reliance on it will increase as we transition our energy system to deliver our net zero target and, in paragraph 3.3.3 that new electricity infrastructure will have to be built to replace output from retiring plants and to ensure we can meet increased demand. Our analysis suggests that even with major improvements in overall energy efficiency, and increased flexibility in the energy system, demand for electricity is likely to increase significantly over the coming years and could more than double by 2050 as large parts of transport, heating and industry decarbonise by switching from fossil fuels to low carbon electricity.
- 3.2.156. Paragraphs 3.3.38 of the dNPS EN-1 reiterates this by stating that the principal purpose of the combustion of waste, or similar processes (for example Advanced Conversion Technologies (ACTs) such as pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. It goes on to state, in the same paragraph that only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. Energy recovery from residual waste has a lower GHG impact than landfill.
- 3.2.157. Section 2.5 of NPS EN-3 deals specifically with Biomass and Waste Combustion facilities. Paragraphs 2.5.64 to 2.5.70 specifically relate to waste management issues when considering waste combustion generating station. Paragraphs 2.5.66 states that an assessment should be undertaken that examines the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant waste plans. Paragraph 2.5.70 states that the SoS should be satisfied that the proposed waste combustion generating station is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England.
- 3.2.158. Paragraph 3.7.104 of the dNPS EN-3 supports and is consistent with paragraph 2.5.70 of the NPS EN-3 and confirms that the SoS should be satisfied, with reference to the relevant waste strategies and plans, that the proposed waste combustion generating station is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England.

National

- 3.2.159. The Proposed Development has a generating capacity of over 50MW and the electricity would be exported to the grid. The Proposed Development would also be able to export steam and electricity to users on the surrounding industrial estate. Furthermore, the Proposed Development would divert waste from landfill which would contribute to the achievement of more sustainable patterns of waste management. Please also see sub-sections above on Type of waste used for the EfW Facility and the Waste Hierarchy within the Conclusion on Principle of the Proposed Development.
- 3.2.160. In section 5 of the WFAA [REP5-020] the Applicant explained and included its assessment of national need. The Applicant confirmed its analysis and position in [REP8-020] Applicant's Closing Position Statement on Waste.
- 3.2.161. In paragraph 5.3 of [REP8-020] the Applicant states that its national analysis demonstrates that, in 2021, around 9 million tonnes of residual waste was disposed in landfill that could be treated at an EfW facility, and that, in 2022, around 1.5 million tonnes of RDF was exported to Europe. This is consistent with the information included in the WFAA [REP5-020] in paragraph 5.3 Conclusions on the national analysis.
- 3.2.162. The Applicant also states that by 2028, even taking into consideration the targets included in the EIP 2023, there is anticipated to be 21.4 million tonnes of residual HIC waste in the England requiring management. Based on the above, by 2028, it is therefore predicted that, there would remain a minimum shortfall of 3.5 million tonnes of residual HIC capacity in the England which could be diverted from landfill and used as fuel. This shortfall is calculated based on the amount of residual HIC waste in England requiring management and the operational capacity of EfW facilities by the end of 2027 as per the May 2023 Tolvik Report.
- 3.2.163. Nevertheless, it is worth noting that the Applicant's analysis is based on, as stated in paragraph 5.2.19 of the WFAA [REP5-020], a median scenario, given that this aligns most closely with extant Government policy. This scenario takes into consideration the targets set out in the EIP 2023 but does not fully adopt these as part of its calculations. Rather the Applicant has provided a more tailored approach based on its assessment of Waste needs. The Applicant has also confirmed this in response to ExQ2 PND.2.8 [REP5-032].
- 3.2.164. Paragraph 3.3.3 of the of the dNPS EN-1 also states that new electricity infrastructure will have to be built to replace output from retiring plants and to ensure we can meet increased demand.
- 3.2.165. In relation to this, the Applicant states in the WFAA [REP5-020] and the Applicant's Closing Position Statement on Waste [REP8-020] that the Proposed Development will achieve an R1 compliance with a value in excess of 0.65. This demonstrates that the Proposed Development will comply with the Waste Framework Directive, will be an efficient facility and is future proof.
- 3.2.166. UKWIN, in [REP6-042] raised concerns regarding the cost of transporting and stated that commercial competitiveness would be achieved by a reduction of a gate fee to attract waste. However, this is a commercial matter and, as stated within the NPS EN-3 paragraph 2.5.17 commercial issues are not likely to be an important matter for the SoS in making its decision.

Local

- 3.2.167. As previously stated, paragraph 2.5.66 of the NPS EN-3 states that an assessment should be undertaken that examines the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant waste plans. Paragraph 2.5.70 NPS EN-3 states that the SoS should be satisfied that the proposed waste combustion generating station is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England. This is echoed in dNPS EN-3 paragraph 3.7.104.
- 3.2.168. dNPS EN-3 does state, in relation to factors influencing site selection and design in paragraph 3.3.7 that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan.
- 3.2.169. Paragraph 3.7.7 of the dNPS EN-3 does state that a proposed waste combustion facility must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EFW waste treatment at a national or local level.
- 3.2.170. Paragraph 3.7.44 of the dNPS EN-3 states that applicants should undertake an assessment of the proposed waste combustion generating station examining the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant Waste Local Plans or plans where a proposal is likely to involve more than one local authority.
- 3.2.171. Sections 3, 4 and 5 of the WFAA [REP5-020] set out the methodology applied by the Applicant in order to identify and quantify the amount of waste that has been treated at the bottom of the waste hierarchy within the Applicant's defined Study Area.
- 3.2.172. For the reasons stated in paragraphs above in relation to *Type of waste used for EFW Facility* of this section of the report, the ExA has found that the Applicant has adequately demonstrated and identified relevant waste streams suitable to be used as feedstock for the Proposed Development. The ExA has also found that, for the reasons stated under *Waste Hierarchy*, that the Proposed Development does comply with the waste hierarchy.
- 3.2.173. As the type of waste used as fuel for the Proposed Development is waste currently being sent to landfill, in principle, the Proposed Development will not prejudice the achievement of local waste plans. Nevertheless, consideration must also be given to the type and scale of the facility.
- 3.2.174. In order to demonstrate this, the Applicant has defined a Study Area which, as reported in the *Appropriateness of the Study Area* above, was the subject of considerable concern during the Examination.
- 3.2.175. Having reviewed all of the information submitted by all the parties in relation to the Study Area and considering there is no definition of "local" included in the NPS EN-3 or the dNPS EN-3 and that the that a clear precedent is established in terms of considering waste regional authorities for waste planning and waste assessment purposes, the ExA finds that the Applicant's approach of the definition of the Study Area to be in accordance with the NPSs.

- 3.2.176. However, the ExA also notes and draws the SoS's attention to the fact that, the further the distance waste has to travel, the higher the environmental cost, particularly considering that all waste is proposed, at the moment, to reach the proposed development by road. The Applicant has included in its design the potential for a rail connection which could also be used for the transport of waste, however, this has not yet been secured.
- 3.2.177. Consequently, and for the reasons set above, the ExA finds it is appropriate to accept the Study Area as set by the Applicant in the WFAA [REP5-020]. Within the Study Area the WFAA [REP5-020] has concluded, that based upon the current pattern of waste arising and management across the spatial scope of this assessment, there is potential for around 2.6 million tonnes of material to be managed further up the waste hierarchy and/or at a location that is more proximate to the point of arising.
- 3.2.178. In relation to the Applicant's analysis of future waste arising, these are set in section 4.2 of the WFAA [REP5-020]. The Applicant states that the evidence bases that the Applicant has used points to a shortfall of 1.3 million tonnes per annum up to 2030 and 1.5 million tonnes per annum up to 2035.
- 3.2.179. The Applicant has also confirmed, in response to ExQ3 PND.3.7 [REP7-040] that 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, approximately 1.2 million tonnes of suitable material would remain, material that could be treated further up the waste hierarchy by the Proposed Development.
- 3.2.180. UKWIN, in [REP6-042] raised concerns regarding the cost of transporting and stated that commercial competitiveness would be achieved by a reduction of a gate fee to attract waste. However, this is a commercial matter and, as stated within the NPS EN-3 paragraph 2.5.17 commercial issues are not likely to be an important matter for the SoS in making its decision.
- 3.2.181. In conclusion, the ExA finds that the Applicant has adequately demonstrated there is need for the Proposed Development nationally and locally and that, considering that the Proposed Development will only target waste that is currently being sent to non-hazardous landfill and therefore being treated at the bottom of the waste hierarchy (please also see conclusions on the Waste Hierarchy and the Type of waste used for the EfW Facility in this section), the Proposed Development is unlikely to compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EfW waste treatment at a national or local level. Furthermore, the ExA find that the Proposed Development is of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England, as the Applicant has demonstrated that there is need for the type of EfW proposed and suitable fuel for the scale proposed.
- 3.2.182. As such, and considering there is an urgent need for energy security, particularly in relation to electricity from renewable sources, the ExA concludes that the present proposal would make a meaningful contribution to meeting this need, would help in the transition to a low carbon system and would generally be in accordance with the designated NPSs.

However, the ExA would like to draw the SoS's attention to the fact that, as confirmed that the Applicant in response to ExQ2 PND.2.8 [REP5-032], the

Applicant's analysis of future national need of EfW facilities, as stated in paragraph 5.2.19 of the WFAA [REP5-020], is based on a median scenario, which takes into consideration the targets set out in the EIP 2023 but does not fully adopt these as part of its calculations. On balance of probability, the ExA finds that the median scenario presented by the Applicant is sound, nevertheless, the emerging dNPS EN-3 does state, in paragraph 3.3.7 that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan.

Proximity Principle

- 3.2.183. dNPS EN-1 states in paragraph 3.3.39 that Applicant's must demonstrate that proposed facilities are in line with Defra's policy position on the role of energy from waste in treating municipal waste, as per the 2021 Waste Management Plan for England. This is further supported in the dNPS EN-3, paragraph 3.7.6.
- 3.2.184. The 2021 Waste Management Plan for England (2021 WMP for England) states that the principle of 'proximity' is set out in paragraph 4 of Part 1 of Schedule 1 to the Waste (England and Wales) Regulations 2011.
- 3.2.185. Paragraph 4(1) – principles of self-sufficiency and proximity of Part 1 of Schedule 1 of the Waste (England and Wales) Regulations 2011 relates to the establishment of an integrated and adequate network of waste disposal installations taking into account best available techniques. Paragraph 4(3) of Part 1 of Schedule 1 of the Waste (England and Wales) Regulations 2011 goes on to state that the network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health.
- 3.2.186. The 2021 WMP for England further reinforces that the proximity principle must be interpreted within the context of the requirement to establish and integrated and adequate network of waste disposal installations. The 2021 WMP for England goes on to state that the network shall be designed in such a way as to enable a movement towards the aim of self-sufficiency in waste disposal and the recovery of waste. However, consideration must be given to the geographical circumstances or the need for specialised installations for certain types of waste.
- 3.2.187. Having taken into consideration the policy context above, it is the ExA's view that the SoS must look at the proximity principle and compliance with it in the context of the creation of a network of facilities that are able to process the waste identified and also in the context of the most appropriate technologies and the facilitation of a movement towards the aim of self-sufficiency in waste disposal and the recovery of waste.
- 3.2.188. Consequently, although it is relevant and important for the SoS to consider overall distance that waste has got to travel to reach the Proposed Development, this needs to be looked at in the context the contribution that the Proposed Development would make to the establishment and creating of such of a network to process waste, as well as the method and technology used to dispose and recover waste.
- 3.2.189. The present proposal would make a positive contribution to the creation of a network of facilities that are able to process waste, but more importantly, would be able to divert waste from landfill and use it for the creation of electricity and heat,

therefore deal with waste via a technology that would move waste up the Waste Hierarchy but also use it as fuel.

3.2.190. The Applicant has demonstrated, in Section 4 – Waste Fuel Availability Assessment: Local Analysis of the WFAA [REP5-020] that, with the Study Area, there is a shortfall of non-landfill HIC waste management capacity of up to 1.3 million tonnes for annum up to 2030 and 1.5 million tonnes per annum up to 2035. The EfW CHP Facility would have the capacity to process up to 625,600 tonnes of residual waste per annum, positively contribution to the creation of a network of waste disposal installation that would contribute to address the identified shortfall while moving waste up the hierarchy via the use of appropriate technology.

3.2.191. Although the ExA accepts, as it was raised throughout the examination and then confirmed by Cambs CC and Fenland DC's Final Position Statement [REP8-026] and Wisbech Town Council's response to ExQ3 [REP7-052], that the Applicant's assessment does rely on waste being transported from areas that are beyond a two hour drive radius from the EfW CHP Facility, the ExA does not find that the Proposed Development is contrary to the proximity principle in relation to the establishment of an integrated and adequate network of waste disposal installations taking into account best available techniques.

Overall Conclusion

3.2.192. The ExA therefore concludes that the Proposed Development:

- makes a positive contribution to addressing the need for new nationally significant electricity infrastructure by using waste for the production of electricity and heat;
- has generating capacity greater than 50MW available to export to local users (including via a CHP connection) and the electricity distribution network via a connection to Walsoken SubStation;
- proposes an effective system for managing hazardous and non-hazardous waste from the construction, operation and decommissioning of the Proposed Development;
- conforms with the Waste Hierarchy, by reducing the amount of waste that goes into landfill and assesses the effects of the scheme on relevant waste plans;
- does not prejudice the achievement of local or national waste management targets in England;
- does not compete with greater waste prevention, re-use, or recycling, or result in over capacity of EfW treatment at national or local level; and
- it is in general conformity with the 2021 Waste Management Plan for England, including the proximity principal.

3.2.193. However, the ExA would like to draw the SoS's attention to the fact that the Applicant's analysis of future national need of EfW facilities is based on a median scenario, which takes into consideration the targets set out in the EIP 2023 but does not fully adopt these as part of its calculations. On balance of probability, the ExA finds that the median scenario presented by the Applicant is sound. The dNPS EN-3 states, in paragraph 3.3.7 that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan.

3.2.194. The ExA concludes, notwithstanding the consideration of project-specific issues, that the overarching need argument for the Proposed Development is very strong in

terms of meeting the urgent need for low carbon energy and this weighs heavily in favour of making the order and carries very great weight in the planning balance.

- 3.2.195. However, these conclusions will be balanced against other considerations in the Report's general conclusions. The planning balance is considered in Chapter 5 of this report.

3.3. ALTERNATIVES POLICY CONSIDERATIONS

- 3.3.1. The NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, applicants are required to include in their ES information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility.
- 3.3.2. Paragraph 4.4.3 of NPS EN-1 advises that given the need for new energy infrastructure, the consideration of alternatives should be carried out in a proportionate manner and should be guided by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity in the same timescale as the Proposed Development. This is also reiterated in dNPS EN-1.
- 3.3.3. dNPS EN-1 advises that the Secretary of State (SoS) should not refuse an application because there would be fewer adverse impacts from developing similar infrastructure on another suitable site. In addition, it makes clear that alternatives not considered by the Applicant should only be considered to the extent that the SoS considers them to be both important and relevant to the decision.
- 3.3.4. Furthermore, it also indicates that where an alternative is first put forward by a third party after an application has been made, the SoS may place the onus on the person proposing the alternative to provide the evidence for its suitability and the SoS should not necessarily expect the applicant to have assessed it.
- 3.3.5. Policies 2.5.22 to 2.5.27 of the NPS EN-3 cover factors influencing site selection including grid connection, transport infrastructure, CHP and carbon capture readiness (CCR).
- 3.3.6. As far as it relates to Alternatives and Site Selection, the NPS EN-3 states that CCR is relevant only for proposal with a generating capacity at or over 300 Megawatts (MW). Nevertheless, this issue is covered in greater detail under 3.6 Carbon Capture and Storage. In relation to transport infrastructure, this issue is also covered separately in section 3.10 of this report.
- 3.3.7. Section 3.3 of dNPS EN-3 sets out factors influencing site selection, including protected sites with nationally recognised designations. Paragraph 3.3.7 states that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan and other existing and future measures and targets in England. In relation to how the Proposed Development responds to the Environmental Improvement Plan, please also see section 3.2 of this report.
- 3.3.8. Paragraph 3.3.8 of the dNPS EN-3 states that in considering the impact on the historic environment as set out in Section 5.9 of EN-1 and whether it is satisfied that

the substantial public benefits would outweigh any loss or harm to the significance of a designated heritage asset. This issue is addressed in detail in section 3.13 of this report.

THE APPLICATION

- 3.3.9. ES Chapter 2: Alternatives [APP-029] sets out the alternatives considered by the Applicant. The site selection process was informed by a series of essential siting criteria and preferable siting criteria which are described section 2.3 of ES Chapter 2.
- 3.3.10. In summary, the Applicant states that the essential criteria were:
- a location to respond to the requirement for additional Energy from Waste (EfW) capacity;
 - a site in proximity to potential heat and electricity customers;
 - ability to export electricity to the national transmission or local distribution electricity networks;
 - a site of sufficient size to accommodate the Proposed Development; and
 - good access to the strategic highway network;
- 3.3.11. In relation to the preferable siting criteria, these were:
- a brownfield site used for waste-related or similar commercial activities;
 - a site allocated for waste related uses;
 - a site where the broad spatial strategy supports its use for waste management purposes; and
 - a site free of environmental designations.
- 3.3.12. The Applicant confirms that, based on the above criteria, the Applicant concluded that the EfW CHP Facility Site was suitable for the Proposed Development and that following the completion of the site selection process set out above, the consideration of specific alternative locations for the EfW CHP Facility was not considered to be necessary.
- 3.3.13. Following from the site selection process, the Applicant went on to consider alternative layouts and different building design options for the EfW CHP Facility.
- 3.3.14. The Applicant states, in ES Chapter 2 [APP-029] that four key factors which influenced the need to consider alternatives to the design presented in the EIA Scoping Report were:
- the Wisbech Access Strategy (WAS);
 - proposed reopening of the disused March to Wisbech Railway;
 - consideration of the potential environmental impacts of the use of Algores Way for access; and
 - ensuring that the Proposed Development can deliver future legal and/or policy requirements relating to carbon capture and storage and biodiversity net gain (BNG).
- 3.3.15. In relation to site access, having considered the comments received and reviewed the additional baseline material and conclusions arising from the environmental assessments, the Applicant decided that the use of New Bridge Lane as the primary

access for Heavy Goods Vehicles (HGVs) delivering to the EfW CHP Facility would form the Proposed Development.

- 3.3.16. In relation to carbon capture, three potential areas of land were identified which represented different options from an environmental and planning, technical and land and commercial perspective. The evaluation of these is detailed in Table 2.4 Alternative options considered for the extension to the EfW CHP Facility Site of ES Chapter 2 [APP-029].
- 3.3.17. From the different options considered, Area A was selected as the Preferred Option for an extension to the initial site boundary as it offered the best location to facilitate the site entrance off New Bridge Lane, provided sufficient space for the internal access arrangements including vehicle queueing and the weighbridges which would serve the EfW CHP Facility, allowed for the location of the site entrance further to the east along New Bridge Lane from the disused March to Wisbech Railway providing an opportunity to accommodate a potential railway bridge embankment should the disused March to Wisbech Railway be reopened.
- 3.3.18. In relation to the EfW CHP Facility main building design, the Applicant considered four options, with option 2 being the preferred option as:
- it included the enclosure of low-level plant and machinery between the boiler house and chimneys, removing an element of visual clutter;
 - proposed a succession of flat roofs consistent with the roofscape of surrounding buildings;
 - used flat roofs which minimised the height and mass of the building; and
 - flat roofs are safer surfaces on which to undertake maintenance and repair.
- 3.3.19. Consideration was also given to the colour and shading of external materials with the proposal for the use of darker shading at the lowest levels graduating to lighter shades being preferred. Following from the selection of this option, the design approach to the EfW CHP Facility main building continued with the consideration of textures for the cladding structure.
- 3.3.20. Different options were also considered for the administration building and these are detailed in paragraphs 2.3.40-2.3.43 of ES Chapter 2 [APP-029].
- 3.3.21. In relation to technology and processes, the Applicant states, in paragraph 2.3.44 of ES Chapter 2 [APP-029] that, based on the Applicant's experience, the proposed technology is considered to have a proven and safe track record, and therefore no alternative forms of thermal treatment technology were considered.
- 3.3.22. Alternatives were considered to the proposed location of the Temporary Construction Compound (TCC) are set out in section 2.4 of ES Chapter 2 [APP-029]. The different parcels considered are set out in Table 2.5 EfW CHP Facility Temporary Construction Compound Options. In relation to construction methods, these would be influenced by the Engineering, Procurement and Construction (EPC) Contractor at the time of appointment. Nevertheless, in order to minimise potential vibration effects, driven piling would not form part of the Proposed Development and instead the Applicant would require the use of continuous flight auger piling technique.
- 3.3.23. In relation to the CHP connection, the Applicant's preferred approach for the reasons set out in paragraph 2.5.1 of ES Chapter 2 [APP-029], was for it to run

along the side of the corridor of the disused March to Wisbech Railway. Nevertheless, there was the need, following from consultation, to ensure that the proposed CHP Connection would not hinder the ability for others to bring forward the reopening of the disused line. In light of the above, the Applicant investigated design options and to demonstrate that the CHP Connection would still allow for the reopening of the disused line by others.

- 3.3.24. The process for corridor selection, the identification of a preferred route alignment and route refinement, and the alternative locations for the construction compound of the Grid Connection, are all set out in paragraphs 2.6.1 to 2.6.23 of the ES Chapter 2 [APP-029].
- 3.3.25. Alternative points of connection for the Grid were also considered. The Applicant states that it considered 3 different connection alternatives in light of their environmental, technical, land use and commercial effects. In paragraph 2.6.29 the Applicant states that, having given consideration to the predicted effects of the different alternatives considered, Alternative Grid Connection 3 was selected as the preferred point of connection.
- 3.3.26. In relation to the grid connection route and technology, the alternatives considered are set out in section 2.7 of the ES Chapter 2 [APP-029]. In consultation with National Highways and with no in-principle objection, the preferred alternative was a wholly underground connection running within New Bridge Lane, the A47 verge and Broadend Road.
- 3.3.27. Alternative locations and equipment for the Walsoken Substation were also considered, which are described in section 2.8 of the ES Chapter 2 [APP-029]. The Applicant considered the use of alternative technologies to the use of gas insulated, these being air and clean air switchgear. Of the two options taken forward for consideration the clean air switchgear is favoured because it avoids the use of SF6 and is of a lower height (3.2m) when compared with the air insulated option which would be up to 6m tall.

ISSUES CONSIDERED DURING THE EXAMINATION

Cambridgeshire County Council and Fenland District Council

- 3.3.28. The SoCG between the Applicant and Cambs CC and Fenland DC [REP8-011] shows that agreement has not been reached in relation to the list of alternative sites considered. This is also confirmed in Cambs CC and Fenland DC Final Position Statement [REP8-026] where it is stated that the Applicant's submission [REP5-037] does not contain a list of alternative sites considered and the Councils' position remains that, at the very least, a shortlist of sites should be documented to demonstrate that there was consideration of alternative sites. Cambs CC and Fenland DC go on to state that, of the sites listed in [REP5-037], these are either all existing, or have extant permission, but are under the ownership of another party. These sites are either not realistic alternatives or have not demonstrated what efforts have gone into overcoming constraints prior to ruling them out of their screening process, resulting in the proposal site being the only option. The Applicant has never provided an explanation of why Wisbech was chosen as the location for the proposed facility.
- 3.3.29. As stated in the SoCG between the Applicant and Cambs CC and Fenland DC [REP8-011], the Applicant's position is that other sites, namely Rivenhall,

Saddlebrow and the Peterborough Green Energy were considered but were not taken forward as an alternative to Medworth because these sites were either unavailable, had been refused consent or lacked sufficient market potential for CHP. Furthermore, the Applicant also states that the NPS EN-1 confirms, at paragraph 4.4.1, that from a policy perspective that there is no general requirement to consider alternatives.

3.3.30. This analysis is then set out in further detail in the Applicant's Position Statement on Site Selection and Alternatives [REP5-037], particularly in section 2.

3.3.31. Concerns regarding alternative sites and their consideration by the Applicant were also raised at ISH3 [REP4-029]. The Applicant's position was, as per [REP4-019] the Written summary of the Applicant's oral submission at ISH3, was that the Peterborough Green Energy site was not available as it was owned by a third party and had existing planning permission for a different type of facility that was not of the type and nature of the Proposed Development. In relation to the Rivenhall EfW Facility, it was the Applicant's view that the proposal was not commercially viable. This is due to other facilities that form part of the planning permission, including a new paper recycling factory.

Wisbech Town Council

3.3.32. Wisbech Town Council's Response to Further Written Questions [REP7-052] and its Statement of Common Ground [REP6-020] both raise concerns regarding the Applicant's approach to Alternatives which remained unresolved by the end of the Examination. These concerns were also raised at ISH3 [REP4-032].

3.3.33. Wisbech Town Council's concerns relate to the site selection criteria for the Proposed Development and its consistency with relevant National Policy Statements, whether the site for the Proposed Development at Algores Way is a suitable location for the provision of a new EfW CHP Facility, whether the Applicant's Flood Risk Assessment (FRA) complies fully with the sequential test and exception test and whether sufficient consideration has been given to the evaluation of alternatives. This issue is covered in section 3.15 of this report.

3.3.34. In response to Wisbech's concerns at ISH3 [REP4-032], the Applicant stated, as per the Written Summary of the Applicant's Oral Submissions at ISH3 [REP4-019], that the site has been identified in order to meet a regional waste management capacity gap, was allocated for waste uses and that it is clear that the sequential test in the National Planning Policy Framework is not needed for sites that are allocated as such in the relevant local plan.

Methodology Used for the Consideration of Alternatives

3.3.35. The ExA also asked questions in relation to Alternatives. At the Examining Authority's First Written Questions (ExQ1), written question HUNDRED WE.1.2 asked for the Applicant to provide further information in relation to flood risk and how it was considered as part of the development of Alternatives. In addition, the ExA also asked a series of question in relation to Alternatives and the methodology used by the Applicant at ISH3 [EV-034]. This topic was also approached, in more general terms, at ISH1 [EV-009].

3.3.36. As recorded in the Written Summary of the Applicant's Oral Submissions at ISH3 [REP4-019], the Applicant confirms that the Applicant's work in relation to

Alternatives is described and included in Chapter 2 of the ES [APP-029], where the Applicant describes the Alternatives considered in relation to site location, technology and design.

- 3.3.37. The Applicant confirmed that identified a number of essential and preferred siting criteria as a starting point for its site selection. The proposed site for the EfW CHP Facility met these criteria as it was located in an area with a waste management capacity gap (as identified by the Applicant), close to potential users of heat and electricity and close to the strategic road network. In addition, the site identified is a brownfield site already in use for waste related or commercial activities.
- 3.3.38. The ExA asked if any other sites had been identified which matched the criteria set by the Applicant. The Applicant confirmed it did not identify any other available sites that met the essential and preferred criteria. The Applicant then continue to explain the methodology used and the process it went through when considering alternatives in relation to design process and location of the temporary construction compound.
- 3.3.39. At ISH3 the ExA also asked questions of the Applicant on alternatives considered and why other technologies, such as systems relying on enzymes, had been dismissed. The Applicant's position was, as per the Written Summary of the Applicant's Oral Submission at ISH3 [REP4-019], that the proposed technology was the most suitable for the Proposed Development and that the other technologies considered heavily under-perform because residual waste is not a specified fuel and alternative technologies need a specific input material.

CONCLUSIONS

- 3.3.40. As stated in paragraph 3.3.1, the NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option, but applicants are required to include in their ES information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility.
- 3.3.41. The Applicant has included description of the main alternatives considered and the reasons for selecting the preferred options for the Proposed Development in Chapter 2 of the ES [APP-029]. Furthermore, and in line with policies 2.5.22 to 2.5.27 of the NPS EN-3, the Applicant has put forward a proposal that includes a grid connection, considers the available transport infrastructure, as far as it relates to the policies included in NPS EN-3 in relation to Alternatives and Site Selection.
- 3.3.42. In relation to the dNPS EN-3, the site is free from nationally recognised designation and can make a positive contribution to the overarching objectives of the Government's Environmental Improvement Plan.
- 3.3.43. In relation to the effects of the proposal on the historic environment, the ExA will conclude on this matter under section 3.13 of this report.
- 3.3.44. In light of the above, it is the ExA's view that the Applicant has provided adequate information on a range of alternative configurations and locations for the Proposed Development and associated works which meets the requirements set out in EN-1, EN-3, the dNPS EN-1, the dNPS EN-3 and the EIA Regulations 2017 and has followed the guidance in Planning Inspectorate (PINS) Advice Note 7.

- 3.3.45. Taking all these matters into consideration, the ExA considers that these matters are neutral and do not weigh for or against the order being made.
- 3.3.46. The planning balance is considered in Chapter 5 of this report.

3.4. GOOD DESIGN POLICY CONSIDERATIONS

- 3.4.1. The NPS EN-1 sets out the requirements for “good design”.
- 3.4.2. Paragraph 4.5.3 of NPS EN-1 advises that the Applicant should take into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible. Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.
- 3.4.3. Paragraph 4.5.4 states that applicants should be able to demonstrate in their application documents how the design process was conducted and how the proposed design evolved. It also states that applications should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy.
- 3.4.4. The policy requirements of dNPS EN-1, in respect of design, are largely consistent with the extant NPS EN-1 with no significant changes being identified. The dNPS EN-1 goes on to state, in paragraph 4.6.13 that assessment of impacts must be for the stated design life of the scheme rather than a shorter time period.

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- 3.4.5. The key documents where the design approach taken by the Applicant is set out are in ES Chapter 2: Alternatives [APP-029], which sets out the alternatives considered by the Applicant, including in relation to design, and the Design and Access Statement (DAS) [APP-096].
- 3.4.6. The DAS [APP-096] summarises the context of the Proposed Development but focuses on the design evolution of the EfW CHP Facility, the key building component, together with the administration building and Walsoken Substation. Other aspects of the Proposed Development’s design evolution such as the Grid Connection, CHP Connection, Water Connections, Access Improvements and location of the Temporary Construction Compound are considered in ES Chapter 2 Alternatives [APP-029]. The Design and Access Statement is certified in the dDCO.
- 3.4.7. The DAS [APP-096] states that the design process can be split into two key stages. Stage 1 – the pre-submission stage. This includes all tasks from initial concept design, consultation with Stakeholders and finalisation for DCO submission. And then Stage 2 – the post consent stage. Having established the design principles and secured DCO approval, it consists of the preparation of the detailed design drawings with the contractor.

- 3.4.8. The DAS [APP-096] summarises the activities undertaken during Stage 1 and considers the following key design principles, which together would feed into the overall 'good design' of a project.
- Attractive and responsive to the setting;
 - Durable and adaptable;
 - Functionality and fit for purpose; and
 - Alternative options considered.
- 3.4.9. In the Design development section of the DAS, the Applicant explains the process that was undertaken to arrive at the design of the EfW CHP Facility subject to the DCO application. The design evolved via regular internal design and project meetings focusing on key project aspirations and decision making that influenced the scheme development. It was informed by the design principles referenced within this document and responded to comments received during the non-statutory and statutory consultation stages. The main topics considered were:
- Scale, massing and roof profiles;
 - Cladding colour and style; and
 - Consultation comments on design quality, sustainability and education, third part certification and landscape and ecology.
- 3.4.10. In the DAS, the Applicant then sets out the work carried out in relation to scale, massing, roof profile and the options considered. The Applicant also looked at precedents in relation to architectural approaches for the EfW CHP Facility proposal, to inform its development. Several options were considered in relation to cladding, overall design quality and sustainability and education. In relation to sustainable design, the Applicant confirms that the EfW CHP Facility aims to achieve a rating of BREEAM² Good, with the administration building to achieve BREEAM Excellent.
- 3.4.11. A brownfield site used for waste-related or similar commercial activities;
- A site allocated for waste related uses;
 - A site where the broad spatial strategy supports its use for waste management purposes;
 - A site free of environmental designations.
- 3.4.12. The criteria for the selection process for the EfW CHP Facility are set out in ES Chapter 2: Alternative [APP-029] (please also see Chapter 3.3 of this report). Paragraph 2.3.2 of ES Chapter 2 [APP-029] lists a series of essential siting criteria and preferable siting criteria which were used by the Applicant to inform its choice.
- 3.4.13. The Applicant confirms that, based those criteria, the EfW CHP Facility Site was found suitable for the Proposed Development and that, following the completion of the site selection process, the consideration of specific alternative locations for the EfW CHP Facility was not considered to be necessary.

² BREEAM - BRE Group

- 3.4.14. The DAS [APP-096] then goes on to set out the design development approach taken by the Applicant in relation to Walsoken Substation and sets out the role of the proposed Outline Landscape and Ecology Strategy.
- 3.4.15. The Applicant finally confirms that the description of the EfW CHP Facility presented in ES Chapter 3 Description of the Proposed Development [APP-030] outlines the likely size and scale of each project component. However, the detailed design of the EfW CHP Facility would be determined post-consent once the Applicant has appointed a contractor. The dDCO submitted with the Application includes a requirement for details of the final design to be submitted and approved by the relevant planning authority prior to commencement of construction. The assessment of the Proposed Development is therefore based on a set of parameters, commonly referred to in undertaking an EIA as a Rochdale Envelope or Limits of Deviation (LoD).

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.4.16. The ExA asked a series of written questions to the Applicant in relation to its approach to Design.
- 3.4.17. At ExQ1 [PD-008], GCT.1.10 and PP.1.5 dealt specifically with the Design of the Development Proposal. At ExQ2 [PD-013] GCT.2.6, PP.2.3 were also linked with Design issues. The issue of design was then further explored at ISH3 where the ExA posed a series of questions to the Applicant regarding its approach.
- 3.4.18. The Applicant response to ExQ1 GCT.1.10 [REP2-019], states that the process of design and the consideration given to matters such as context, sustainability and appearance is explained within the DAS [APP-096] and within ES Chapter 2 Alternatives [APP-029] and Appendix 2A Grid Connection Options report (Volume 6.4) [APP-069]. The Applicant goes on to state in its response that its approach has been to adopt the minimum building heights necessary to accommodate the plant and machinery in order to be able to minimise the overall height of the EfW CHP Facility. The placement of the facility in the northern half of the site was influenced by the wider context which is industrial to the north, east and west, along with the desirability of operational access from New Bridge Lane. In relation to the ExA query regarding whether an independent design review of the Proposed Development has been undertaken, the Applicant stated that, whilst the Applicant did not seek an independent design review outside of the consultation process, it has evidenced and explained the design for the EfW CHP Facility within the accompanying DAS [APP-096].
- 3.4.19. In response to ExQ1 PP.1.5 [REP2-019] the Applicant sets out how it has considered the National Infrastructure Commission Design Principles for National Infrastructure and how it has given consideration to the National Model Design Code.
- 3.4.20. Responses to ExQ2 GCT.2.6 and PP.2.3 are set out in [REP5-032]. In response to GCT.2.6 the Applicant states that, in light of ISH3, which dealt with Design issues and at which the Applicant's qualified and registered architect, David Hulme provided evidence regarding the Applicant's approach to Design, the Applicant did not consider it necessary to seek additional independent advice.

CONCLUSIONS

- 3.4.21. In light of the above, it is the ExA's view that the Applicant has adequately taken into account functionality and aesthetics in designing the Proposed Development. The Applicant has also demonstrated, within the constraints of the site, good design in terms of siting the Proposed Development. The ExA also notes the role that the Outline Landscape and Ecology Strategy [REP2-026] and the Outline Landscape and Ecology Management Plan [REP3-021], both documents certified within the dDCO, would play in the Design of the proposal.
- 3.4.22. The Applicant documents and the documents submitted during Examination do demonstrate how the design process was conducted and how the design process evolved. Taking all these matters into consideration, we conclude that good design matters are neutral and do not weigh for or against the making of the order.
- 3.4.23. The planning balance is considered in Chapter 5 of this report.

3.5. CLIMATE

INTRODUCTION

- 3.5.1. In this section the ExA reviews the consideration of climate, including climate change resilience and GHG emissions. Resilience to flood risk is considered in Section 3.16 on flood risk, drainage and water environment. Carbon capture and storage is considered in Section 3.6.

POLICY CONSIDERATIONS

National Policy

NPS EN-1

- 3.5.2. Paragraph 4.8.4 states *“new energy infrastructure will typically be a long-term investment and will need to remain operational over many decades, in the face of a changing climate. Consequently, applicants must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure. The ES should set out how the proposal will take account of the projected impacts of climate change.”*
- 3.5.3. Paragraph 4.8.6 states that the SoS *“should be satisfied that applicants for new energy infrastructure have taken into account the potential impacts of climate change using the latest UK Climate Projections available at the time the ES was prepared to ensure they have identified appropriate mitigation or adaptation measures. This should cover the estimated lifetime of the new infrastructure. Should a new set of UK Climate Projections become available after the preparation of the ES, the SoS should consider whether they need to request further information from the applicant.”*
- 3.5.4. Paragraph 3.4.3 states regarding EfW *“the principal purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill*

should be used for energy recovery. The energy produced from the biomass fraction of waste is renewable.”

Draft NPS EN-1

- 3.5.5. dNPS EN-1 acknowledges that to achieve net zero by 2050 “we will need to dramatically increase the volume of energy supplied from low carbon sources and reduce the amount provided by fossil fuels” and paragraph 3.3.41 states that “Energy recovery from residual waste has a lower GHG impact than landfill, with the possibility for reducing emissions if plants are equipped with CCS. The amount of electricity that can be generated from energy from waste (EfW) is constrained by the availability of its feedstock, which is set to reduce further by 2035 because of government policy.”
- 3.5.6. Paragraph 3.2.42 states “EfW is only partially renewable due to the presence of fossil-based carbon in the waste. Only the energy contribution from the biogenic portion is counted towards renewable energy targets and therefore eligible for renewable financial incentives. If the waste is pre-treated to separate out the biogenic fraction, then this can be considered wholly renewable.”
- 3.5.7. Paragraph 5.3.8 sets out that “the Secretary of State must be satisfied that the Applicant has as far as possible assessed the GHG emissions of all stages of the development.”
- 3.5.8. Paragraph 5.3.9 states that “the Secretary of State should be content that the applicant has taken all reasonable steps to reduce the GHG emissions of the construction and decommissioning stage of the development.”
- 3.5.9. Paragraph 5.3.11 recognises that operational GHG emissions are a significant adverse impact from some types of energy infrastructure which cannot be totally avoided. Furthermore, it states “operational GHG emissions are not reasons to prohibit the consenting of energy projects or to impose more restrictions on them in the planning policy framework that are set out in the energy NPSs”
- 3.5.10. Paragraph 5.3.12 states “the Secretary of State does not, therefore need to assess individual applications for planning consent against operational carbon emissions and their contribution to carbon budgets, net zero and our international climate commitments.”
- 3.5.11. Paragraph 152 of the National Planning Policy Framework (NPPF) aims to support the transition to a low carbon future, helping to shape places in ways that contribute to radical reductions in GHG emissions. It also requires, in paragraph 154, that new development should be planned for in ways that help to reduce GHG emissions such as through its location, orientation and design.

Local Policy

- 3.5.12. Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021) Policy 1 (Sustainable Development and Climate Change) states that development proposals will be assessed as to whether they move towards sustainable solutions; that they should take a proactive approach to mitigating climate change and sets out criteria against how this could be achieved.

- 3.5.13. Borough Council of Kings Lynn and West Norfolk (BCKLWN) Minerals and Waste Core Strategy Policies CS08 (Sustainable Development) seek to ensure that decisions take into account climate change adaptation issues.
- 3.5.14. Fenland Local Plan (2014) Policy LP14 encourages all development to incorporate measures to help the development withstand the longer-term impacts of climate change.

THE APPLICATION

- 3.5.15. Chapter 14 of the ES [APP-041] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to Climate together with supporting appendices [APP-088].

Climate Change Resilience

- 3.5.16. Chapter 14 sets out a climate change resilience assessment in Section 14.9, which identifies the future baseline in terms of climatic conditions and the risks these represent during construction, operation and decommissioning. Section 14.7 and 14.9 detail the mitigation measures for improving climate change resilience. The Applicant considers that there *“are no significant effects remaining following the assessment of climate change impacts on the construction, operational and decommissioning phases of the Proposed Development and its receptors. This is because all relevant and implementable environmental measures have been employed into all phases of the Proposed Development.”*

GHG Emissions

- 3.5.17. With regards to GHG emissions, the assessment considers the effects on the climate of GHG emissions arising from the construction, operation and decommissioning of the Proposed Development, including how the Proposed Development would affect the ability to achieve the UK carbon budgets and GHG emissions policy objectives at national, regional and local scales.
- 3.5.18. The Applicant’s assessment, in their view, is based on a worst-case scenario and comparison with the future baseline whereby residual waste processed at the EfW CHP Facility would otherwise continue to be sent to landfill. The Applicant outlines that the approach to quantifying GHG emissions was undertaken in line with the latest Institute of Environmental Management and Assessment (IEMA) guidance.
- 3.5.19. The ‘without Proposed Development’ case considers no new infrastructure, and so represents the operational GHG emissions of landfilling residual waste over the same time as the Proposed Development would be operational.
- 3.5.20. The Applicant outlines that the significance of GHG emissions associated with the Proposed Development has been evaluated based on the extent to which the Proposed Development materially affects the ability of the UK Government to meet its carbon target and budgets. The scale of the GHG emissions from all sources in the ‘with Proposed Development’ case has been contextualised within their overall impact on the UK Government’s UK carbon target of ‘net zero’ in 2050 and the UK carbon budgets. Consideration is also given as to whether GHG emissions are appropriately mitigated and compliant with relevant policy.

- 3.5.21. The Applicant reports the total GHG emissions associated with the construction phase of the Proposed Development are estimated to be around 48.38ktCO₂e, of which approximately 73% is embodied carbon associated with the use of materials.
- 3.5.22. Table 14.15 [APP-041] summarises the embedded environmental measures to be implemented and how these influence the climate assessment. This highlights that the Proposed Development would be required under its Environmental Permit to seek continuous improvement in energy efficiency and to provide reports to the Environment Agency (EA).
- 3.5.23. When seeking to reduce GHG emissions from the Proposed Development, the Applicant highlights measures in Table 14.15 [APP-041] to maximise potential for reusing or refurbishing materials, where available, to encourage circular economy processes and explore alternative lower carbon options. In addition, the Applicant would seek to apply low carbon solutions (including technologies, materials and products) to minimise resource consumption during construction, operation and decommissioning.
- 3.5.24. Table 14.37 [APP-041] summarises the environmental measures to be implemented relating to climate. These include design measures to avoid, prevent and reduce GHG emissions and construction measures to reduce GHG emissions to be set out in the Outline Construction Environmental Management Plan (CEMP), secured through dDCO Requirement 10.
- 3.5.25. For the operational phase, the Applicant reports that GHG emissions in the 'without development' case is estimated to be around 10,816.83ktCO₂e over the assessment period of 2026 to 2066. The total GHG emissions associated with the operational phase of the Proposed Development is estimated to be around 11,352.47ktCO₂e.
- 3.5.26. The Applicant reports the GHG emissions assumed to result from decommissioning of the Proposed Development are estimated at 48.38ktCO₂e.
- 3.5.27. For the purposes of the assessment in the ES, in the Applicant's view to provide a conservative estimate of avoided emissions, the Applicant has assumed that rather than displacing electricity generated by fossil fuels, the electricity generated by the Proposed Development would displace UK grid average electricity generation. The net electricity output of the Proposed Development (excluding the parasitic load) would be 55MWe. If this power output was delivered instead by the average UK grid electricity generation, the Applicant estimates the lifetime avoided emissions for the Proposed Development, over the 40-year operational lifetime, to be 3,203.20ktCO₂e.
- 3.5.28. Table 14.31 [APP-041] sets out the GHG emission estimates during the lifecycle of the Proposed Development and the without Proposed Development Case. The Applicant reports that the total GHG emissions over the life cycle of the Proposed Development is estimated at approximately 8,246ktCO₂e. Relative to the 'without Proposed Development' case, the Proposed Development is estimated to result in a net decrease in GHG emissions equivalent to approximately 2,571ktCO₂e over its lifetime. The Applicant considers that the assessment shows that GHG emissions would be lower in the 'with Proposed Development' case compared to the 'without Proposed Development' case.

- 3.5.29. The Applicant reports that in accordance with IEMA guidance for defining significance (Table 14.19 APP-041) it is concluded that the GHG impact of the Proposed Development would have a beneficial Significant effect. The Applicant considers that the Proposed Development has net GHG emissions below zero, causing an indirect reduction in atmospheric GHG emissions which has a positive impact on the UK Government meeting its carbon budgets/targets.

ISSUES CONSIDERED DURING THE EXAMINATION

Views of Interested Parties

- 3.5.30. BCKLWN confirmed in their Relevant Representation (RR) that Norfolk County Council (CC) would be responsible for providing comments on this topic on their behalf [RR-001]. Norfolk CC confirmed in their RR that they have no issues in relation to the assessment within their administration area and defer to Cambridgeshire County Council (Cambs CC) in relation to the EfW CHP facility itself [RR-004].

Climate Change Resilience

- 3.5.31. As confirmed in the signed Statement of Common Ground (SoCG) between the Applicant and Cambs CC and Fenland District Council (DC) [REP8-011], the climate change resilience assessment is reasonable to the Councils.

GHG Emissions

- 3.5.32. Concerns were raised regarding GHG emissions and the assumptions made by the Applicant in a number of RR and WR from individuals and organisations including: Mr Alan Wheeldon [REP2-042]; Dr Ursula Waverley [REP2-049]; Ms Jenny Perryman [REP2-052]; Mr John Colin Ogden [REP2-053]; Kings Lynn Without Incineration (KLWIN) [REP2-054] and Ms Valerie MacRae [REP2-068].
- 3.5.33. Cambs CC and Fenland DC set out a wide range of concerns throughout the examination in relation to the methodology and assumptions made by the Applicant in relation to GHG emissions. These include: Local Impact Report (LIR) [REP1-074]; Written Representation (WR) [REP2-033; REP3-044; REP4-020; REP4-028; REP4-031; REP5-045 and REP8-026]. The Councils are of the view that emissions related benefits or climate positive impacts the Applicant deems likely are overstated or may not exist at all. They have four objections to the assumptions behind the GHG emissions calculations, as set out in Section 9.4.4 of their LIR [REP1-074]:
- the extent of GHG emissions from the Proposed Development, when compared to landfilling, is entirely dependent on what the mix of fossil carbon waste (such as plastics) and biogenic carbon waste (such as paper, food, and garden waste) would be, over the lifetime of the scheme. The Councils consider that the Applicant's calculations on this matter bring with them such a degree of uncertainty that the claimed benefits cannot properly be relied on;
 - the Councils consider that the calculations as to the overall composition of the electricity generation sources do not properly reflect the likely decreasing carbon intensity of those sources over the lifetime of the scheme. When better assumptions are made, the Councils state that the Applicant

themselves accept that the net benefit reduces from 2,571 ktCO₂e to approximately 414 ktCO₂e. That represents only a 3.6% net reduction from the Applicant's stated baseline scenario;

- all the Applicant's calculations are performed against a baseline of all the waste going to landfill in the 'without development' scenario, for the entire 40 years of operation. The Councils question this assumption, because of the UK Government policy to achieve a 65% recycling for municipal solid waste by 2035, and because they consider that there are several other possible scenarios of what could happen without the Proposed Development; and
- in the absence of a definitive commitment to install and operate Carbon Capture and Storage (CCS) at the site, the scheme would continue to contribute GHGs to the atmosphere in a way which is not consistent with a trajectory towards net zero by 2050.

3.5.34. The Councils are therefore of the view that the conclusion on whether the Proposed Development would lead to lower carbon emissions than alternative waste treatment scenarios remain uncertain. They do not agree with the conclusion of a 'beneficial significant effect' and state that the IEMA guidance states that *"Only projects that actively reverse (rather than only reduce) the risk of severe climate change can be judged as having a beneficial effect."*

3.5.35. The Councils consider that to have net emissions of below zero, something must remove more GHGs from the atmosphere than it emits, which is not the case for either scenario. A net reduction in emissions compared to an alternative scenario, is not equal to 'net emissions below zero' [REP4-031].

3.5.36. In the summary of their WR [REP2-064], Rt Hon Stephen Barclay MP does not consider the Proposed Development to be a low-carbon form of power generation. They consider that due to flaws in the Applicants methodology, instead of offering a reduction in GHG emissions, they find the opposite to be the case, and by some margin.

3.5.37. UKWIN set out a wide range of concerns in relation to the composition of waste and GHG emissions throughout the examination, including RR [RR-055]; WR [REP2-066]; [REP3-050]; [REP4-037] to [REP4-042]; [REP5-053]; [REP7-051]. They raise concerns about the inadequacy of the Applicants climate change assessment and inconsistencies with industry good practice, including the IEMA guidance. They consider that the Applicant's failure to consider better ways of waste management means that they are not comparing against a "realistic worst case" and question the consistency, transparency and accuracy of the GHG assessment. UKWIN provided their own sensitivity analysis [REP5-053]. Due to uncertainties regarding the claimed benefits, they consider that they should be given little or no weight in the planning balance.

3.5.38. Second Written Questions (SWQ) CE.2.2 and CE.2.4 and discussion during ISH4 sought clarity on the Applicant's assumptions. In response to ISH4 Action Point 7 [EV-059], the Applicant sought to agree alternative scenarios for further sensitivity analysis including the effect of waste composition on the assessment of GHG emissions. This is reported in the Applicant's ISH4 Action Point 7: Technical Note – Climate Additional Sensitivity Assessment (Rev 1.0) (Volume 15.7) [REP6-030]. Following this analysis, the Applicant concludes that the majority of scenarios show a reduction in GHG emissions compared to landfill over the lifetime of the Proposed Development. The Applicant recognises the complexity in determining GHG

emissions from a range of scenarios and considers the assessment presented in the ES as a reasonable and appropriate approach for the Proposed Development.

- 3.5.39. Cambs CC and Fenland DC [REP7-043] and UKWIN [REP7-051] disagree with a number of elements of the Applicants assessment [REP6-030]. In their final position statement [REP8-026] and SoCG [REP8-027] the Councils highlight significant uncertainty regarding the quantity of future emissions and their dependence on waste composition. The Applicant provided a response [REP8-017] and set out their closing position on climate [REP8-021], where they acknowledge (paragraph 2.5) that *“assessments which seek to model future emissions require assumptions to be made as to the speed of grid carbonisation and waste composition.”* The Applicant describes the Proposed Development as ‘Future Fit,’ with potential for CHP and CCR which could deliver additional GHG emissions savings.

CONCLUSIONS ON CLIMATE

Climate Change Resilience

- 3.5.40. The ExA are satisfied that the Applicant has taken into account the potential impacts of climate change and has identified appropriate mitigation or adaptation measures in line with paragraphs 4.8.4 and 4.8.6 of NPS EN-1 and that there should not be any significant adverse effects in relation to climate change resilience from the Proposed Development.

GHG Emissions

- 3.5.41. The ExA are satisfied that the Applicant has as far as possible assessed the GHG emissions of all stages of the development, in line with paragraph 5.3.8 of dNPS EN-1, and has used an appropriate assessment methodology, whilst recognising that the assessment relies on a number of assumptions and estimates.
- 3.5.42. The Applicant has outlined that the exact bill of materials required to construct the Proposed Development is unknown and has used a number of assumptions to estimate construction vehicle and construction process emissions. The ExA are satisfied that an adequate assessment has been carried out based on reasonable assumptions for the construction and decommissioning phases.
- 3.5.43. The Applicant sets out the embedded environmental measures to be implemented in Tables 14.15 and Table 14.37 [APP-041] and states that construction measures to reduce GHG emissions would be set out in the Outline CEMP, secured through dDCO requirement 10. The ExA are satisfied that the Applicant has taken reasonable steps to reduce the GHG emissions of the construction and decommissioning stage of the development in line with paragraph 5.3.9 of dNPS EN-1.
- 3.5.44. The ExA cannot reconcile the differences between the parties on operational GHG emissions, however, the ExA agrees with all parties that there are many variables. Whilst the Applicant’s overall assessment methodology is considered appropriate, the ExA recognises that the assessment has relied upon a number of assumptions and estimates. The Applicant has explored a wide range of scenarios including an additional sensitivity assessment [REP6-030] which allows a reasonable worst case for GHG emissions to be explored.

- 3.5.45. dNPS EN-1 paragraph 3.3.41 acknowledges that “*energy recovery from residual waste has a lower GHG impact than landfill*”. Evidence provided by the Applicant in the ES [APP-041] supports this view. However, the available evidence casts considerable doubt on whether the claimed ‘net benefit’ (and resulting significant beneficial effect) can be arrived at with any great certainty, given it is highly sensitive to the assumptions applied.
- 3.5.46. dNPS EN-1 would not require the Applicant to compare the Proposed Development with the alternative and demonstrate that it would be a net benefit and Paragraph 5.3.11 recognises that operational GHG emissions are a significant adverse impact from some types of energy infrastructure that cannot be totally avoided. It goes on to state that “*operational GHG emissions are not reasons to prohibit the consenting of energy projects or to impose more restrictions on them.*”
- 3.5.47. The ExA are satisfied that the Proposed Development would accord with the guidance in the relevant NPSs in relation to climate change resilience and GHG emissions. Taking all matters into account, conclude that these matters are neutral and do not weigh for or against the order being made.
- 3.5.48. The planning balance is considered in Chapter 5 of this report.

3.6. CARBON CAPTURE AND STORAGE

INTRODUCTION

- 3.6.1. In this section the ExA reviews the consideration of Carbon Capture and Storage (CCS) which was not separately covered in the ES but was the subject of submissions during the Examination and discussion at ISH4.

POLICY CONSIDERATIONS

National Policy

NPS EN-1

- 3.6.2. Paragraph 4.7.10 states “To ensure that no foreseeable barriers exist to retrofitting carbon capture and storage (CCS) equipment on combustion generating stations, all applications for new combustion plant which are of generating capacity at or over 300 MW and of a type covered by the EU’s Large Combustion Plant Directive should demonstrate that the plant is “Carbon Capture Ready” (CCR) before consent may be given.”
- 3.6.3. Paragraph 2.5.29 of National Policy Statement (NPS) EN-3 states:
- 3.6.4. *"The IPC should impose requirements on any consent, requiring operators to:*
- *retain control over sufficient additional space (whether on or near the site) for the carbon capture equipment;*
 - *retain their ability to build carbon capture equipment on this space (whether on or near the site) in the future; and*
 - *submit update reports on the technical aspects of its CCR status to the Secretary of State for DECC. These reports should be required within 3 months of the date on which a consented station first begins to supply*

electricity to the grid and every two years thereafter until the plant moves to retrofit CCS."

dNPS EN-1

3.6.5. Paragraph 4.8.9 is similar to Paragraph 4.7.10 of NPS EN-1 but updates to refer to 'The Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013.'

3.6.6. Paragraph 4.8.28 states that:

"In order to assure the Secretary of State that a proposed development is CCR, applicants must demonstrate that their proposal complies with guidance issued by the Secretary of State in November 2009 or any successor to it. The guidance requires:

- that sufficient space is available on or near the site to accommodate carbon capture equipment in the future;*
- the technical feasibility of retrofitting their chosen carbon capture technology;*
- that a suitable area of deep geological storage offshore exists for the storage of captured CO₂ from the proposed combustion station;*
- the technical feasibility of transporting the captured CO₂ to the proposed storage area; and*
- the economic feasibility within the combustion station's lifetime of the full CCS chain, covering retrofitting, transport and storage."*

3.6.7. Paragraphs 4.8.29-33 sets out expectations in relation to the technical feasibility studies and economic assessments.

3.6.8. Paragraph 4.8.34 states *"If granted consent, operators of the power station will be required to:*

- retain control over sufficient additional space on or near the site on which to install the carbon capture equipment and the ability to use it for that purpose.*
- submit update reports on the technical aspects of its CCR status to the Secretary of State for DESNZ. These reports will be required within three months of the commercial operation date of the power station (so avoiding any burden on the operator with an unimplemented consent) and every two years thereafter. Should CCS equipment be retrofitted to the full capacity of the plant, the obligation to provide such reports will lapse."*

Local Policy

3.6.9. Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021) Policy 1 (Sustainable Development and Climate Change) states that development proposals will be assessed as to whether they move towards sustainable solutions; that they should take a proactive approach to mitigating climate change and sets out criteria against how this could be achieved.

3.6.10. BCKLWN Local Development Framework Core Strategy Policy CS08 (Sustainable Development) seeks to ensure that decisions take into account climate change adaptation issues.

THE APPLICATION

- 3.6.11. Chapter 14 of the Environmental Statement(ES) [APP-041] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to Climate.
- 3.6.12. With regards to embedded environmental measures Table 14.15 outlines that the Proposed Development will be carbon capture retrofit ready with land set aside for a carbon capture and storage (CCS) facility. However, the Application does not include the construction and operation of the carbon capture technology within the Proposed Development. Paragraph 14.10.3 states that the inclusion of CCS technology is subject to technical viability and developing government policy.
- 3.6.13. Chapter 3 of the ES [APP-030] Description of the Proposed Development, paragraph 3.4.80 states that there is currently no legal or policy requirement for the energy from waste (EfW) combined heat and power (CHP) Facility to include CCS apparatus or to be CCR. The Proposed Development does not therefore include the construction and operation of any carbon capture technology.
- 3.6.14. However, the Applicant does note *“As set out in the 2020 Energy White Paper, the Department for Business, Energy and Industrial Strategy (BEIS) issued a call for evidence on an expansion to the 2009 CCR requirements to generation facilities under 300MW in July 2021. The consultation closed in September 2021, but the outcome of this consultation has not yet been published by BEIS. As the outcome of the consultation is unknown, the layout of the EfW CHP Facility Site has been designed to allow sufficient space for the plant and equipment for a CCS facility if required in the future (including plant and equipment to capture carbon dioxide (CO₂) from the flue gas emissions of the EfW CHP Facility and transport this to a storage facility. Furthermore, the steam turbine will be designed so as to be ready for installation of controlled low pressure steam extraction; space will be available for condensate return to the main condensate system, diversion of flue gas through the CCS facility and installation of an additional 11/15kV circuit breaker, plus a pre-installed duct from the switchgear building to the future CCS facility. The area proposed for the laydown maintenance area (ID31) as part of the Proposed Development in the south-east portion of the EfW CHP Facility Site could accommodate a future CCS facility.”*

ISSUES CONSIDERED DURING THE EXAMINATION

Views of Interested Parties

- 3.6.15. Cambridgeshire County Council (Cambs CC) and Fenland District Council (DC) Local Impact Report (LIR) [REP1-074] Paragraph 9.4.20 states that *“The only way that a EfW plant could be compatible with net zero emissions is to install and operate CCS from day one of operation. Setting aside an area for future development of CCS is insufficient as it does not guarantee when or if CCS will become operational.”*

The Applicant’s response

- 3.6.16. The Applicant responded to the Cambs CC and Fenland DC LIR [REP2-020], stating that Requirement 22 was introduced into the dDCO at DL1 to secure the carbon capture and export readiness reserve space required to deliver future environmental requirements relating to carbon capture and storage. A Carbon

Capture and Export Readiness Reserve Space Plan (Volume 10.7) [REP2-024] demonstrating how this space would be utilised was submitted at DL2.

- 3.6.17. In addition, Requirement 23 was introduced into the dDCO at DL1 to secure the production of a carbon capture readiness monitoring report which would set out how the undertaker would monitor the ongoing feasibility of carbon capture and explore technology.

Issue Specific Hearing 4

- 3.6.18. During ISH4 [REP4-020] the ExA asked the Applicant to set out their approach to carbon capture and storage and to explain how the dDCO requirements would work in practice.
- 3.6.19. The Applicant explained that there are a number of technologies in the market for carbon capture and storage, with many still in early stages and not proven on a commercial scale. The Applicant has employed a technology supplier to carry out a pre-feasibility study and is confident that the area set aside for CCS is adequate to build the CCS apparatus.
- 3.6.20. The Applicant noted that their parent company has become a participant in the Bacton Thames Net Zero consortium. The consortium is examining a project to sequester carbon dioxide in expired gas and oil fields linked to the Bacton gas terminal in Norfolk. This includes new pipelines from carbon emitters to Bacton and as such are outside the scope of this DCO Application. Decisions on how carbon would be exported and stored under the seabed would not be made until after the DCO Application has been determined. The Applicant confirmed that to fully realise the capture and sequestration of carbon from the Proposed Development it would require another DCO application (as the pipeline would be over 10 miles long) but considers that it is technically possible. At this current stage, the Applicant confirmed that it does not believe that there are any firm timescales for the Bacton project.
- 3.6.21. The ExA asked the Applicant to clarify the ExA's understanding that the Applicant is committing to explore the feasibility of CCS and not making a commitment to provide CCS. The Applicant confirmed that the ExA's understanding is correct and confirmed that the Applicant is not in a position to commit to providing CCS until government support is known.
- 3.6.22. In response to comments made by Cambs CC and Fenland DC regarding the deliverability of CCS, the Applicant explained that they believe they are policy compliant in terms of being decarbonisation ready. Furthermore, the Applicant would be content to demonstrate that the plant is being designed to allow for CCS and that the design can accommodate various elements either immediately or following retrofitting. The Applicant proposed that it would modify Requirement 22 to incorporate design commitments.
- 3.6.23. In response to ISH4 Action Point 6 [EV-059], the Applicant produced a technical note on CHP and carbon capture delivery readiness [REP5-038]. The note sets out that embedded design measures would be implemented during the construction of the Proposed Development and completed prior to the date of Final Commissioning. The EfW CHP Facility would be ready to capture 95% of CO₂ flue gas emissions.

- 3.6.24. The note concludes in Paragraph 4.1.2 that the Applicant considers that *“the Proposed Development is not only compliant with applicable national policies relating to CHP and CC but exceeds the current legal and policy requirements for this type of facility. The Applicant therefore considers that positive weight in the planning balance can be attributed to the ability of the Proposed Development to deliver CHP and CC in the future.”*
- 3.6.25. In the Applicant’s closing position on climate [REP8-021], the Applicant describes the Proposed Development as ‘Future fit’, demonstrated by the set-aside of land for carbon capture and export equipment and by the installation of the necessary equipment. Future delivery subject to policy and prevailing economic conditions is secured through DCO Requirements 22 and 23.

CONCLUSIONS ON CARBON CAPTURE AND STORAGE

- 3.6.26. The ExA acknowledges that Cambs CC and Fenland DC LIR [REP1-074] consider that setting aside an area for future development of CCS is insufficient as it does not guarantee when or if CCS would become operational. However, EN-1 paragraph 4.7.10 considers that all applications for new combustion plant with a generating capacity at or over 300MW should demonstrate CCR before consent may be given. The ExA are satisfied that the capacity of the Proposed Development as defined in the dDCO is below the threshold at which it should be designed to be CCR.
- 3.6.27. The ExA recognises that despite being significantly below the EN-1 threshold, that the Proposed Development has set aside sufficient land to install and use carbon capture equipment, would implement embedded design measures and would submit reports to the Secretary of State (SoS) to monitor the ongoing feasibility of CCS. This shows commitment by the Applicant to explore the feasibility of CCS, however, it does not show a commitment to provide CCS at the present time.
- 3.6.28. During ISH4 the Applicant confirmed that the potential carbon sequestration project is in the early stages with no firm timescales. In addition, the Applicant confirmed that to fully realise the capture and sequestration of carbon from the Proposed Development would require another DCO application as the pipeline would be over 10 miles long. Given the current obstacles to delivery of CCS, the ExA does not consider that positive weight can be attributed to the ability of the Proposed Development to deliver CCS in the future. Furthermore, the ExA consider that carbon capture cannot therefore be relied on for the consideration of related matters elsewhere in this report, including climate.
- 3.6.29. The ExA considers that carbon capture and storage issues accord with NPS EN-1 and dNPS EN-1. Taking all matters into account, the ExA considers this matter to be neutral and does not weigh for or against the order being made.
- 3.6.30. The planning balance is considered in Chapter 5 of this report.

3.7. CONSIDERATION OF COMBINED HEAT AND POWER INTRODUCTION

- 3.7.1. In this section the ExA reviews the consideration of CHP which was not separately covered in the ES but was the subject of submissions during the Examination and discussion at ISH4.

POLICY CONSIDERATIONS

National Policy

NPS EN-1

- 3.7.2. NPS EN-1 sets out the requirements for the consideration of CHP. Paragraph 4.6.6 sets out that Government guidelines issued in 2006 require any application to develop a thermal generating station to either include CHP or contain evidence that the possibilities of CHP had been fully explored.
- 3.7.3. EN-1 sets out the steps that applicants should take to consider the opportunities for CHP including wide consultation. Paragraph 4.6.7 notes *“In developing proposals for new thermal generating stations, developers should consider the opportunities for CHP from the very earliest point and it should be adopted as a criterion when considering locations for a project. Given how important liaison with potential customers for heat is, applicants should not only consult those potential customers they have identified themselves but also bodies such as the Homes and Communities Agency (HCA), Local Enterprise Partnerships (LEPs) and Local Authorities and obtain their advice on opportunities for CHP”*.
- 3.7.4. Paragraph 4.6.8 goes on to state *“To encourage proper consideration of CHP, substantial additional positive weight should therefore be given by the IPC to applications incorporating CHP”*.
- 3.7.5. Paragraph 4.6.10 states that *“If the IPC is not satisfied with the evidence that has been provided, it may wish to investigate this with one or more of the bodies such as the HCA, LEPs and Local Authorities.”*
- 3.7.6. Additionally, Paragraph 4.6.11 states that *“if the IPC, when considering an application for a thermal generating station, identifies a potential heat customer that is not explored in the application (for instance, on the advice of the HCA or Local Authorities), it should request that the applicant pursues this. Should the applicant not be able to reach an agreement with a potential customer, it should provide evidence demonstrating why it was not possible”*.
- 3.7.7. Paragraph 4.6.12 then sets out *“The IPC may be aware of potential developments (for example from the applicant or a third party) which could utilise heat from the plant in the future, for example planned housing, and which is due to be built within a timeframe that would make the supply of heat cost-effective. If so, the IPC may wish to impose requirements to ensure that the generating station is CHP-ready unless the IPC is satisfied that the applicant has demonstrated that the need to comply with the requirement to be Carbon Capture Ready will preclude any provision for CHP.”*

NPS EN-3

- 3.7.8. NPS EN-3 paragraph 2.5.27 reiterates the policy position set out in EN-1 stating that development consent should not be given unless the applicant has provided appropriate evidence that CHP is included or that opportunities for CHP have been fully explored. dNPS EN-3 retains this approach.

dNPS EN-1

- 3.7.9. dNPS EN-1 paragraph 4.7.11 states that *“Where the applicant is not able to reach an agreement with a potential customer, they should provide evidence demonstrating the reasons for this, and why it will not be reasonably possible to reach an agreement during the lifetime of the thermal station.”*
- 3.7.10. Paragraph 4.7.15 states that *“Given the importance which government attaches to CHP, if an application does not demonstrate that CHP has been adequately considered the Examining Authority should seek further information from the applicant.”*
- 3.7.11. Paragraph 4.7.16 notes that *“The Secretary of State should not give development consent unless satisfied that the applicant has provided appropriate evidence that CHP is included or that the opportunities for CHP have been fully explored.”*
- 3.7.12. Paragraph 4.7.17 *“If the Secretary of State (or the Examining Authority during the examination stage) is not satisfied with the evidence that has been provided, the Secretary of State (or the Examining Authority during the examination stage) may wish to investigate this with one or more of the bodies such as LEPs and Local Authorities.”*
- 3.7.13. Paragraph 4.7.19 states *“The Secretary of State may also be aware of potential developments (for example from the applicant or a third party) which could utilise heat from the plant in the future, for example planned housing, and which is due to be built within a timeframe that would make the supply of heat cost-effective. Where it may be reasonably possible for the applicant to reach agreement with a potential heat customer during the lifetime of the station, the Secretary of State may wish to impose requirements to ensure that the generating station is CHP-ready and designed in order to allow heat supply at a later date.”*

THE APPLICATION

- 3.7.14. ES Chapter 2, Alternatives [APP-029] includes proximity to potential heat and electricity customers as an essential siting criteria. Graphics 2.1 and 2.2 show the UK CHP Development Map for the East of England/South East and for Wisbech and indicate that Wisbech is identified as having large heat loads to the centre and south of the town. It concludes that a site to the south of the centre would therefore have the greatest potential to respond to the potential demand for heat and power.
- 3.7.15. Table 14.15 of ES Chapter 14 [APP-041], outlines that the Proposed Development has been conceived and designed with CHP in mind. The incineration process itself would generate steam that would be used to drive steam generators for electricity generation. Further heat recovery can be secured by the export of heat in the form of steam to off-site customers such as surrounding business users via dedicated pipelines and electricity through private wire cables.
- 3.7.16. The Applicant sets out that approximately 50-megawatt thermal (MWth) of usable steam (heat) energy would be available for export via the CHP Connection to users in the surrounding industrial estate.
- 3.7.17. The Applicant’s Combined Heat and Power Assessment [APP-097] states that there are technically feasible opportunities for the export of an annual average heat of 25.61MWth to potential heat customers – Lamb Weston and Nestle Purina, where

steam is used to cook food products. Steam extracted from the turbine would supply these potential heat consumers via the CHP Connection Corridor. From the CHP Connection Corridor, the extracted steam could also be transferred to a closed hot water circuit via a heat exchanger to supply hot water to the Eviosys Packaging manufacturing building, before being returned to the heat exchanger for reheating.

- 3.7.18. Section 6.3 [APP-097] describes that discussions with potential heat users are in their preliminary phases. Lamb Weston and Nestle Purina have provided an indication of their process steam requirements. Eviosys packaging and Fountain Frozen have not responded to contact. Facilities located near to, but not directly on the proposed CHP connection corridor, such as Del Monte, have not yet been approached.
- 3.7.19. The assessment acknowledges that there are no formal agreements in place for the export of heat from the EfW CHP Facility at this stage. The Applicant considers in paragraph 6.3.2 that this is not unexpected, as they are typically only entered into once the Applicant is able to make guarantees as to the heat supply, which can only happen once the necessary consents are in place. In addition, at this stage, the Applicant considers that it is difficult for potential customers to make commercial decisions on a heat supply from the Proposed Development before any guaranteed heat price, guaranteed availability and guaranteed schedule can be committed to. These would be determined during the detailed design and techno-economic assessment stages.
- 3.7.20. To maximise the likelihood of securing the requisite level of heat demand and to maintain momentum in the development process, the Applicant has proposed an outline action plan which would be implemented alongside the construction programme. Paragraph 10.1.4 [APP-097] states *“Potential consumers need to be approached so that there is a high degree of certainty about heat sales. The economic viability of the heat network then needs to be confirmed.”* Paragraph 10.1.5 goes on to state that *“constructing a detailed and reliable database of potential heat consumers is a key activity. This should be revisited and updated at least every 2-years so that new developments can be added, and existing developments can be updated. Change in building ownership and use can affect the potential to be a heat customer. Boiler age can be tracked so that the consumer can be targeted when they are already considering investing in a new heating system”*.

ISSUES CONSIDERED DURING THE EXAMINATION

Views of Interested Parties

- 3.7.21. In BCKLWN LIR [REP1-064] Appendix 1, Councillor Blunt questions the amount of demand locally for either steam or power and considers there to be a limited demand for steam to be used in local factories.
- 3.7.22. Other IPs written representations (WR) including Mr Alan Wheeldon [REP2-042], Dr Ursula Waverley [REP2-049], Ms Lynne Hayden [REP2-055] and Ms Jenny Perryman [REP2-052] and [REP4-044] highlight local business opposition to the proposal and raise concerns with regards to the lack of any secured agreements or commitment from local industries to receive the steam generated.
- 3.7.23. Rt Hon Stephen Barclay MP [REP2-064] considers the CHP connection, such as it is proposed, feels like an afterthought. He welcomes the intent to make use of steam but questions why customers would make use of that steam. *“As businesses*

seek to decarbonise the heat which they use, they have a range of options open to them. Heat generated from EfW which is not equipped with carbon capture and storage (CCS) will not give them anything like the same reduction in carbon emissions associated with heating that would come from, for example, use of heat pumps. It has to be questioned whether any potential commercial user that was at all interested in aligning itself with a net zero consistent pathway, as many seek to do, would sign up to using heat from EfW without CCS over anything other than the short term.”

The Applicant’s response

3.7.24. The Applicant’s comments on WR’s [REP3-040] states that the Applicant continues to engage in discussions with potential consumers located along the CHP Connection Corridor as per the action plan set out in the CHP Assessment (Volume 7.6) [APP-097].

3.7.25. Table 3.1 [REP3-040] provides comments in response to the WR from Rt Hon Stephen Barclay MP and highlights that the Proposed Development is not dependent upon the supply of heat and power to local businesses. However, the Applicant is of the opinion that local businesses would take advantage of a secure, reliable supply of renewable energy in the form of steam and electricity.

Issue Specific Hearing 4 (ISH4)

3.7.26. During ISH4 [REP4-020] the ExA asked the Applicant to set out their approach to CHP and the level of certainty they have that this can be delivered. The ExA also asked the Applicant to explain how requirement 25 in the dDCO would work in practice.

3.7.27. The Applicant explained that they are committed to making their facilities not just CHP ready but CHP in practice. The Proposed Development site was specifically chosen as it lends itself to supply heat to existing heat demands, as well as the future heat demands in the land identified as ready for industrial development.

3.7.28. The Applicant went on to explain that the drafting for the CHP Requirement is based on similar requirements in other granted DCOs for development of this type. Requirement 25 of the dDCO requires the Applicant to submit a report to the relevant planning authorities that updates the CHP assessment and demonstrates how the Applicant has considered the opportunities for the export of heat from the EfW CHP Facility along the CHP Connection.

3.7.29. The purpose of Requirement 25 is to ensure that where there are no existing contracts in place for users of CHP, the Applicant must ensure that there are opportunities for the heat to be taken by local users. The Applicant considers that this increases the potential for heat to be exported with opportunities to be explored throughout the lifetime of the Proposed Development.

3.7.30. The Applicant’s intention is to enter into agreement with users once the DCO has been granted and would actively market the supply of steam and hot water at competitive prices.

3.7.31. The ExA stated that they would expect to see proof of evidence, such as discussions with local businesses, to demonstrate the extent of the benefits offered and the deliverability of CHP. The Applicant considers that at this stage in the

process it is not typical to have contracts in place and that they are not willing to breach commercial confidentiality to provide evidence of discussions. They referred to paragraph 4.6.12 of NPS EN-1 which provides that the DCO can contain requirements to ensure a generating station is CHP-ready in the event that there are no potential users currently identified, but it is likely that there could be users in the future.

3.7.32. The Applicant stated that they have identified four potential customers and asked for data on their current energy demand, with some data provided to the Applicant. In terms of the lack of evidence of customers, the Applicant explained that their heat customers for their plant in Germany change over time, with customers there today that were not customers 20 years ago. The Applicant's position is that the potential to provide CHP can be considered as a positive benefit and it would be unreasonable to not attach any weight to the Proposed Development's CHP potential solely on the basis that the Applicant could not provide evidence of committed customers at this point in the process.

3.7.33. In response to ISH4 Action Point 6 [EV-059], the Applicant produced a technical note on CHP and carbon capture delivery readiness [REP5-038]. This explains that *"the Draft DCO requirement secures:*

- *Production of a CHP assessment within 18-months of the date of Final Commissioning;*
- *To consider the opportunities to deliver CHP secured under Works No. 3, 3A and 3B;*
- *List actions to reasonably increase the potential to deliver CHP;*
- *Consult relevant organisations, such as the Environment Agency; and*
- *Commitment to 5-year reviews."*

3.7.34. In order to give comfort that the embedded design measures necessary to facilitate CHP would be delivered, Requirement 25 was updated to require the Applicant to provide evidence to the relevant planning authority that the embedded design measures have been constructed.

3.7.35. In the Applicant's closing position on climate [REP8-021], the Applicant states that the availability of potential CHP industrial users was an essential siting criterion [APP-029] when identifying a site for the Proposed Development.

3.7.36. They highlight Paragraph 4.7.19 of dNPS EN-1, which states that where it is *"reasonably possible for the applicant to reach agreement with a potential heat customer during the lifetime of the station, the Secretary of State may wish to impose requirements to ensure that the generating station is CHP-ready and designed in order to allow heat supply at a later date"*.

3.7.37. The Applicant goes on to state that *"The Combined Heat and Power Assessment [APP-097] sets out the viability of a CHP connection from the EfW CHP Facility Site. In this regard, the policy is framed in terms of the 'reasonable possibility' of an applicant reaching agreement with heat customers "during the lifetime of the station". There is no requirement for any evidence that such agreements are in place prior to determining an application. The absence of any such agreements with heat customers accordingly does not count against the Proposed Development. Indeed, it is only to be expected that commercial agreements will be concluded*

following a grant of development consent, when potential customers have clarity as to whether or not a facility will actually come forward.”

CONCLUSIONS ON CONSIDERATION OF COMBINED HEAT AND POWER

- 3.7.38. As set out in EN-1, paragraph 4.6.6, requires any application to develop a thermal generating station to either include CHP or contain evidence that the possibilities of CHP had been fully explored.
- 3.7.39. The ExA are satisfied that the Applicant has considered the opportunities for CHP at an early point in the process, using heat mapping and availability of potential customers as a criterion to inform their choice of location for the Proposed Development, in line with paragraph 4.6.7 of NPS EN-1.
- 3.7.40. In line with the 2006 Guidance noted in paragraph 4.6.6 of NPS EN-1, the Applicant has satisfactorily explained their choice of location, including the potential viability of the site for CHP as an essential siting criterion in their assessment of alternatives [APP-029]. The Applicant has also listed the companies that they have contacted.
- 3.7.41. Evidence is lacking as to how they have worked with local planning authorities and other organisations to identify opportunities for CHP in line with NPS EN-1 paragraph 4.6.11 and dNPS EN-1 paragraph 4.7.17. Furthermore, as discussions with potential heat users are in the preliminary phase and due to the Applicant's position on confidentiality, the Applicant has provided limited evidence of discussions with potential customers.
- 3.7.42. The Applicant has not been able to reach agreement with a potential customer, however, they are confident that agreements with customers would come forward once the necessary consents are in place. They consider that it is reasonably possible to reach an agreement during the lifetime of the Proposed Development in line with dNPS EN-1 paragraph 4.7.11.
- 3.7.43. The Proposed Development would be CHP ready and would have the embedded design measures (secured through Requirement 25 of the dDCO) necessary to ensure it could deliver CHP as soon as a CHP customer is secured, in line with paragraph 4.6.12 of NPS EN-1 and paragraph 4.7.19.
- 3.7.44. The ExA considers that the Proposed Development meets the overall aim of NPS EN-1 and EN-3, which seek to ensure that CHP has been properly considered. In order for substantial positive weight to be given, as outlined in paragraph 4.6.8 of NPS EN-1, the Application would need to incorporate CHP. The ExA considers that the Proposed Development would only incorporate CHP when a customer is secured. As no customers have currently been secured, the ExA cannot therefore afford substantial positive weight. Taking these matters into account, the ExA considers this matter to be neutral and does not weigh for or against the order being made.
- 3.7.45. Notwithstanding the ExA's conclusions in relation to NPS EN1 and EN-3. dNPS EN-1 goes further than NPS EN-1, most notably in paragraph 4.7.16 that notes that *"The Secretary of State should not give development consent unless satisfied that the applicant has provided appropriate evidence that CHP is included or that the opportunities for CHP have been fully explored."*

- 3.7.46. The SoS may therefore wish to satisfy themselves that the opportunities for CHP have been fully explored, such as clear evidence of discussions with potential heat customers and bodies such as Homes England, Local Enterprise Partnerships (LEPs) and Local Authorities in line with dNPS EN-1 paragraph 4.7.17.

3.8. LANDSCAPE AND VISUAL

Policy Considerations

NPS EN-1

- 3.8.1. Paragraph 5.9.1 notes that the landscape and visual effects of energy projects will vary on a case-by-case basis according to the type of development, its location and the landscape setting of the Proposed Development. Exhaust stacks and their plumes are described as having the most obvious impact on landscape and visual amenity for thermal combustion generating stations. Paragraph 5.9.5 requires the Applicant to carry out a landscape and visual assessment and refers to the use of good practice guidance in this regard.
- 3.8.2. NPS EN-1 notes that virtually all nationally significant energy infrastructure projects will have effects on the landscape, and that projects need to take account of the potential impact. Having regard to siting, operational and other relevant constraints, the aim should be to minimise harm, providing reasonable mitigation where possible and appropriate.
- 3.8.3. Paragraphs 5.9.15 to 5.9.16 of NPS EN-1 state *“The scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure. The SoS should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.” “In reaching a judgment, the SoS should consider whether any adverse impact is temporary, such as during construction, and/or whether any adverse impact on the landscape will be capable of being reversed in a timescale that the IPC considers reasonable.”*
- 3.8.4. Paragraph 5.9.18 recognises that all proposed energy infrastructure is likely to have visual effects for many visual receptors around proposed sites. As such it is a necessary consideration to judge whether the effects outweigh the benefits of the project. Paragraphs 5.9.18 and 5.9.19 relate to visual impact and notes that visual effects upon sensitive visual receptors such as local residents and visitors to the local area may outweigh the benefits of a project. It may be helpful for attention to be drawn to examples of existing permitted infrastructure with *“a similar magnitude of impact upon sensitive Receptors”*.
- 3.8.5. Paragraph 5.9.22 highlights *“Within a defined site, adverse landscape and visual effects may be minimised through appropriate siting of infrastructure within that site, design including colours and materials, and landscaping schemes, depending on the size and type of the proposed project. Materials and designs of buildings should always be given careful consideration.”*

NPS EN-3

- 3.8.6. NPS EN-3 sets out specific considerations which apply to waste combustion generating stations including at paragraph 2.5.50 which states that *“good design that contributes positively to the character and quality of the area will go some way*

to mitigate adverse landscape/visual effects. Development proposals should consider the design of the generating station, including the materials to be used in the context of the local landscape.”

- 3.8.7. Paragraph 2.5.51 goes on to state that “mitigation is achieved primarily through aesthetic aspects of site layout and building design including size and external finish and colour of the generating station to minimise intrusive appearance in the landscape as far as engineering requirements permit. The precise architectural treatment will need to be site-specific.”
- 3.8.8. Paragraph 2.5.52 states *“The IPC should expect applicants to seek to landscape waste/biomass combustion generating station sites to visually enclose them at low level as seen from surrounding external viewpoints (VP). This makes the scale of the generating station less apparent, and helps conceal its lower level, smaller scale features. Earth bunds and mounds, tree planting or both may be used for softening the visual intrusion and may also help to attenuate noise from site activities.”*
- 3.8.9. dNPS EN-1 and dNPS EN-3 contain similar policies to that of NPS EN-1 and NPS EN-3.

NPPF

- 3.8.10. The NPPF does not set out policies for NSIPs (see paragraph 5 of the NPPF), but its policies may have relevance to the development of such projects. The NPPF includes policies that ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Chapter 15 of the NPPF relates to conserving and enhancing the natural environment, with paragraph 174 being considered to be of specific relevance as it provides assessment criteria and states *“planning... decisions should contribute to and enhance the natural and local environment...”*
- 3.8.11. The Cambs CC and Peterborough City Council Minerals and Waste Local Plan 2036 (2021) Headline Objective 8, paragraph 2.2 is to conserve and enhance the quality and distinctiveness of the landscape. Policy 4: Providing for Waste Management; Policy 17: Design and Policy 18: Amenity Considerations are of relevance to the Proposed Development. Furthermore, Appendix 3: Location and Design of Waste Management Facilities (2021) has various implications for the Proposed Development throughout the subsection on urban edge/new development sites.
- 3.8.12. Fenland Local Plan (2014) Policies LP6, LP8, LP12, LP14 and LP16 and Fenland District Council Delivering and Protecting High Quality Environments in Fenland Supplementary Planning Document (2014) are relevant to the Proposed Development. As is King’s Lynn and West Norfolk Local Development Framework Core Strategy (2011) Policies CS06, CS08, CS12 and King’s Lynn and West Norfolk Local Development Framework Site Allocations and Development Management Policies (2016) Policy DM15.

THE APPLICATION

- 3.8.13. Chapter 9 of the ES [APP-036] assesses the landscape and visual effects during all phases of the project based on the maximum extent of the Proposed Development. The Applicant describes the assessment undertaken as a worst-case assessment in

accordance with the Guidelines for Landscape and Visual Impact Assessment Third Edition.

- 3.8.14. There are no national or local landscape designations with the potential to be affected.
- 3.8.15. A 17km radius study area was determined, through consultation with relevant authorities [Figure 9.1 APP-053] to encompass the grid connection corridor to the Walsoken substation. A total of 30 representative VPs were agreed with Cambs CC and can be found in Table 9.14 of ES Chapter 9 [APP-036].
- 3.8.16. Twelve Landscape and Visual Appendices [APP-079] contain the baseline information and detailed assessments and summaries are included in Sections 9.5 and 9.9 of ES Chapter 9. A series of photomontages and wireframes are presented in Figures 9.1 to 9.46 of the ES [APP-053 to APP-061].
- 3.8.17. A series of Zones of Theoretical Visibility (ZTV) [APP-053] determine the potential extent that the Proposed Development would be visible to visual receptors located in the surrounding area. They identify the ZTV based on a stack height of 90m above finished floor level (FFL), the roofline of the boiler house building at 52m above FFL and the visible plume at its maximum potential parameters of a height of 69m above the chimneys and length of 582m.
- 3.8.18. The assessments consider both the magnitude of impact and the significance of effect on landscape character, townscape character, VP analysis, residential and community visual receptors, residential visual amenity assessments, recreational visual receptors, and vehicular visual receptors.

Design and Mitigation

- 3.8.19. The Applicant's approach to design is set out within ES Chapter 2: Alternatives [APP-029] and within the Design and Access Statement [APP-096]. This explains the consideration given to different building finishes in terms of material, colour and texture and explains the context provided by existing buildings which surround the EfW CHP Facility Site.
- 3.8.20. The Applicant's proposals for landscaping are set out within Figure 3.14 of ES Chapter 3: Description of the Proposed Development [APP-049]. This proposes to introduce landscaping to the EfW CHP Facility frontage to New Bridge Lane which would provide a landscape using native species common in the surrounding area and would include tree planting to screen the buildings from a low level.
- 3.8.21. Section 9.7 of ES Chapter 9 [APP-036] sets out the embedded environmental measures which include limits to lighting, the commitment to an Outline Landscape and Ecology Strategy and the removal of expansion loops along the CHP Connection where it would run behind residential properties.
- 3.8.22. Table 9.19 [APP-036] provides a summary of environmental measures to be implemented relating to landscape and visual, where it sets out the measure and method of compliance. It references the detailed architectural design which minimises the overall massing of the EfW CHP Facility and the considerations given to external cladding together with measures such as the Outline Lighting Strategy [REP5-010] and native planting.

- 3.8.23. The extent to which the plume could be viewed is illustrated within ES Chapter 9: Landscape and Visual Figures [APP-053] in Figure 9.6 Visible Plume ZTV. The impacts of the visible plume upon relevant landscape, townscape and visual Receptors are included within the landscape, townscape, and visual assessments of effects in ES Chapter 9: Landscape and Visual Figures Appendices 9G, 9H, 9I, 9J and 9K [APP-079] summarised in Section 9.9 of the chapter [APP-036].

Landscape and Townscape character

- 3.8.24. The assessment of effects upon receptors within the Study Area is set out in Appendix 9G: Landscape Character Assessment Tables [APP-079].
- 3.8.25. The assessment concludes that there would be no significant effects upon landscape character as defined by the extant district or borough Landscape Character Assessments during the 36-month construction period or the operation phase. The highest magnitude of change (MoC) during the construction period would occur within the Wisbech Settled Fens Landscape Character Area (LCA) within which the detailed assessment concludes a medium magnitude of landscape change giving rise to a moderate level of effect when combined with the assessed medium landscape sensitivity, which would be not significant.
- 3.8.26. The assessment of effects on the eight Townscape Character Area (TCA) Receptors is set out in Appendix 9H: Townscape Character Assessment Tables (Volume 6.4) [APP-079]. The assessment concludes that there would be no significant effects on townscape character during the construction or operation phases.

Viewpoint analysis

- 3.8.27. The assessment of effects upon the views of Receptors at or near to the 30 VPs within the Study Area is set out in Appendix 9I: Viewpoint Assessment (Volume 6.4) [APP-079]. The location of the VPs is shown on Figure 9.14i and Figure 9.14ii: [APP-053].
- 3.8.28. In accordance with the LVIA Methodology in Appendix 9B LVIA Methodology (Volume 6.4) [APP-079], a summary table of the findings of the VP assessment is provided in Table 9.14 [APP-036]. During the construction phase, major significant effects are reported for VP 1: Eastern end of New Bridge Lane and VP6: Halfpenny Lane byway north of A47 and moderate significant effects are reported for VP5: A47 east of roundabout junction with the B198.
- 3.8.29. During the operational phase, major significant effects are reported for:
- VP1: Eastern end of New Bridge Lane;
 - VP5: A47 east of roundabout junction with the B198;
 - VP6: Halfpenny Lane byway north of A4; and
 - VP8: Public right of way (PRoW) Halfpenny Lane north-west of Elm.
- 3.8.30. and moderate significant effects are reported for:
- VP7: North Brink at Elgood's brewery;
 - VP9: NCR 63 Begdale Road between Elm and Begdale; and
 - VP12 PRoW "The Still" south of Levington.

- 3.8.31. The Applicant considers that most of the significant visual effects would be confined to VPs located within 1.5km of the base of the chimneys at the Proposed Development. Apart from VP 12, no significant visual effects are identified at any other VPs at separation distance in excess of 1.5km.

Residential and community visual receptors

- 3.8.32. The assessment of effects upon the views of 46 groups of residential and community visual receptors is set out in Appendix 9J: Visual Assessment Tables. (Volume 6.4) [APP-079]. This concludes that the construction phase would result in significant adverse visual effects for three residential receptors.
- 3.8.33. No. 9 New Bridge Lane is identified as a high sensitivity receptor located within 15m of the south-western boundary, that would experience a high MoC, resulting in a major effect that is significant.
- 3.8.34. No.10 New Bridge Lane is identified as a high sensitivity receptor located 30m south of the boundary, which would experience a high MoC resulting in a major effect that is significant.
- 3.8.35. No.25 Cromwell Road is identified as a high sensitivity receptor located just over 500m to the south-west boundary, that would experience an overall medium MoC which would result in a major adverse effect that would be significant.
- 3.8.36. The assessment concludes that a low magnitude of visual change and a moderate effect that is not significant would be experienced by residents in the communities of Elm and Leverington due to their views of the middle and upper-level construction activities and the associated upper crane activities. In addition, a localised medium MoC and a major and significant effect would be experienced by a small number of residents at the northern edge of Begdale, noting that the majority of dwellings within the community would not experience views of the Proposed Development.
- 3.8.37. For the operational phase, the assessment concludes that there would be few changes in comparison with the construction phase. There would continue to be significant adverse effects at the three individual residential properties. The MoC would continue to be medium in the most open views available to residents in the northern part of Begdale, with a resultant major level of effect that would be significant.

Residential Visual Amenity Assessment (RVAA)

- 3.8.38. An RVAA for properties identified within 500m of the boundary of the proposed main building is contained in Appendix 9K: Residential Visual Amenity Assessment (Volume 6.4) [APP-079]. The RVAA concludes that No.9 and No.10 New Bridge Lane would sustain significant visual effects throughout the operation period but that the Residential Visual Amenity Threshold (RVAT) would not be breached for either property.

Recreational visual receptors

- 3.8.39. The assessment of effects is set out in Appendix 9J: Visual Assessment Tables (Volume 6.4) [APP-079]. The assessment concludes that four recreational Receptors would sustain significant visual effects due to their views of the construction activities for the Proposed Development. These are recreational

receptors using part of the Nene Way to the south of Wisbech; users of Sustrans National Cycle Route (NCR) 63 along Begdale Road between Begdale and Elm; users of part of a local PRow, the Halfpenny Lane Byway, routed within 850m to the east of the TCC; and users of the PRow network west of Elm: Crooked Bank/Narrow Drove/Broad Drove. These significant visual effects would remain during the operational phase for these receptors.

- 3.8.40. During the operational phase, significant visual effects are identified for the recreational visual receptors walking south along the 15.7km section of the Nene Way. Furthermore, cyclists travelling for 1km along the closest section of NCR 63 on Begdale Road would sustain a medium MoC with a moderate effect that is significant for a 1km stretch of the route between Elm and Begdale. In addition, users of the PRow south of Leverington called 'The Still' would experience a moderate level of effect that would be significant.

Vehicular visual receptors

- 3.8.41. The assessment of effects is set out in Appendix 9J: Visual Assessment Tables (Volume 6.4) [APP-079]. The assessment concludes that during the construction phase localised sections of the A47 and B198, would experience a moderate effect that is significant. This assessment takes into consideration the short-lived construction works alongside the A47 that would be required for the Grid Connection (at night only).
- 3.8.42. The assessment in Appendix 9I: Viewpoint Assessment (Volume 6.4) [APP-079] for VP 5 which represents the views of eastbound vehicular receptors on a section of A47 concludes that at VP5 the MoC in the operation phase would be high (increased from medium at the Construction Phase) resulting in a major adverse effect that is significant from this part of the route.
- 3.8.43. There would be minimal change from year 1 to year 15 of operation. The Applicant considers that establishment of the proposed tree planting could combine with the retained trees just east of the Proposed Development Site to provide effective screening of components up to approximately 8-9 metres in height. However, they conclude that this growth of planting would not be sufficient to change the assessed MoC and level of effect and resulting visual effects that would remain major and significant for eastbound vehicular receptors on the A47 and moderate and significant for the southernmost section of the B198 Cromwell Road (south-west of town centre).

Walsoken substation

- 3.8.44. The Applicant considers that the construction and operation of the new substation infrastructure near the frontage of Broadend Road would be partially screened by retained trees and seen in oblique views and in the context of the existing substation infrastructure and lattice pylons. Consequently, residents in Broadend Road would experience a very low MoC and a minor effect that would be not significant during construction and operation.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.8.45. Interested parties (IP) at Open Floor Hearing 1 (OFH1) set out concerns regarding the scale of the Proposed Development and its prominence from many vantage points.

- 3.8.46. Mr Clive Landa WR [REP2-047] states “*Visually this exceptionally large construction will dominate in a negative way the town of Wisbech. The scale of the building and its chimney stacks are out of scale with the town. The Georgian Heritage of the town will be lost against a backdrop of such a massive structure. The very flat nature of the Fenland landscape is no place to site an exceptionally large EFW facility.*”

Cambridgeshire County Council and Fenland District Council

- 3.8.47. Cambs CC and Fenland DC (the Councils) [REP8-011] confirmed that they consider the assessment methodology set out in Section 9.8 of ES Chapter 9 [APP-036] is reasonable to inform the assessment of likely significant effects.
- 3.8.48. Throughout the Examination and notably as outlined in their joint LIR [REP1-074], Deadline 5 submission [REP5-044], representation given at ISH6 [summarised in REP6-035] and final signed SoCG [REP8-011], the Councils expressed concerns regarding the level of harm caused by the Proposed Development from a landscape and visual perspective.

Landscape and Townscape Character

- 3.8.49. The Councils consider that the effects on the Wisbech Settled Fen LCA should be moderate and significant at both construction and operation (rather than the Applicants conclusion of moderate and not significant) to acknowledge the significant effects of the proposed scheme on part of the local character, but the rationale should then acknowledge that the wider effects on character are more limited [REP5-044].
- 3.8.50. The Applicants response [REP6-027] states that to alter the conclusions of the impact on the Wisbech Settled Fen LCA to be moderate and significant would not comply with the approach to assessing the geographical area over which landscape effects would be felt as described in best practice guidance at paragraph 5.50 of GLVIA 3 [REP6-027 Appendix A].
- 3.8.51. For The Fens LCA, the Councils consider that a medium MoC (rather than low) would occur locally on the landscape, as the character of the local landscape would change given the extensive number and nature of views and experience of the proposed scheme that is imposed on the local area.
- 3.8.52. The Applicants response [REP6-027] states that with reference to paragraph 5.50 of GLVIA 3 [REP6-027 Appendix A], it is only the indirect effects at the larger scale influencing other landscape character areas where it is relevant to consider the MoC resulting from the Proposed Development.
- 3.8.53. With regards to Wisbech Retail Development TCA8, the Councils consider the introduction of a highly prominent new building would be at a far greater scale/volume than almost every building in the local townscape (and surrounding landscape). They therefore consider the MoC to be medium, and of minor significance. The Applicants response [REP6-027] states that they agree that the effects of the Proposed Development would be not significant on this host TCA.

Viewpoint analysis

- 3.8.54. The Councils [REP5-044] agree with the Applicants assessment of significant effects arising for recreational users of Nene Way, however, they consider the

Applicants conclusion of not significant for VP 13 for the same receptor to be incorrect. The Applicants response: [REP6-027] states that it is usual that the MoC and consequently significance of effect would vary along a route, particularly a long-distance route such as the Nene Way. The ES presents the maximum effect i.e. a moderate and significant effect, however the VP assessments record a finer grain of detail where effects vary from specific VP locations along the route. At VP 13 a low MoC is recorded during the operational phase, which is assessed as moderate adverse and not significant, as the distance to the Proposed Development is 3km and views are partially filtered by intervening tree cover as demonstrated in the photomontage at Figure 9.29b [APP-059].

- 3.8.55. In addition, the Councils consider that the change on VP 7 should be assessed as a moderate MoC (not low), resulting in major and significant effects during operation. The Applicant agrees [REP6-027] that the visual effect is significant and considers the difference in the MoC assessment, is largely academic given that both parties identify a significant visual effect during the operational phase.

Residential Visual Amenity Assessment (RVAA)

No.10 New Bridge Lane

- 3.8.56. The Applicant states in ES Chapter 9 [APP-036] Paragraph 9.9.74 regarding No 10 New Bridge Lane, that the combined scale, height, and mass of the operational components of the main and ancillary buildings of the Proposed Development would be highly prominent in northern views available from within the property and its curtilage. The partial removal of intervening tree cover, combined with vehicular movement on New Bridge Lane and within the Proposed Development Site would increase the visual role of the facility in northern views. Lower-level activity and built elements would be partially screened by the 3m high acoustic fence to the northern boundary of the property curtilage.
- 3.8.57. However, the Applicant considers that the eastern and principal southern views from the property would be unaffected, thereby preventing any sense that the property would be surrounded by the Proposed Development. With a minimum separation distance of approximately 190m to the southern elevation of the main building and a maximum height of 52m, other than the 90m high chimneys, the Applicant concludes that the Proposed Developments' presence and operation would not be considered to be overbearing. This is notwithstanding the assessment that there would be significant effects upon visual amenity experienced by residents of No. 10 New Bridge Lane throughout the operational period.
- 3.8.58. The Councils disagree and consider that the embedded environmental measures proposed in respect of the RVAT for 10 New Bridge Lane would not be sufficient to overcome or sufficiently mitigate the prominence of the Proposed Development. As set out in their LIR [REP1-074] they consider that the proximity of the Proposed Development, particularly the Boiler House and Chimneys, coupled with the intensification of vehicular movement along New Bridge Lane (including the additional lighting required alongside the entrance) would breach the RVAT by turning No 10 New Bridge Lane into an unsatisfactory place to live.
- 3.8.59. Occupants coming in and out of the dwelling would be immediately presented with the Proposed Development, as well as HGV lorries travelling along New Bridge Lane immediately outside of the gateway to the property. The proposed 3m high acoustic fence would form a tall barrier along the northern boundary of the property,

however, lorries would still be visible above the fence. As such the proximity of the passing HGVs to the dwelling in combination with the lighting and fencing surrounding the main entrance to the Proposed Development are regarded by the Councils as overly intrusive.

- 3.8.60. The Councils consider that whilst in views to the south from the property, the Proposed Development would not be visible, given the single storey nature of the dwelling, when occupiers move around in the rear garden, the main building and the chimneys would be seen directly behind it, towering above, and dwarfing the bungalow, reinforcing the proximity of this dwelling to this large industrial site.

No. 9 New Bridge Lane

- 3.8.61. ES Chapter 9 Paragraph 9.12.4 [APP-036] confirms the Applicant's intention to acquire No.9 New Bridge Lane and cease its use as a residential property which would remove it as a visual receptor with the consequence that no significant visual effects would occur. The Applicant's Additional Submission [AS-001] confirms that No. 9 New Bridge Lane has been acquired by the Applicant and dDCO requirement 19(2) states that it must not be used for residential purposes until the authorised development has been decommissioned.

Site Inspections and ISH

- 3.8.62. Site inspections allowed the ExA to observe the surrounding landscape and views towards the Proposed Development Site. These included VPs put forward by IPs including Cambs CC [PDA-007]; Norfolk CC [PDA-009]; and Ms Virginia Bucknor [PDA-010]. Unaccompanied Site Inspections (USI) took place on 23 November 2022 (USI1) [EV-001]; 11,13,14 April 2023 (USI2) [EV-029]; and 10 May 2023 (USI3) [EV-060]. An Accompanied Site Inspection (ASI) took place on 11 May 2023 [EV-033].
- 3.8.63. During ISH6 the parties retained their respective positions with regards to the significance of landscape and visual effects and RVAT conclusions.

Outline Community Benefits Strategy

- 3.8.64. The Councils [REP6-036] consider the impact of the Proposed Development upon local communities within the vicinity of the scheme and state that the area has few PRoW, low levels of biodiversity, poor access to nature and poor public health outcomes. The PRoW that do exist are therefore highly valued and they are exceptionally sensitive to any negative impact upon them.
- 3.8.65. The Councils consider that Outline Community Benefits Strategy [REP6-016] would help to offset the adverse impacts on local communities and PRoW through improvements and enhancements to the PRoW network and local road non-motorised user (NMU) connectivity and provision for access to biodiversity net gain (BNG) sites. However, in their response to SWQ GCT.2.3 they state that whilst the package is welcome and would serve to recognise the adverse impact of the development in terms of landscape, it cannot make it fully acceptable in planning policy terms.
- 3.8.66. The s106 agreement between Cambs CC, Alboro Developments Limited and Medworth CHP Limited was submitted unsigned at Deadline 8 [REP8-033].

CONCLUSION ON LANDSCAPE AND VISUAL EFFECTS

- 3.8.67. The Proposed Development site does not lie in any national or regional designation for landscape protection.
- 3.8.68. The ExA agrees with Cambs CC and Fenland DC [REP8-011] that an acceptable assessment methodology has been followed in line with NPS EN-1 paragraph 5.9.5 and as confirmed during ISH6 [REP6-035] that the VPs agreed with all parties were adequate. Where there are different judgements on the significance of effects on agreed VPs and LCAs, the ExA have set out their reasoned conclusions.

Design and mitigation

- 3.8.69. The Applicant [REP2-020] states that the design has sought to reduce the landscape and visual impact of the Proposed Development and the number and geographical extent of significant effects within the parameters of the functional requirements of the buildings.
- 3.8.70. The Design and Access Statement (DAS) (Volume 7.5) [APP-096] documents the design process and the options considered, adopted and dismissed in terms of mass, scale, roof profile and cladding materials. The Applicant's commitment to delivering the design commitments and management of construction materials are secured by dDCO Requirements 2 and 19. In addition, the approval of external lighting details would be secured by dDCO Requirement 18.
- 3.8.71. Notwithstanding their view regarding the prominence of the Proposed Development Cambs CC and Fenland DC are content with the embedded environmental measures in relation to landscape. The Applicant's commitment to deliver biodiversity, landscape and ecological mitigation are secure by dDCO Requirements 4, 5 and 6. However, it is noted (as both the Applicant and the Council acknowledged at ISH6), that the mitigation being proposed cannot overcome the significant visual effects arising from the Proposed Development.
- 3.8.72. The ExA recognises that opportunities for effective landscape mitigation are limited in the context of the Proposed Development site. Outline Landscape and Ecology Management Plan [REP3-021] and Outline Landscape and Ecology Strategy [REP2-026] include tree and hedgerow planting and a ground based green wall on the administration building. These elements would aim to soften views of the built form at the lower levels and strengthen the landscape structure in line with NPS EN-3 paragraph 2.5.52. the ExA are satisfied that the Proposed Development has had regard to the siting, operational and other relevant constraints with the aim of providing reasonable mitigation and minimising harm to the landscape in line with NPS EN-1 paragraph 5.9.8 and 5.9.22.

Landscape and Townscape Character Areas

Wisbech Settled Fen LCA

- 3.8.73. Figure 9.9ii [APP-053] shows the geographical extent of landscape character types and areas including Wisbech Settled Fen LCA and The Fens LCA. Both the Applicant and the Councils agree that the effects on the Wisbech Settled Fen LCA would be moderate but disagree on whether they would be significant. The assessment of effects is set out in the detailed assessment tables in Appendix 9G: Landscape Character Assessment Tables [APP-079].

- 3.8.74. The assessment concludes that the twin chimneys and the upper section of the boiler house building, would potentially be visible from within a large proportion of the LCA as indicated in the ZTV's [APP-053]. The occasional visible plume would be an infrequent presence across a higher proportion of the LCA. From within areas of the LCA to the north-west and west (for example at VP 12) [Figures 9.28a and b – APP-059], the operational facility would have an urbanising influence from within a largely rural landscape where there is an absence of other large scale or vertical infrastructure precedents. Its presence would be infrequently emphasised when the plume would be visible.
- 3.8.75. The assessment states that from areas of the LCA closest to the Proposed Development to the immediate east and south, the Proposed Development would be incremental to the already prominent role of infrastructure, often appearing as a co-prominent feature with the 33m high cold store Lineage Building and steel lattice pylons as evidenced at VP 8 (Figure 9.24b APP-058). It is assessed that within the parts of the LCA in which this co-prominence occurs, the Proposed Development would not fundamentally alter the existing landscape character. Nevertheless, it is assessed that at the closest parts of the LCA on the southern edge of Wisbech, the operations of the Proposed Development would be significant.
- 3.8.76. The assessment states that the localised high MoC for the operational facility would not extend to allow the assessment of a high MoC across the entire LCA. A medium MoC is attributed to the Wisbech Settled Fen LCA as a single landscape receptor.
- 3.8.77. The ExA acknowledges that the 33m high cold store Lineage Building is a large, bulky and prominent building on the southern edge of the town. Nevertheless, it is a straightforward, simple design, with a horizontal emphasis. This would contrast with the Proposed Development which includes a variety of vertical elements including high chimneys. This would be substantially higher and more prominent within the landscape than the Lineage Building and steel lattice pylons, with a stack height of 90m above finished floor level (FFL), the roofline of the boiler house building at 52m above FFL and the occasional visible plume at its maximum potential parameters of a height of 69m above the chimneys and length of 582m.
- 3.8.78. Taking account of the above, the ExA consider that the visibility of the chimneys, upper sections of the boiler house building and occasional plume across a large proportion of the LCA; the urbanising influence to the north-west and west; and the significant effects on the southern edge of Wisbech, would give rise to a moderate level of effect on the Wisbech Settled Fen LCA which would be significant.

The Fens LCA

- 3.8.79. For The Fens LCA the Councils consider that a medium MoC (rather than low) would occur locally on the landscape, as the character of the local landscape would change given the extensive number and nature of views.
- 3.8.80. The detailed assessment is set out in Appendix 9G at pages 9G11 to 9G14 of Volume 6.4 ES Chapter 9 Landscape and Visual Appendices [APP-079] with the operation Year 1 assessment concluding: *"It is assessed that whilst the magnitude of landscape change could be moderate in the tiny part of the LCA west of Begdale, across the vast majority of the Fens LCA, its character and key characteristics would remain largely unchanged with magnitudes of change varying from low to no change. The overall result would be a low MoC across the Fens LCA that would be not significant."* When considering the location, scale and geographical extent of the

Fens LCA as shown on Figure 9.9ii [APP-053] the ExA agrees with this statement and consider that the MoC on The Fens LCA would be low and not significant.

- 3.8.81. Cambs CC and Fenland DC consider that due to the extent and nature of effects evident across the landscape (including views), that landscape effects of Moderate Significance (considered to be Significant Effects) extend in an arc in the open landscape from the edge of Wisbech St Mary extending round to the A1101 at approximately 5km radius. The ExA are not convinced that sufficient evidence has been provided to demonstrate that significant effects extend in an arc at a 5km radius from Wisbech St Mary to the A1101.

Residential Visual Amenity Assessment (RVAA) No.10 New Bridge Lane

- 3.8.82. No. 10 New Bridge Lane is a single storey dwelling, set back from New Bridge Lane behind a low fence and lawned garden area. A single storey ancillary building sits in line with the property to the west, separated by an access drive and parking. The ancillary building lies directly opposite the proposed main access to the Proposed Development. The wider curtilage to the east and south features an open aspect with paddocks and fields beyond. The existing view to the north from the dwelling is across New Bridge Lane to a band of trees and shrub vegetation. The Lineage building sits to the east along the lane and is clearly visible from the curtilage of No.10.
- 3.8.83. The Proposed Development would include a 3m high acoustic fence along the entire frontage of No.10 New Bridge Lane. Whilst this would assist in screening the lower parts of HGV's and their headlights, the fence itself, due to its overall height, would stand out as a dominant and incongruous feature in contrast to the dwelling and its rural surrounds.
- 3.8.84. Table 9.12 [APP-036] outlines embedded mitigation in terms of lighting and states that outside of daylight hours, lighting would be limited to security and safety only. Appendix 3B: Outline Lighting Strategy minimises lighting within the Site, with lighting restricted to ground and low-level locations utilising luminaries with full horizontal cut-off in order to minimise light spill and sky glow. The approval of external lighting details would be secured by dDCO Requirement 18.
- 3.8.85. The RVAT is where visual effects are of such nature that they would potentially affect living conditions or residential amenity, where the effects would be so overbearing or oppressive that the property would be rendered an unattractive place to live in RVAA terms.
- 3.8.86. All parties agree that significant effects on visual amenity would be experienced by residents of No.10 New Bridge Lane during construction and operation. Most notably, these would be experienced in northern views available from the property and its curtilage.
- 3.8.87. The ExA recognises Cambs CC and Fenland DC concerns given the single storey nature of the dwelling, that when occupiers move around in the rear garden, the main building and the chimneys would be seen directly behind the dwelling. However, in this context, the Lineage building would also be visible in views from the curtilage and as the open, rural views to the south and east would remain unchanged, the ExA considers that the Proposed Development would not be overwhelming in views in all directions.

3.8.88. Notwithstanding the significant effects upon visual amenity that would be experienced by residents of No.10 New Bridge Lane, the ExA does not consider that, in visual terms, the Proposed Development would breach the RVAT of turning an otherwise satisfactory dwelling into an unsatisfactory place to live.

Outline Community Benefits Strategy [REP6-016].

3.8.89. The Applicant and Cambs CC and Fenland DC consider that the Outline Community Benefits Strategy [REP6-016] would help to offset the adverse impacts on local communities and PRoW through improvements and enhancements to the PRoW network and local road NMU connectivity and provision for access to BNG sites. Nevertheless, whilst the package would bring some benefits to the local community, the ExA considers that the package itself would not make the Proposed Development acceptable in terms of landscape and visual effects.

3.8.90. The strategy is not secured by the dDCO and therefore does not clearly secure mitigation that can be relied upon. The S106 agreement between Cambs CC, Alboro Developments Limited and Medworth CHP Limited was submitted unsigned at deadline 8 [REP8-033] and therefore carries little weight. Considering the above reasons, the outline community benefits strategy carries little weight in favour of the order being made.

Overall conclusion

3.8.91. NPS EN-1 paragraph 5.9.15 acknowledges that the scale of projects means they will often be visible within many miles of the development and 5.9.18 recognises that all proposed energy infrastructure is likely to have visual effects for many visual receptors around proposed sites. As such it is a necessary consideration to judge whether the effects outweigh the benefits of the project. Paragraphs 5.9.18 and 5.9.19 relate to visual impact and notes that visual effects upon sensitive visual Receptors such as local residents and visitors to the local area may outweigh the benefits of a project.

3.8.92. The ExA are satisfied that the Applicant has considered appropriate siting and design in line with NPS EN-1 paragraph 5.9.22 and NPS EN-3 paragraph 2.5.50. The ExA are content that the proposed mitigation in relation to design, landscaping and external lighting, secured through requirements, has mitigated as far as can reasonably be achieved in light of the scale of the project in line with NPS EN-1 (paragraph 5.9.22) and NPS EN-3 (paragraphs 2.5.51-52).

3.8.93. Nevertheless, the ExA considers that a number of significant landscape and visual effects would result from the Proposed Development including:

- during construction, major and significant effects for VPs 1 and 6, moderate significant effects for VP 5;
- during operation, major significant effects for VPs 1,5,6 and 8 and moderate significant effects for VPs 7,9 and 12;
- during construction and operation, major and significant visual effects for No.10 New Bridge Lane and No. 25 Cromwell Road; and a major and significant effect would be experienced by residents at the northern edge of Begdale;

- during construction and operation, significant visual effects for recreational receptors on the Nene Way, Sustrans NCR 63, Halfpenny Lane Byway and users of the PRow network west of Elm;
- during construction, a moderate effect that is significant on sections of the A47 and B198;
- during operation, a major adverse effect that is significant for approximately 1.6km for eastbound receptors on the A47 and moderate and significant for the southernmost section of the B198 Cromwell Road; and
- moderate and significant effects on the Wisbech Settled Fen LCA.

3.8.94. Overall, taking all matters into account the ExA ascribes great weight to the landscape and visual matters against the order being made.

3.8.95. These conclusions will be balanced against other considerations in the Report's general conclusions. The planning balance is considered in Chapter 5 of this report.

3.9. BIODIVERSITY

POLICY CONSIDERATIONS

Legislation and National Policy

3.9.1. The Conservation of Habitats and Species Regulations 2017 transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) into law. Amongst its provisions is the designation and protection of European Sites including the need for 'Appropriate Assessment' of plans and proposals likely to affect those sites. The Habitats Regulation Assessment is considered in Chapter 4 and Appendix C of this Report.

3.9.2. The Wildlife and Countryside Act 1981 (as amended) implements the Convention of European Wildlife and Natural Habitats and Directive 2009/147/EC 'The Birds Directive'. Schedules to the Act identify species of birds and other animals for which the Act makes killing, injury, taking and disturbance an offence. It also lists species of plants which it is an offence to pick, uproot or destroy.

3.9.3. The Natural Environment and Rural Communities Act 2006 (NERC) sets a duty on public bodies (including government departments) to have due regard to habitats and Species of Principal Importance for biodiversity in England when carrying out their duties. The Act provides for the publication of a list (the S41 list) of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list includes 56 habitats and almost 1,000 species of Principal Importance in England. These habitats and species are identified as conservation priorities under the UK Post-2010 Biodiversity Framework.

NPS EN-1

3.9.4. NPS EN-1 paragraph 5.3.3 sets out the requirement for the Applicant to *"ensure that the ES clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity."*

- 3.9.5. Paragraph 5.3.7 states that *“development should aim to avoid significant harm to biodiversity and geological conservation interests including through mitigation and consideration of reasonable alternatives ... where significant harm cannot be avoided, then appropriate compensation measures should be sought.”*
- 3.9.6. *“In taking decisions, the SoS should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.”* (paragraph 5.3.8)
- 3.9.7. The SoS should give due consideration to sites of regional and local biodiversity and geological interest, however, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent (paragraph 5.3.13).
- 3.9.8. Paragraph 5.3.15 recognises that proposals provide many opportunities for building in beneficial biodiversity features as part of good design. The SoS should maximise such opportunities in and around developments, using requirements or planning obligations where appropriate.
- 3.9.9. The SoS *“should refuse consent where harm to the habitats or species and their habitats would result, unless the benefits (including need) of the development outweigh that harm. In this context the IPC should give substantial weight to any such harm to the detriment of biodiversity features of national or regional importance which it considers may result from a proposed development.”* (paragraph 5.3.17).
- 3.9.10. In respect of mitigation measures, paragraph 5.3.18 sets out that these should be included as an integral part of the Proposed Development and the applicant should demonstrate that:
- during construction they will seek to ensure that activities will be confined to the minimum areas required for the works;
 - during construction and operation best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised, including as a consequence of transport access arrangements;
 - habitats will, where practicable, be restored after construction works have finished; and
 - opportunities will be taken to enhance existing habitats of value within the site landscaping proposals.
- 3.9.11. *“Where the applicant cannot demonstrate that appropriate mitigation measures will be put in place the IPC should consider what appropriate requirements should be attached to any consent and/or planning obligations entered into.”* (paragraph 5.3.19)

NPS EN-3

- 3.9.12. Paragraph 2.4.2 includes the provision that proposals for renewable energy infrastructure should demonstrate good design of the project to mitigate impacts such as noise and effects on ecology.

dNPS EN-1

- 3.9.13. Paragraph 4.5.4 states that energy NSIP proposals “*should seek opportunities to contribute to and enhance the natural environment by providing net gains for biodiversity, or the wider environment where possible.*”
- 3.9.14. “*Biodiversity net gain can be delivered onsite or wholly or partially off-site. Any off-site delivery of biodiversity net gain should also be set out within the application for development consent.*” (paragraph 4.5.9)
- 3.9.15. Paragraph 5.4.36 states that Applicants “*should produce and implement a Biodiversity Management Strategy as part of their development proposals. This could include provision for biodiversity awareness training to employees and contractors so as to avoid unnecessary adverse impacts on biodiversity during the construction and operation stages.*”
- 3.9.16. “*The Secretary of State should consider what appropriate requirements should be attached to any consent and/or in any planning obligations entered into, in order to ensure that any mitigation or biodiversity net gain measures, if offered, are delivered and maintained. Any habitat creation or enhancement delivered including linkages with existing habitats for compensation or biodiversity net gain should generally be maintained for a minimum period of 30 years, or for the lifetime of the project, if longer.*” (paragraph 5.4.44)
- 3.9.17. “*When considering proposals, the Secretary of State should maximise such reasonable opportunities in and around developments, using requirements or planning obligations where appropriate.*” (paragraph 5.4.47)

dNPS EN-3

- 3.9.18. Paragraph 3.10.73 states “*Applicants should consider how security and lighting installations may impact on the local ecology. Where pole mounted CCTV facilities are proposed the location of these facilities should be carefully considered to minimise impact. If lighting is necessary, it should be minimised and directed away from areas of likely habitat.*”

Local Policy

- 3.9.19. The Fenland Local Plan (2014) Policies LP14, LP16 and LP19 seek to protect and enhance biodiversity on and surrounding the proposal site, retain and incorporate natural features and enhance the geographical range, amount and viability of habitats and species.
- 3.9.20. Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021) Policy 20 requires all development proposals to: conserve and enhance the network of habitats, species, and sites (both statutory and non-statutory); and to deliver a measurable net gain in biodiversity, proportionate to the scale of development proposed by creating, restoring and enhancing habitats. Where adverse impacts are unavoidable, the policy requires these to be adequately and proportionately mitigated.
- 3.9.21. BCKLWN Local Development Framework Minerals and Waste Core Strategy Policies CS01, CS12, CS14 and CS15 seek to ensure the protection and enhancement of Norfolk’s natural environment and biodiversity. BCKLWN Site

Allocations and Development Management Policies Plan Policy DM 1 (Nature Conservation) concerns mitigation and compensation for harm to sites, habitats or species.

THE APPLICATION

- 3.9.22. ES Chapter 11: Biodiversity [APP-038] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to biodiversity.
- 3.9.23. To establish a baseline, a desk study of available data was supplemented by habitat surveys within the study area, including land within the Order limits and across specific areas of search, and zones of influence, based on best practice and applying a precautionary approach. Surveys were carried out in respect of habitats, vegetation and hedgerows. Furthermore, surveys were carried out for bats, great crested newts, otter, water vole, breeding birds, wintering birds, reptiles, badger, terrestrial and freshwater invertebrates.
- 3.9.24. There are two Special Areas of Conservation (SAC), two Special Protection Areas (SPA) and two Ramsar Sites within 15km of the Proposed Development. Additionally, The Wash SPA and Ramsar Site are within the 20km Area of Search for sites of ornithological interest. There is one non-statutory nature conservation site within the 2km search area (River Nene County Wildlife Site).
- 3.9.25. There are no statutory nature conservation sites of national/local importance within the 5km area of search of the Proposed Development. The desk study and surveys identified no records of ancient woodland or veteran trees within the area of search.
- 3.9.26. Table 11.13 Summary of the embedded environmental measures [APP-038] describes the proposed mitigations and how these influence the biodiversity assessment. The table summarises the measures taken to optimise the layout of the Proposed Development, to avoid important habitats where possible and best practice to be secured to minimise disturbance.
- 3.9.27. Table 11.15 Summary of significance of effects [APP-038] sets out: the assessment of significant impacts; embedded environmental measures; feature-specific measures; other separate specific mitigation and residual effects.
- 3.9.28. Table 11.16 Summary of indicative environmental measures to be implemented – relating to biodiversity describes the environmental measures and feature specific mitigation embedded within the Proposed Development and the proposed means by which they would be implemented. The majority of measures are secured through the ecological mitigation strategy, included in the Outline CEMP and secured through dDCO Requirement 10. Sensitive lighting design for security and site lighting following best practice guidance to minimise effects on fauna would be secured in the Outline Lighting Strategy secured through dDCO Requirement 18.
- 3.9.29. The environmental assessment concludes that during the construction and operational phase of the Proposed Development there would be no significant effects upon biodiversity features.
- 3.9.30. The Proposed Development seeks to provide an overall biodiversity enhancement by delivering BNG. Appendix 11.M Biodiversity Net Gain Assessment (Volume 6.4) [APP-083] provided the context to BNG. A proportion of BNG would be delivered in-

situ within the EfW CHP Facility Site through the delivery of the Outline Landscape and Ecology Management Plan [APP-098], with the remainder achieved off site through off-setting via collaboration with independent organisations.

ISSUES CONSIDERED DURING THE EXAMINATION

Views of Interested Parties

- 3.9.31. BCKLWN LIR [REP1-064] considers that the impacts on ecology within their area would be limited to the grid connection along the A47 corridor and consider that the embedded environmental measures set out in the CEMP [APP-103] are acceptable.
- 3.9.32. Other IPs including Mr Clive Landa WR [REP2-047] and Ms Leslie Morton [REP4-046] raise concerns with regards to the impact of the Proposed Development on wildlife habitats.
- 3.9.33. Cambs CC and Fenland DC in their LIR [REP1-074] were generally pleased with the quality of the survey work and assessment. They were content that design choices and embedded mitigation would reduce the level of impact of the scheme on biodiversity, as well as a proposed suite of further details to be secured as part of the dDCO requirements. However, they identified some outstanding issues:
- Lack of compensatory habitat for water vole (and incomplete survey work);
 - Lack of assessment for open mosaic habitat (priority habitat);
 - Net loss in biodiversity value; and,
 - Lack of information and assessment of decommissioning works.
- 3.9.34. Cambs CC and Fenland DC reemphasised their concerns in their WR [REP2-033] and added that there was no requirement to implement the BNG Strategy, a timescale in which to do so or the specified percentage that would be achieved. At Deadline 4 [REP4-031] Cambs CC and Fenland DC requested that the dDCO Requirement 6 be amended to: set a minimum level of BNG to be achieved (10%); set a minimum 30-year habitat management period (both on and off-site); and secure Requirement monitoring data to be submitted to the local planning authority, in accordance with the monitoring period / intervals set out in the approved BNG Strategy.
- 3.9.35. They also requested that the Applicant prioritises off-site BNG schemes that provide additional social and environmental benefits for the local community of Wisbech wherever possible and combine opportunities for NMU.

The Applicant's response

Biodiversity Net Gain

- 3.9.36. The approach to delivering BNG was outlined in Section 11.10 of ES Chapter 11: Biodiversity Rev2 [AS-008] and within ES Chapter 11 Biodiversity Appendix 11M Biodiversity Net Gain (Volume 6.4) [AS-009].
- 3.9.37. The Applicant's commitment to deliver BNG is secured by the dDCO Requirement 6.
- 3.9.38. Following detailed negotiations throughout the examination, dDCO Requirement 6 was reworded to include specific reference to delivering a minimum 10% BNG.

Furthermore, Chapter 11 Biodiversity Appendix 11M Biodiversity Net Gain Assessment Annex C - Outline BNG Strategy [REP6-007] is reordered to maximise on-site BNG measures, to lift local sites above others in the hierarchy and to deliver off-site BNG measures on sites of strategic biodiversity importance. BNG would be subject to monitoring and management for the operational lifetime of the Proposed Development.

- 3.9.39. Cambs CC and Fenland DC [REP7-043] note that the Outline Community Benefits Strategy [REP7-014] would deliver a measurable net gain in biodiversity value (minimum 10%) through detailed design to be secured through DCO requirements 5 and 6.

Water vole

- 3.9.40. The Applicant held ongoing discussions with Cambs CC, Fenland DC and the Middle Level Commissioners throughout the examination and amended Chapter 11 Biodiversity Appendix 11M Biodiversity Net Gain Assessment [REP5-016] to add 'River units to be targeted at local water vole enhancement in the Host Authority areas' to the next steps and recommendations (section 4.3). Cambs CC and Fenland DC [REP7-043] welcome confirmation within the BNG strategy that river habitats for BNG would focus on delivering habitat for local water vole population. They state that this adequately addresses their previous concerns regarding lack of compensation for water vole habitat.

Open Mosaic habitat

- 3.9.41. The Applicant clarified [REP3-042] that areas of open habitat present within the site are small and localised and where habitat mosaic exists, it is of insufficient size to fulfil the priority habitat criteria of 0.25ha, as described by the UK Biodiversity Action Plan Priority Habitat Descriptions. The Council confirmed [REP3-039] that they are satisfied that Open Mosaic Habitat is not affected by the Proposed Development and that the issue is resolved.

Decommissioning

- 3.9.42. The Applicant responded to the concerns regarding the lack of information and assessment of decommissioning works by submitting an Outline Decommissioning Plan [REP4-024]. In their response to SWQ [REP5-045, BIO.2.5] Cambs CC and Fenland DC confirmed that they are satisfied that the Outline Decommissioning Plan addresses their previous concerns [REP2-033]. The Outline Decommissioning Plan demonstrates how biodiversity features, including BNG habitats, would be protected during the decommissioning phase. This is subject to further details being secured through the Decommissioning Plan under dDCO Requirement 28 – Decommissioning.

RSPB

- 3.9.43. At Deadline 7 the RSPB [REP7-050] state that they have become aware of breeding turtle doves within the area of the Proposed Development and set out comments in relation to BNG and habitat loss, specifically in relation to turtle doves. They state that given hedges and trees can take around 15 years to mature and provide suitable nesting habitat for turtle doves, it is important to retain as much of this habitat on the Proposed Development Site as possible. In addition, they go on to put

forward a list of considerations that could support turtle doves in habitat creation offsite if onsite provision is not achievable.

- 3.9.44. The Applicant [REP8-017] notes these comments and states that *“the methodology and approach for delivering BNG, the examples of habitat types and quantities to be provided and the resulting net gain assessments have also been agreed with Natural England and the local host authorities, as confirmed in the respective SoCGs [REP4-011], [REP7-016] and [REP7-017].”* The Applicant considers that the Proposed Development would adequately protect nesting birds, including turtle doves should any be present, and both compensate fully for the loss of scrub habitat and provide additional habitat. New and enhanced habitats to be secured through the BNG strategy would ensure that new scrub habitat would provide potential nesting opportunities for turtle doves.

CONCLUSIONS ON BIODIVERSITY

- 3.9.45. Biodiversity was discussed at ISH6, held on 26 June 2023, where Cambs CC and Fenland DC confirmed that they had no outstanding concerns in relation to biodiversity. The signed SoCG with Cambs CC and Fenland DC [REP8-011] confirms agreement that there would be no likely significant effects on biodiversity during the construction, operation or decommissioning of the Proposed Development taking account of the embedded mitigation measures.
- 3.9.46. The SoCG with Natural England [REP4-011] includes agreement on all points including the applicant’s voluntary agreement to achieve 10% BNG and their suggested approach to achieve this.
- 3.9.47. The ExA are satisfied with the Applicant’s assessment methodology. The ES sets out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity in line with NPS EN-1 paragraph 5.3.3.
- 3.9.48. The ExA considers that adequate mitigation measures would be put in place, in line with NPS EN-1 paragraph 5.3.18, to ensure that there would be no significant residual effects on biodiversity. These measures are adequately secured through the proposed Ecological Mitigation Strategy included within the Outline CEMP, Landscape and Ecology Strategy, Landscape and Ecology Management Plan (LEMP) and Lighting Strategy, all of which would be secured through the recommended Development Consent Order (rDCO) by Requirement 4 (Landscape and Ecology Strategy), Requirement 5 (LEMP), Requirement 10 (CEMP) and Requirement 18 (Lighting Strategy).
- 3.9.49. The ExA are satisfied that the mitigation measures would adequately protect turtle doves in line with the considerations put forward by the RSPB.
- 3.9.50. Furthermore, the ExA considers that the BNG, secured through rDCO 6, would represent a benefit which weighs positively in favour of the Proposed Development in line with dNPS EN-1 paragraphs 4.5.4 and 5.4.36. Overall, the ExA considers that those mitigation measures and the BNG arising from the Proposed Development would enhance biodiversity and as such attracts moderate weight in favour of the order being made.
- 3.9.51. The planning balance is considered in Chapter 5 of this report.

3.10. TRAFFIC AND TRANSPORT

POLICY CONSIDERATIONS

- 3.10.1. NPS EN-1 recognises that new energy NSIPs can result in substantial impacts on the surrounding transport infrastructure (paragraph 5.13.1). It identifies the traffic and transport effects that can arise from energy infrastructure developments and advises applicants to include a transport assessment using methodologies agreed with the relevant national and local highways and transportation authorities (paragraph 5.13.1). The consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development as set out elsewhere in NPS EN-1 (paragraph 5.13.2).
- 3.10.2. NPS EN-1 identifies that, if a project is likely to have significant transport implications, the Applicant's ES should include a Transport Assessment (paragraph 5.13.3). Where appropriate, Applicant's should also provide a travel plan and details of proposed measures to improve public transport, walking and cycling to reduce the need for parking associated with the proposal and to mitigate transport impacts (paragraph 5.13.4).
- 3.10.3. In respect of mitigation, NPS EN-1 states that water-borne or rail transport is preferred over road transport at all stages of the project (paragraph 5.13.10), however where there is likely to be substantial Heavy Goods Vehicles (HGV) traffic requirements may be attached to a consent that controls numbers of HGV movements to and from the site in a specified period during its construction, and possibly the routeing of such movements; makes sufficient provision for HGV parking, either on the site or at dedicated facilities elsewhere, to avoid overspill parking on public roads, prolonged queuing on approach roads and uncontrolled on-street HGV parking in normal operating conditions; and ensures satisfactory arrangements for reasonably foreseeable abnormal disruption, in consultation with network providers and the responsible police force (paragraph 5.13.11).
- 3.10.4. It also indicates that the SoS should seek to ensure that the application has sought to mitigate impacts, including during the construction phase of the development. Similar advice can be found in dNPS EN-1.
- 3.10.5. Likewise, dNPS EN-3 notes the importance of assessing various potential routes to the Order Limits for the delivery of materials and components during the construction period and the suitability of access roads for vehicles transporting components and the need to identify potential modifications where necessary.
- 3.10.6. Paragraph 2.5.24 of the NPS EN-3 identifies that Biomass or EfW generating stations are likely to generate considerable transport movements. Paragraph 2.5.25 states that multi-modal transport is encouraged and that the Secretary of State expects materials (fuel and residues) to be transported by water or rail where possible and that applicants should locate new biomass or waste combustion generating stations in the vicinity of existing transport routes wherever possible. Furthermore, the same paragraph of the NPS EN-3 states that although there may in some instances be environmental advantages to rail or water transport, whether such methods are viable is likely to be determined by the economics of the scheme. This is consistent with paragraph 3.7.9 of the dNPS EN-3.
- 3.10.7. Furthermore, it makes clear that the SoS should be satisfied, taking into account the views of the relevant local highway authorities, that any abnormal loads can be

safely transported whilst minimising inconvenience to other road users and that the environmental effects of this and other construction traffic, after mitigation, are acceptable.

Local Policy

- 3.10.8. Cambs CC and Peterborough CC Minerals and Waste Local Plan 2036 (adopted 2021) Policy 23, states that development will only be permitted where appropriate opportunities to promote sustainable transport modes can be or have been taken up to the degree reasonably available given the type of development and its location, safe and suitable access to the site can be achieved, any significant impacts on the transport network or on highway safety can be cost effectively mitigated, any associated increase in traffic or highway improvements would not cause unacceptable harm to the environment, road safety or residential amenity; and any necessary and reasonable agreements are agreed.

THE APPLICATION

- 3.10.9. ES Chapter 6: Traffic and Transport [APP-033] sets out the likely significant effects of the Proposed Development with respect to traffic and transport. The Traffic and Transport assessment is then complemented by the Appendix 6A Outline Construction Traffic Management Plan (CTMP) [APP-072], Appendix 6B Transport Assessment [APP-073], Appendix 6C Outline Operational Travel Plan [APP-074] Traffic Transport Appendix 6D-6F [APP-075] and Traffic and Transport Figures [APP-050] which include the Stakeholder Engagement and Consultation Comments on the Traffic and Transport Assessment, Committed Development Traffic and TEMPro Factors.
- 3.10.10. The technical guidance followed by the Applicant is set out in paragraphs 6.3.8 to 6.3.13 and it includes The Strategic Road Network and the Delivery of Sustainable Development Guidance, Guidelines for the Environmental Assessment of Road Traffic and the Design Manual for Roads and Bridges.
- 3.10.11. The assessment presented by the Applicant includes details on the assessment methodology, significance criteria and study area. Table 6.3 of ES Chapter 6: Traffic and Transport [APP-033] details the Traffic and Transport Study Area considered as part of the assessment. A desk study including a review of the highway network, public transport, and accident data within the Study Area for both the construction and operational phases was carried out and complemented with survey work.
- 3.10.12. The Applicant confirms, in table 6.1 of ES Chapter 6: Traffic and Transport [APP-033], that the assessment carried out assumed that all waste movements would be conducted by road but that land has been reserved to accommodate the future unloading of waste from a rail siding, should the potential reopening of the disused March to Wisbech Railway provide an opportunity for waste deliveries. The Applicant goes on to state that the Proposed Development is located within close proximity to the Strategic Road Network (SRN) (A47) with access the EfW CHP Facility Site via the B198 Cromwell Road. The Grid Connection runs alongside the SRN (A47) with direct access to it for construction.
- 3.10.13. The Applicant went on to define a current baseline for the Strategic Highways Network, the Local Highways Network, non-motorised Modes of Transport, Public Rights of Way (PRoW) and National Cycle Network which is described in section 6.5 of ES Chapter 6: Traffic and Transport [APP-033].

- 3.10.14. In Paragraphs 6.5.28 to 6.5.31 the Applicant also sets out its approach to baseline traffic flows and confirms that, in order to address any changes in traffic patterns as a result of the COVID-19 pandemic, traffic surveys to complement the information gathered were undertaken over two-weeks between 8 October 2021 to 21 October 2021. The 2021 baseline traffic data is set in table 6.6 of ES Chapter 6: Traffic and Transport [APP-033].
- 3.10.15. A future baseline was devised for the construction and operational phases, taking into consideration future development, as set in paragraphs 6.5.53 to 6.5.56, highways network changes as set in paragraphs 6.5.66 to 6.5.74 ES Chapter 6: Traffic and Transport [APP-033] and future rail network changes, as set in paragraphs 6.5.75 to 6.5.78.
- 3.10.16. Two scenarios were then developed as the basis for the traffic and transport assessment, one for during the construction phase and another one for the operational phase.
- 3.10.17. In relation to the construction phase, a traffic generation model was created in order to assist in the establishment of the traffic and transport effects of the Proposed Development during the construction phase. This is set out in paragraphs 6.6.5 to 6.6.77 ES Chapter 6: Traffic and Transport [APP-033]. The traffic generation model was based on the construction programme as provided in [APP-050]. Table 6.10 of ES Chapter 6 [APP-033] sets out the total construction phase traffic generation for the Proposed Development. As stated in paragraph 6.6.17, the Applicant predicts that, in relation to construction, the peak month would be month 14 and there would be 643 two-way vehicle movements per day of which 167 would be HGVs and 446 Light Vehicles. This is the peak construction impact of the Proposed Development. As such traffic generation from this month forms the construction phase assessment.
- 3.10.18. Similarly to the construction phase, the Applicant has created a traffic generation model to assist in the establishment the traffic and transport effects of the Proposed Development during the operational phase. This is set out in paragraphs 6.6.78 to 6.6.138 ES Chapter 6: Traffic and Transport [APP-033]. Tables 6.14 and 6.15 ES Chapter 6: Traffic and Transport [APP-033] set out the total operational phase traffic generation for the EfW CHP Facility, at weekdays and weekends, respectively. The Applicant states, in paragraph 6.6.103 and 6.6.104 ES Chapter 6: Traffic and Transport [APP-033] that traffic generation over the weekend period is significantly less than the weekday period because waste contractors for operational reasons favour delivery of waste in the weekdays. Considering the significantly lower levels of traffic in the weekend period this chapter has considered the weekday period only. The weekend period is scoped out from further assessment.
- 3.10.19. The Applicant has then considered the spatial scope, the temporal scope, the potential receptors and the likely significant effects arising from the Proposed Development in relation to traffic and transport. These are set out in paragraph 6.7.1 to 6.7.11 of ES Chapter 6: Traffic and Transport [APP-033]. The methodology used for the assessment, which has been developed in accordance with the Guidelines for the Environmental Assessment of Road Traffic (GEART), is set in section 6.9 of the ES Chapter 6: Traffic and Transport [APP-033].
- 3.10.20. The Applicant has identified that, for the construction period scenario, that Receptor 1 – Algores Way, Receptor 2 – New Bridge Lane, Receptor 3 – B198 Cromwell Road (A47 to new Bridge Lane) and Receptor 11 – Weasenham Lane (B198

Cromwell Road to Algores Way) all triggered the threshold for detailed environmental assessment.

- 3.10.21. The Applicant has carried out a more detailed assessment for each one of the Receptors considering the peak construction scenario. No significant effects here identified for Receptor 1 – Algores Way, Receptor 3 - B198 Cromwell Road and Receptor 11 – Weasenham Lane. For Receptor 2 – New Bridge Lane a significant effect was identified in relation to severance.
- 3.10.22. The Applicant has identified that, for the operational phase, Receptor 2 – New Bridge Lane and Receptor 3 – B198 Cromwell Road (A47 to new Bridge Lane) triggered the threshold for detailed environmental assessment. As part of the more detailed assessment, the Applicant has found that significant effects have been identified for Receptor 2 in relation to severance and for Receptor 3 no significant effects were identified.
- 3.10.23. Based on its assessment, the Applicant has considered optional additional mitigation or compensation in order to address the significant effects identified in relation to severance for Receptor during both the construction and the operational phase. To address this issue the Applicant proposes, as set in paragraph 6.12.2, that a formal pedestrian crossing of New Bridge Lane is built. The crossing would not be placed on New Bridge Lane itself as there are non-continuous footways along the road and no clear design lines between businesses. The most appropriate location, according to the Applicant's assessment, would be at the junction of New Bridge Lane and B198 Cromwell Road. This is set in Figure 6.21: New Bridge Lane Pedestrian Crossing [APP-050].

Future rail network changes

- 3.10.24. As stated in paragraph 6.5.77, during the development of the scheme, the Applicant considered several station locations within Wisbech and these include a station in Wisbech town centre (which would require the railway to cross the A47, Weasenham Lane and New Bridge Lane) and a site south of the A47 which may not require the reinstatement of the railway across the A47, Weasenham Lane or New Bridge Lane. The assessments carried out by Cambs CC indicate that north of the A47 there are additional costs associated with a town centre station site which would include a bridge over the A47.
- 3.10.25. The Applicant's assessment has considered the implications of the potential reopening of the disused March to Wisbech Railway on the design and future operation of the Proposed Development through consideration of an alternative access arrangement, but discussions are ongoing with Network Rail.
- 3.10.26. The Applicant also stresses, in paragraph 6.6.131 that, to take account of the potential reopening of the disused March to Wisbech Railway, an alternative access scenario has been accommodated whereby operational access would be maintained from B198 Cromwell Road along New Bridge Lane via a new railway bridge. It goes on to state, in paragraph 6.6.134 that land has therefore been reserved in the EfW CHP Facility Site to be used for future bridge abutments works, should they be required as part of a railway bridge.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.10.27. Key issues for the ExA in relation to the Applicant's approach to Transport and Vibration were linked to the creation and establishment of a baseline for the assessment, access to Algores Way by other businesses, proposed mitigation and monitoring. These issues were explored in written questions and also at ISH4 [EV-035]. The SoC [REP8-012] does state that, by the end of the Examination, there were no outstanding matters in relation to traffic and transport with either Network Rail, Norfolk County Council, BCKLWN, Hundred of Wisbech Internal Drainage Board (IDB) or National Highways.
- 3.10.28. Nevertheless, the SoC does report that there were still certain matters in relation to traffic and transport on which agreement had not been reached with Walsoken Parish Council and Wisbech Town Council and matters only partially agreed with Cambs CC and Fenland DC.
- 3.10.29. The ExA asked a series of question to the Applicant at ExQ1 [PD-008] in relation to traffic and transport. The Applicant's response is set out in [REP2-019].
- 3.10.30. In relation to the baseline of the assessment, questions ExQ1 TT.1.1, ExQ1 TT.1.2 sought confirmation from the Applicant in relation to the traffic surveys and how historic traffic counts were used to inform the baseline traffic flows used for the assessment. The Applicant's response to TT.1.1. in [REP2-019] states that, as per Section 6.5.28 and 6.5.29 ES Chapter 6 Traffic and Transport [APP-033] Preliminary Environmental Information Report (PEIR) stage historic counts were used to inform assessment (with the agreement of National Highways, Cambridgeshire CC and Norfolk CC) and that, for receptor locations identified, as per agreement, for assessment in Section 6.10 and 6.11 of the ES Chapter 6: Traffic and Transport [APP-033], a resurvey of those sites was carried out between 8 October 2021 and 21 October 2021, outside of the COVID-19 pandemic restrictions. In response to ExQ1 TT.1.2 in [REP2-019] the Applicant confirms the results of the re-surveyed Receptors and these were broadly comparable.
- 3.10.31. ExQ1 TT.1.4 asked confirmation from the Applicant on how deliveries outside of the usual delivery times (07:00-20:00) would be managed and how these were reflected within the DCO. The Applicant confirmed that the Outline Operational Traffic Management Plan [REP1-026] establishes the procedure to be adopted should deliveries outside of specified delivery times occur and that this would be secured through Requirement 12 - Operational traffic Management Plan of the dDCO.
- 3.10.32. The ExA, at ISH4 [EV-035], also asked the Applicant to explain further their approach to traffic and transport focusing on the overall approach to the assessment of effects, its strategy for the construction and operational stages, accesses to the EfW CHP Facility and its impact on nearby receptors. [REP4-020] Written summary of the Applicant's oral submissions at ISH4 set's out the Applicant's response to these queries and highlights the Applicant's approach and the steps taken in order to identify the effects of the proposal.
- 3.10.33. At ISH4 [EV-035] the ExA queried the Applicant's approach to Algores Way, particularly the section of the road that is currently unadopted and how, in the eventuality that it remains unadopted, access to the EfW CHP Facility can be guaranteed. The Applicant's response, as per [REP4-020], stated that the Applicant is seeking compulsory acquisition powers for a right of access. The Applicant also states that it remained willing to enter into a deed of easement for right of access

with Fenland DC, however, in the event that a voluntary agreement cannot be reached, compulsory acquisition powers have been included in the dDCO.

- 3.10.34. The ExA, at ISH4 [EV-035], also questioned the Applicant in relation to the impact that the anticipated increase in traffic would have around Cromwell Road/A47 roundabout junction and asked to explain the work that has been carried out to ascertain predicted effects. The Applicant confirmed, in [REP4-020], that the assessment carried out reviewed the likely effects of the Proposed Development would have on the Cromwell Road/A47 roundabout junction and that no significant effects were found.
- 3.10.35. Following from ISH4, the ExA asked a series of written question on traffic and transport as part of ExQ2 [PD-013]. ExQ2 TT.2.1 asked for confirmation from National Highways of agreement with the conclusions reached by Cambs CC as the Local Highways Authority in relation to the impacts of the Proposed Development on A47/Cromwell Road junction. In [REP5-051] National Highways confirmed that it was in agreement with the outputs of the modelling in respect of the effects of the proposal on the A47/Cromwell Road junction and that the scheme was considered unlikely to have a severe impact on the Strategic Road Network.
- 3.10.36. Question ExQ2 TT.2.11 [PD-013] asked for the Applicant to expand on its conclusions regarding the impact of the predicted traffic increase on the local road network, particularly during construction as, according to table 6.32 of ES Chapter 6: Traffic and Transport [APP-033], significant percentual increases were identified for some of the links. The Applicant confirmed, in [REP4-020], the results of its traffic assessment, during the construction and also operational phases, and where there is an increase, how mitigation would be secured.

Cambs CC and Fenland DC

- 3.10.37. At ISH4 [EV-035], Cambs CC and Fenland DC were invited to comment on the Applicant's approach to transport and traffic, particularly in relation to areas where agreement had not been reached. The Applicant confirmed, in [REP4-020] Written summary of the Applicant's oral submissions at ISH4, that it, on order to address concerns previously expressed by Cambs CC and Fenland DC, the Applicant amended Requirement 7 in Schedule 2 the dDCO [REP3-006] which specifies that all highway works must be approved by the relevant Highway Authority before such work can commence. Additionally, a draft section 278 agreement was sent to Cambs CC's solicitor along with draft Protective Provisions also to address concerns previously raised in hearings and WRs.
- 3.10.38. Concerns had also been expressed during the Examination and at ISH4 in relation to the impact of the Proposed Development on PRoW, namely regarding severance and impact on non-motorised users (NMUs) of existing access over the disused March and Wisbech Railway Line crossing at New Bridge Lane. The Applicant clarified that it would put Cambs CC's concerns across to Network Rail, who are responsible for the crossing, and that it was in discussions with Network Rail to secure access for the occupiers of 10 New Bridge Lane. The signed Statement of Common Ground (SoCG) between Network Rail and the Applicant does register agreement between both parties in relation to securing access over the disused crossing for 10 New Bridge Land.
- 3.10.39. Following from ISH4, questions ExQ2 TT.2.2 and ExQ2 TT.2.3 [PD-013] directed at Cambs CC, as the Local Highways Authority, asked for its views in relation to the

local road network capacity to accommodate the predicted levels of additional traffic at construction and operational phases. In [REP5-045], Cambs CC confirmed that The Applicant has not specifically modelled the link capacity of the Local Highway Network. However, Cambs CC are of the view that the local controlled road network has sufficient capacity to cater for the maximum volumes of construction and operational traffic anticipated by the Applicant.

- 3.10.40. Furthermore, in Question ExQ2 TT.2.6 [PD-013] the ExA asked Cambs CC if the Proposed Development would have an unacceptable impact on highways safety or if the residual cumulative impacts on the road network would be severe. Cambs CC stated, in [REP5-045], that discussions with the Applicant were ongoing with regard to off-site infrastructure comprising the junction works at New Bridge Lane and Cromwell Road, and the New Bridge Lane widening.
- 3.10.41. To address these concerns, as stated in the Applicant's response to the ExA's Written Questions [REP4-020] ExQ2 TT.2.11, the Applicant submitted a Change Request for the signalisation of New Bridge Lane/Cromwell Road. The Change Request [AS-027], dated from 5 June 2023, was accepted into the Examination by the ExA on 28 July 2023 [PD-018]. The Change Request was accompanied by a series of supporting documents [AS-017 to AS-030] which confirmed the Applicant's reasoning for the proposed changes, namely Change 1, and that it was submitted for the ExA's consideration as a result of recent technical discussions with highways officers from Cambs CC on the specification of Work No. 4A, over which the Applicant and Cambs CC engaged in discussions with. Change 1 was for "Minor amendments to the Order limits within the boundary of the existing and future public highway at the junction of Cromwell Road and New Bridge Lane to facilitate the carrying out of the Access Improvements to the public highway forming part of Work No. 4A (the "Cromwell Road Junction Signal Scheme")".
- 3.10.42. A ES Chapter 6 Traffic and Transport Appendix 6B Transport Assessment Addendum [REP7-024/025] was then subsequently submitted into the Examination to present the design schemes and results assessment and auditing carried out in relation to the Proposed Changes, which included additional modelling, undertaken at the request of Cambs CC.

Wisbech Town Council

- 3.10.43. The SoCG between the Applicant and Wisbech Town Council [REP6-020] states that agreement has not been reached between the parties in relation to traffic and transport issues, namely:
1. Whether the Proposed Development would be capable of sourcing most of its incoming waste locally or whether it would be reliant upon transporting waste over significant distances contrary to the proximity principle;
 2. Whether the assumptions and methodology for the traffic and transport assessment, as presented in Chapter 6 of the ES [APP-033] are robust and can be relied upon; and
 3. Whether there is sufficient clarity on the delivery of the highway improvement measures necessary to mitigate the effects of the Scheme.
- 3.10.44. Although Wisbech Town Council's response to the ExA's ExQ3 GCT.3.3 [REP7-052] does not raise concerns on this topic as part of matters where agreement has not been reached, concerns were expressed in relation to traffic and transport in Wisbech Town Council's RR [RR-010].

- 3.10.45. In the Applicant's Comments on the RR [REP1-028], the Applicant responds to the points raised by Wisbech Town Council and stated that, in relation to the methodology used, that the methodology used was agreed with the relevant highway authorities and that the highway improvements proposed are consistent with the Southern Access Road schemes.
- 3.10.46. In relation to 1. above and compliance with the proximity principal, this specific issue is dealt with under Chapter 3.2 of this Report.
- 3.10.47. Wisbech Town Council's response to the ExA's ExQ3 GCT.3.3 [REP7-052] does not raise any further concerns on this topic as part of matters where agreement has not been reached. No specific further comments were made by Wisbech Town Council highlighting outstanding concerns in relation to traffic and transport.

Walsoken Parish Council

- 3.10.48. The SoCG between the Applicant and Walsoken Parish Council [REP5-024] states that agreement has not been reached between the parties in relation to traffic and transport issues, namely in relation to the effects of the Proposed Development on traffic flows through Walsoken Parish and also on the level of increase in overall daily traffic flows on the A47 (where it passes through Walsoken Parish). The Applicant initially commented on those concerns in the Applicant's Comments on the RR [REP1-028]. The Applicant confirmed that, as set out in Table 6.27 of the ES Chapter 6: Traffic and Transport [APP-033] traffic flows on the A47 where it passes through Walsoken Parish would increase by 0.62% overall, with HGVs increasing by 2.66% and traffic flows on Broadend Road in Walsoken, would increase by 0.28%. No HGVs would be routed along Broadend Road. These percentage increases would have no significant effect on the operation of the road network during the construction of the Proposed Development.
- 3.10.49. In relation to predicted increases in overall daily traffic flows on the A47, the Applicant responded to these concerns in the Applicant's Comments on the RR [REP1-028] and confirms that, as set out in Table 6.32 of the ES Chapter 6: Traffic and Transport [APP-033], traffic flows on the A47 during operation of the Proposed Development, are predicted to increase by 0.2% overall and 1.53% for HGVs specifically. These increases would not significantly affect the operation of the A47.

Interested Parties (IPs)

- 3.10.50. A number of IPs raised concerns orally at the Open Floor Hearing (OPF) 1 [EV-010], OFH2 [EV-012] and OFH3 [EV-079] and in writing [RR-413, RR-633] in relation to the nature of the surrounding road infrastructure, in particular the A47 which is a single carriageway, and its lack of capacity to adequately handle the additional HGV movements that would arise from the Proposed Development. As previously stated, the ExA asked, in ExQ2 TT.2.1 [PD-013], for confirmation from National Highways of agreement with the conclusions reached by Cambs CC as the Local Highways Authority in relation to the impacts of the Proposed Development on A47/Cromwell Road junction. In [REP5-051] National Highways confirmed that it was in agreement with the outputs of the modelling in respect of the effects of the proposal on the A47/Cromwell Road junction and that the scheme was considered unlikely to have a severe impact on the Strategic Road Network.

CONCLUSIONS

- 3.10.51. The ExA have had regard to the relevant policies set out in NPS EN-1, dNPS EN-1 and dNPS EN-3 in consideration of the transport impacts of the Proposed Development.
- 3.10.52. Cambs CC and Fenland DC as the host Local Highways Authority and Local Planning Authority (LPA) respectively, have confirmed via their SoCG [REP8-011] that the Applicant has consulted with them on the assessment of transport impacts, and in the preparation of the associated traffic model, in compliance with paragraph 5.13.3 of NPS-EN1. Furthermore, they confirmed that, in relation to traffic and transport matters, they have no concerns over the impact of the Proposed Development, subject to the enhancements to New Bridge Lane and the signalisation of the Cromwell Road/New Bridge Lane junction. Issues in relation to the both construction and operational mitigation were also agreed matters between the parties [REP8-011].
- 3.10.53. National Highways as street authority for the SRN which includes the A47, confirmed that the Proposed Development was unlikely to have a severe impact upon the network [REP5-051]. On this basis, the ExA have been presented with no substantive evidence upon which to come to a different view.
- 3.10.54. The ExA have not been presented with any substantive evidence to bring into question the Applicant's consideration of baseline conditions, surveys and the identified study area. The ExA are therefore satisfied that the traffic modelling, consideration of traffic flows, delays, congestion and associated mitigation for the construction and operational phases are appropriate.
- 3.10.55. The ExA accepts that some impacts are anticipated on the surrounding network during the construction phase. However, the ExA considers the control and management measures contained in the Outline Construction Traffic Management Plan (CTMP) [REP7-010] and the Outline Operational Traffic Management Plan (OTMP) [REP6-017/REP6-018] are sufficient to mitigate any likely adverse effects of the Proposed Development to an acceptable level.
- 3.10.56. Furthermore, the ExA are satisfied that no significant traffic or transportation effects are likely to arise from the Proposed Development either alone or in combination with other developments.
- 3.10.57. The ExA also notes that the NPS EN-3 paragraph 2.5.25 Multi-modal transport is encouraged and that the Secretary of State expects materials (fuel and residues) to be transported by water or rail where possible. The Proposed Development does not allow for this although land has been reserved to accommodate the future unloading of waste from a rail siding, should the potential reopening of the disused March to Wisbech Railway provide an opportunity for waste deliveries. Nevertheless, the same paragraph of the NPS EN-3, which is consistent with the dNPS EN-3 does state that although there may in some instances be environmental advantages to rail or water transport, whether such methods are viable is likely to be determined by the economics of the scheme.
- 3.10.58. Taking the above matters into account, the ExA finds that the traffic and transport assessment set out in the ES meets the requirements of NPS EN-1, NPS EN-3 dNPS EN-1 and dNPS EN-3. The ExA are also content that it accords with the NPPF and local development plan policies.

- 3.10.59. As such, the ExA considers the effect would be neutral, and does not weigh for or against the order being made.

3.11. AIR QUALITY

INTRODUCTION

- 3.11.1. Section 5.2 of NPS EN-1 sets out the policy in relation to air quality and emissions. Paragraph 5.2.1 recognises that advises that the construction, operation and decommissioning phases of new infrastructure development can involve emissions to air which could lead to adverse impacts on health, on protected species and habitats or on the wider countryside.

POLICY CONSIDERATIONS

- 3.11.2. Section 5.2 of NPS EN-1 sets out the policy in relation to air quality and emissions. Paragraph 5.2.1 recognises that advises that the construction, operation and decommissioning phases of new infrastructure development can involve emissions to air which could lead to adverse impacts on health, on protected species and habitats or on the wider countryside.
- 3.11.3. Paragraph 5.2.4 states that emissions from combustion plants are generally released through exhaust stacks. Design of exhaust stacks, particularly height, is the primary driver for the delivery of optimal dispersion of emissions and is often determined by statutory requirements and that the Environment Agency (EA) would require the exhaust stack height to be optimised in relation to impact on air quality.
- 3.11.4. In addition to the air quality legislation referred to in NPS EN-1 the Waste Incineration Directive (WID) is also relevant to waste combustion plant. It sets out specific emission limit values for waste combustion plants (NPS EN-3, 2.5.39).
- 3.11.5. NPS EN-1, in paragraph 5.2.9 states that, in reaching a decision the SoS should give air quality considerations substantial weight where a project would lead to a deterioration in air quality, even if this does not lead to any breaches of national air quality limits and consider whether mitigation measures would be needed both for operational and construction emissions, which could be codified through a construction management plan (NPS EN-1, para 5.2.11). This position is substantiated in section 5.2 of the the dNPS EN-1.

THE APPLICATION

- 3.11.6. The Air Quality Assessment is set out in ES Chapter 8 [APP-035]. The Air Quality Assessment is then further complemented by ES Chapter 8 Air Quality Figures [APP-052] and the ES Chapter 8 Air Quality Appendices [APP-078], the Outline Odour Management Plan [APP-102], and the Outline CEMP [APP-103]. The Air Quality Assessment is also supported by a separate Human Health Risk Assessment: Annex G to Appendix 8B: Air Quality Technical Report [APP-078].
- 3.11.7. The Air Quality Assessment considers the potential for effects on the environment from air emissions from the storage of waste, the chimneys, and road traffic associated with the Proposed Development. It has modelled the effect of levels of pollution on people and important ecological sites.

- 3.11.8. The methodology used by the Applicant in order to assess the air quality effects of the proposal is set out in section 8.4 of the ES Chapter 8 [APP-035]. In it, the Applicant describes the work carried out in order to define an appropriate study area for air quality effects of the works proposed. The Applicant also confirms, in paragraph 8.4.3 that as the EfW CHP Facility incorporates a combustion activity with a thermal input exceeding 50MW, in accordance with the EA's Air Emissions Risk Assessment for an Environmental Permit, the assessment is required to consider nature conservation sites up to 15km from the emission source. Consequently, the Study Area includes an area encompassing 15km from the location of the chimney emissions.
- 3.11.9. Following from the definition of a study area, the applicant then carried out a desk based study and survey work to inform the assessment.
- 3.11.10. The assessment considers the construction and operation effects with effects created by decommissioning considered to be the same or less than construction. The assessment has been informed by the Scoping Opinion, consultation responses and Stakeholder engagement, such as the Environment Agency and relevant local authorities and it has used appropriate methodologies and has taken into consideration national and local planning policies.
- 3.11.11. The baseline created, and the process through which it was created is set out in section 8.5 of the ES Chapter 8 [APP-035], with section 8.6 describing the scope of the assessment.
- 3.11.12. In relation to human receptors included in the assessment, the Applicant states, in paragraph 8.6.1 that, for the purposes of assessing chimney and road traffic emissions, human receptors have been chosen based on the guidance included in ES Chapter 8 [APP-035] by identifying places where people may be located, judged in terms of the likely duration of their exposure to pollutants, and proximity to the Proposed Development. These human Receptor locations are displayed in Figure 8.3: Modelled Receptors [APP-052] and include residential properties, schools (including, but not limited to, Trinity School, Unity Academy, Thomas Clarkson Academy), residential care homes, hospitals, places of worship, etc.
- 3.11.13. The Applicant also states, in paragraph 8.6.8 that potential short-term air quality impacts, i.e., the impact from those pollutants with an Air Quality Standards (AQS) averaging period of one hour or less, at these locations were assessed. Long-term impacts were not considered at these Receptors as members of the public are unlikely to be present over the full duration of the AQS averaging period.
- 3.11.14. In relation to biodiversity sites, the Applicant's approach is set out in paragraph 8.6.10 to 8.6.14. In it, the Applicant states that SPAs, SACs, Ramsar sites and Sites of Special Scientific Interest within 15km of the Proposed Development and all further statutory and non-statutory biodiversity sites within 2km are considered in the assessment of chimney emissions.
- 3.11.15. The likely significant effects, as assessed by the Applicant during construction and operation phases are set in paragraph 8.6.15 to 8.6.53.
- 3.11.16. In section 8.8 of the ES Chapter 8 [APP-035] the Applicant sets out the assessment methodology used in order to assess the significance of effects, which includes air quality effects on human Receptors, dust effects, odour effects and air quality effects on ecological Receptors.

- 3.11.17. Section 8.9 of ES Chapter 8 [APP-035] sets out the environmental assessment of air quality effects in relation to construction and section 8.10 sets the same environmental assessment but for the operation phase. With the application of suitable control measures and site management as well as embedded mitigation in the form of a CEMP, emissions no significant effects were identified either during the construction or operational phases.
- 3.11.18. The Applicant therefore concluded that, during the construction and operation phase and with the implementation of embedded mitigation, there would be no significant effects upon human Receptors and biodiversity sites arising from the Proposed Development.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.11.19. Key issues for the ExA in relation to the Applicant's approach to Air Quality were linked to the identification of receptors, the methodology used to assess the significance of effects and the sensitivity of receptors and monitoring. These issues were explored in written questions and also at ISH4 [EV-035].
- 3.11.20. At ExQ1 AQHH.1.2 [PD-008] the ExA asked the Applicant to confirm whether it was confident with that the data used for air monitoring was suitable and how representative the data was of all the different sites. In the Applicant's response to the ExA's Written Questions [REP2-019], it stated that the air quality monitoring data used is considered to be appropriate to characterise the existing air quality in the vicinity of the Proposed Development. There are monitoring sites in different situations (e.g. roadside and background) across the geographic area considered in the assessment adopting both automatic monitoring and diffusion tubes. It also added in the same response that Cambs CC and Fenland DC provided written comments to the Applicant's methodology and welcomed the use of this mixed approach to monitoring. It was also recommended that passive monitoring be extended beyond six months and the Applicant's passive monitoring stations were commissioned in October 2020 until December 2021, thus providing more than 12 months of passive monitoring data.
- 3.11.21. ExQ1 AQHH.1.7 [PD-008] asked the Applicant to provide further information on how the potential direct and indirect effects of traffic movement, including noise and air quality, are proposed to be mitigated against, particularly in relation to sensitive receptors, including but not limited to schools. The Applicant's response confirms that, with respect to traffic noise, no significant effects at any sensitive receptor (residential, educational or commercial) were identified and therefore no mitigation is proposed. With respect to the effects of traffic movement on air quality, results show that the magnitude of impacts at each sensitive human receptor are negligible and not significant, therefore further mitigation of these impacts is not proposed. The Applicant also added that the Receptors identified included the closest Receptors to the emissions sources (chimney and traffic), to ensure the maximum impact on the local community was considered.
- 3.11.22. In relation to the monitoring of heavy metal emissions, ExQ1 AQHH.1.15 [PD-008] queried how monitoring emissions would be carried out under the Environmental Permit. The Applicant's response in [REP2-019] stated that, as detailed in the Applicant's Environmental Permit application, the majority of heavy metals form particles or are adsorbed onto the surface of other particulate matter, and, consequently, are removed by the fabric filter. Heavy metals would be monitored in incinerator bottom ash and air pollution control residues at a frequency of 2 samples

per month in the first 12 months then every 3 months thereafter. It added in the same response that the Applicant anticipates that the Environmental Permit would contain requirements for monitoring frequency, standards and emission limits of heavy metals.

- 3.11.23. These issues were explored further at ISH4 [EV-035]. Questions were asked to the Applicant in relation to baseline assessment and methodology, how the Applicant established its model receptors and how significant effects were identified. The ExA also asked questions in relation to optional mitigation measures and how these were considered. [REP4-020] Written Summary of the Applicant's Oral Submissions at ISH4 details the Applicant's responses to these questions.
- 3.11.24. At ExQ2 the ExA asked a written question (AQHH.2.1) in relation to odour and how it would be managed in the event of a waste delivery being received outside of the normal operating hours. The Applicant confirmed, in [REP5-032] that, as detailed in 7.11 Outline Odour Management Plan (Clean) - Rev 2 [REP1-021], "*where HGVs are not fully sealed in their construction, they will be fully sheeted.*" As such, deliveries would be in sealed HGVs and no odour emissions are anticipated. In response to ExQ2 AQHH.2.2 the Applicant also confirmed, as per [REP5-032] Applicant's response to the ExA's written questions, that since DL4, the Applicant has engaged with and received confirmation from Cambs CC and Fenland DC that matters concerning the Outline Local Air Quality Monitoring Strategy Rev 4 [REP4-016] are resolved.

CONCLUSIONS

- 3.11.25. Paragraph 5.2.6 and 5.2.7 of NPS EN-1 require that, where the project is likely to have adverse effects on air quality, the Applicant should undertake an assessment of the impacts of the proposed project as part of the ES describing:
- significant air emissions their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;
 - the predicted absolute emission levels of the proposed project, after mitigation methods have been applied;
 - existing air quality levels and the relative change in air quality from existing levels; and
 - any potential eutrophication impacts.
- 3.11.26. It is the ExA's view that the Applicant has adequately assessed the impacts of the Proposed Development in accordance with paragraphs 5.2.6 and 5.2.7 of NPS EN-1.
- 3.11.27. In light of the provided by the applicant, the ExA also finds that the project is unlikely to lead to a breach of the air quality legislation referred to in NPS EN-1 and NPS EN-3, or a deterioration in air quality and that mitigation measures for operational and construction emissions have been adequately identified through: Outline Odour Management Plan [APP-102], the Outline CEMP [REP6-019] and the Outline Construction Traffic Management Plan [REP1-010]. Taking all these matters into consideration, the ExA concludes that air quality and emissions effects would be neutral, and do not weigh for or against the order being made.

3.12. HUMAN HEALTH

INTRODUCTION

- 3.12.1. This section deals with the effects of the Proposed Development upon human health. The consideration of effects on human health should be read in conjunction with Section 3.11 on Air Quality, Section 3.14 on Noise and Vibration and Section 3.5 on Climate Change.

POLICY CONSIDERATIONS

National Policy

- 3.12.2. NPS EN-1 Paragraph 4.13.1 notes that energy production has the potential to impact on the health and well-being of the population and that access to energy is beneficial to society and our health as a whole. However, the production, distribution and use of energy may have negative impacts on some people's health.
- 3.12.3. Paragraph 4.13.2 states that where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate.
- 3.12.4. Paragraph 4.13.3 further adds that direct impacts on health may include increased traffic, air or waste pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation and increases in pests. However, paragraph 4.13.5 identifies those aspects which are most likely to have significant detrimental effects on health are most likely to be subject to separate regulations, so that it is unlikely that health concerns would either constitute a reason to refuse consents or require specific mitigation under the Planning Act 2008 (PA2008).
- 3.12.5. NPS EN-3 Paragraph 2.5.43 notes that where proposed waste combustion generation stations conform to the Waste Incineration Directive and local air quality standards, they should not be regarded as having adverse impacts on health.
- 3.12.6. NPS EN-5 is relevant in the consideration of the Proposed Grid Connection. Human health is referenced in relation of Electric Magnetic Fields (EMFs). Although putting power cables underground eliminates the electric field, they still produce magnetic fields, which are highest directly above the cable. Paragraph 2.10.2 details how EMFs can have both direct and indirect effects on human health. In considering proposals, Paragraphs 2.10.9 and 2.10.10 require the ExA and the SoS to satisfy themselves that the proposal is in accordance with relevant public exposure guidelines, Codes of Practice and relevant Regulations. Paragraph 2.10.15 confirms that where it can be shown that the line complies with current guidelines and policy, no further mitigation should be necessary.
- 3.12.7. dNPS EN-1 identifies that opportunities should be taken to mitigate indirect impacts through the promotion of local improvements to encourage health and wellbeing, including upon vulnerable groups within society (Paragraph 4.3.6). Where health impacts cannot be mitigated through other regulations, the SoS may wish to consider taking account of health concerns when setting requirements (Paragraph 4.3.8).

- 3.12.8. The NPPF considers health within the concept of healthy and safe communities. Paragraph 92 states planning decisions should aim to achieve healthy, inclusive and safe places. The National Planning Policy for Waste (NPPW) sets out an ambition to secure the re-use, recovery or disposal of waste without endangering human health.

Local Policy

- 3.12.9. Cambridgeshire CC and Peterborough CC Minerals and Waste Local Plan 2036 (adopted 2021) Policy 1 requires proposals to demonstrate how development would take into account any significant impacts on human health and wellbeing. Policy 18 states that development must not give rise to unacceptable adverse impacts upon the amenity of existing occupiers of land or property, including risk of harm to human health or safety.
- 3.12.10. Policy LP2 of the Fenland Local Plan (2014) states that development proposals should contribute to the Council's goal of Fenland's residents achieving the highest attainable standard of health, irrespective of their race, religion, political belief, economic or social condition, sex or age. Policy LP16 seeks to deliver and protect high quality environments by stating all new developments should identify, manage and mitigate against any existing or proposed risks resulting from sources including noise, emissions, pollution, contamination, vibration, odour and dust. The Fenland DC Delivering and Protecting High Quality Environments in Fenland SPD (2014) Policy DM6 links to Local Plan Policy LP16 and seeks proposals that ensure that they would not result in any adverse impacts on human health and safety.
- 3.12.11. Norfolk CC Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (adopted 2011) Core Strategy Policy CS14 aims to protect Norfolk's natural and built environments, in particular by ensuring that development does not have unacceptable adverse impacts on residential amenity (e.g. noise, vibration, dust, lighting and visual intrusion) and Development Management Policy DM12 emphasises the protection of amenity for people in close proximity to waste management facilities as a key consideration.

THE APPLICATION

- 3.12.12. Chapter 16 of the ES [APP-043] sets out the Applicant's assessment of the Proposed Development's effect on human health. The health assessment was informed by data gathering, which included desk-based research that drew on a range of publicly accessible information to create a health baseline. Section 16.4 summarises the relevant study area and survey work and Section 16.5 outlines the baseline information on key determinants of health associated with population, economy and employment, existing health facilities and key health indicators. The temporal scope of the assessment covers the construction and operational periods.
- 3.12.13. To identify the likely significant effects in relation to physical and mental health, the Applicant screened the Proposed Development using a list of 21 wider determinants of health and wellbeing. These determinants fall under four broad themes: Access; Traffic and Transport; Socio-economic; and Land use.
- 3.12.14. The Applicant states that environmental measures have been embedded into the development proposal. Table 16.9 Summary of the Embedded Environmental Measures and How These Influence the Health Assessment outlines how these

embedded measures have influenced the health assessment (including the consideration of the wider determinants of health).

- 3.12.15. The general approach of the health assessment was to focus on the impacts of construction and operation of the Proposed Development on the population, including vulnerable groups, rather than individuals. The approach for determining the sensitivity of a Receptor and the magnitude of change on health is set out in Section 16.8. Taking into account the Significance Evaluation Matrix in Table 16.12, health effects that result in a change identified as 'Major' are assessed as 'Significant' and effects that result in a 'Moderate' change are assessed to be 'Probably Significant'. 'Minor' and 'Negligible' changes are assessed as 'Not Significant'.

Environmental Assessment of Health Effects

- 3.12.16. Allowing for the embedded environmental measures and continued liaison with the community, secured through dDCO requirement, there would be a not significant effect on health arising from community perceptions of risk impacting upon quality of life and wellbeing during construction and operation. There would also be a not significant effect in an increase in demand for health services during the construction phase.
- 3.12.17. The Applicant identifies the potential for a significant impact in relation to transport related severance during the construction phase under the peak construction scenario at New Bridge Lane (East of Cromwell Road). A formal pedestrian crossing at this junction is put forward to address this issue, this would be in addition to embedded mitigation. With a crossing in place, there could be a 'Minor' (not significant) effect in relation to health, although the impacts on health at the population level is limited. Likewise, with the crossing in place, there could be a 'Minor' (not significant) effect at the local level arising from transport related severance during the operational phase. However, this impact on health would also be limited at the population level.
- 3.12.18. In the assessment of health effects arising from the economic benefits of capital spend during the construction phase, it is recognised that income and work are two of the most important determinants of health and wellbeing. There would be 'Minor' (not significant) beneficial effects on health associated with capital spend and investment at the local, district and county levels.
- 3.12.19. During the construction phase, the Applicant expects the Proposed Development to support approximately 700 direct construction jobs and 'Moderate' (probably significant) beneficial health effect in relation to direct employment is identified at the local and district levels. However, a 'Negligible' (not significant) beneficial effect at the county level is identified, given the very low magnitude of change envisaged at this scale. The Applicant also expects that around 777 indirect construction jobs would be supported during this period. This would result in a 'Moderate' (probably significant) beneficial effect on health at the local and district levels. However, a low sensitivity to change at the county level means there would be a 'Negligible' (not significant) effect in relation to health at this scale.
- 3.12.20. During the operational phase, the Applicant expects up to 40 full-time equivalent (FTE) jobs would be created, which are intended to be filled locally. Given the low magnitude of change associated with this number of jobs there would be a 'Minor' (not significant) beneficial effect in relation to direct employment and health at the

local levels and a 'Negligible' (not significant) effect at the district and county levels. Regarding indirect employment, a 'Minor' (not significant) beneficial effect in relation to health is identified at the local and district levels and a 'Negligible' (not significant) effect at the county level is envisaged.

- 3.12.21. A 'Major' significant effect in relation to health associated with construction noise at the local level is identified. Additional mitigation measures to avoid significant effects at residential and non-residential premises due to construction noise are set out in ES Chapter 7: Noise and Vibration. The assessment concludes that with the additional mitigation measures, impacts would be reduced such that there would be a 'Minor' (not significant) health effect.
- 3.12.22. The assessment of health effects associated with operational noise concluded that significant effects are likely only at No 9 and 10 New Bridge Lane. However, with the additional mitigation measures, which include an provision of an acoustic fence to 10 New Bridge Lane, the identified effects would be adequately mitigated. In relation to 9 New Bridge Lane, the property has already been purchased by the Applicant, as confirmed in the Book of Reference (BoR) [REP7-030] and the dDCO [REP7-033] which secures that the property would not be used for residential purposes before the end of the decommissioning of the Proposed Development. All the proposed mitigation measures included above are also secured through the dDCO [REP7-033].
- 3.12.23. The assessment of health effects associated with operational noise concluded that significant effects are likely only at No 9 and 10 New Bridge Lane. However, with the additional mitigation measures, impacts would be reduced such that the resultant effects are not significant. Given the number of dwellings involved, the Applicant concludes that the operational noise would not impact on health within the wider population, including vulnerable groups.
- 3.12.24. Regarding health effects associated with air quality during the operation of the EfW CHP Facility, there would be 'Minor' (not significant) effect at all levels. Releases to air from developments of this nature are controlled by emission limit values (ELVs) provided by the Environmental Permitting (England and Wales) Regulations 2016 (as amended).
- 3.12.25. Given that the Grid Connection would be underground and comply with the relevant industry codes and standards in relation to exposure limits and phasing, the assessment is a 'Minor' (not significant) effect upon health associated with EMFs.
- 3.12.26. The Applicant's conclusion states that the ES Chapter 16 [APP-043] adopted a proportionate approach to the consideration of health issues. The potential for health benefits associated with employment during the construction and operational phases is identified. Potential health effects associated with transport, noise and vibration, air quality and EMFs have also been considered. With mitigation in place, any effects, including residual effects are not considered to be significant.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.12.27. Key issues of concern for the ExA in relation to the Applicant's approach to Health were those linked to the identified significant effects in relation to No. 9 and No. 10 New Bridge Lane, particularly in relation to noise, and the efficiency of additional mitigation measures.

- 3.12.28. Table 16.9 of the ES Chapter 16 [APP-043] does state, in relation to 'People living and working in the Study Area' and the potential effects associated with construction and operational noise that the identified significant effects would be mitigated against through the adoption of a CEMP, to be prepared consistently with the Outline CEMP, the Outline Operational Travel Plan (OOTP) and the provision of an acoustic fence to 10 New Bridge Lane. 9 New Bridge Lane has already been purchased by the Applicant, as confirmed in the Book of Reference (BoR) [REP7-030] and the dDCO [REP7-033] secures that the property would not be used for residential purposes before the end of the decommissioning of the Proposed Development. All the proposed mitigation measures are also secured through the dDCO [REP7-033].
- 3.12.29. Furthermore, Table 16.9 of the ES Chapter 16 [APP-043] also includes, in relation to 'People living and working in the Study Area' and the potential increase in ambient noise levels due to the operation of fixed and mobile plant, including on-site vehicle movements, that the identified significant effects would be mitigated against through a limitation of hours of delivery of waste, from 07:00 to 20:00, noise control design features of the proposed EfW CHP Facility building and the provision of an acoustic fence to 10 New Bridge Lane. 9 New Bridge Lane has already been purchased by the Applicant, as confirmed in the BoR [REP7-030] and the dDCO [REP7-033] secures that the property would not be used for residential purposes before the end of the decommissioning of the Proposed Development. All the proposed mitigation measures are also secured through the dDCO [REP7-033].
- 3.12.30. This issue is also covered in 3.14 Noise and Vibration.
- 3.12.31. Walsoken Parish Council's main concerns relating to health are set out in its RR [RR-008] and discussed at the OFH on 22 February 2023 [EV-010; EV-011]. In the signed SoCG between Medworth CHP and Walsoken Parish Council [REP5-024], health remains a matter of disagreement. Walsoken Parish Council disagree with the conclusion set out in ES Chapter 16 Health [APP-043] that the emissions associated with the operation of the Proposed Development would have no significant effect on the health of people given the negligible change in pollutant concentrations at the nearest representative residential receptor locations assessed in ES Chapter 8: Air Quality. Walsoken Parish Council is unable to agree this point given its concerns on air quality matters and that Parishioners could be affected by fallout and pollution.
- 3.12.32. The Applicant refers to paragraph 17.6 of Norfolk CC and BCKLWN's Joint LIR [REP1-064] which acknowledges that potential effects on people living close by is likely to be very small.

CONCLUSIONS ON HUMAN HEALTH

- 3.12.33. Paragraph 4.13.1 to 4.13.5 of NPS EN-1 relate to health considerations. Paragraph 4.13.2 requires that, where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate. It also states that the impacts of more than one development may affect people simultaneously, so the Applicant, and the SoS should consider cumulative impacts.

- 3.12.34. Detailed consideration of impacts arising from specific aspects, such as air quality, noise and vibration, ground and water pollution on human health are considered in the relevant sections of this recommendation report.
- 3.12.35. The ExA are satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures are proportionate to the adverse effects that would result from the Proposed Development and that these are adequately secured through the dDCO. The ExA are therefore of the view that appropriate consideration has been given to the human health matters in accordance with paragraph 4.12.2 of NPS EN-1 and the relevant Development Plan policies.
- 3.12.36. It is the ExA's view that the Applicant has adequately assessed the impacts of the Proposed Development in accordance with paragraphs 4.13.1 to 4.13.5 of NPS EN-1.
- 3.12.37. The ExA finds that there are likely to be a number of negative health impacts during the construction period. These include disturbance from increased noise, and severance at New Bridge Lane, although the ExA considers this to be limited due to the proposed pedestrian crossing. The ExA finds that these effects would however be short term and they could be mitigated through the CEMP and the Schedule of Mitigation and Monitoring.
- 3.12.38. Once operational, the ExA finds that there would be negative health impacts from noise and emissions. However, these would be appropriately mitigated through the provision of an acoustic fence to 10 New Bridge Lane and the purchase of 9 New Bridge Lane and the removal of the property from residential use. Although this represents the loss one residential unit, its overall impact on the local housing supply would be negligible. All the proposed mitigation measures are also secured through the dDCO [REP7-033].
- 3.12.39. The ExA considers that a positive human health outcome would result from the creation of new employment opportunities during both the construction and operational stages. However, the number of new employment opportunities created during the Operational Phase of the development are considerably less than during construction, therefore this carries little weight in favour of the order being made.
- 3.12.40. Having considered the submitted evidence, the ExA is of the view that those matters which would have detrimental effects on health would be adequately be addressed through separate regulations and consenting regimes which would adequately address issues as per the NPSs.
- 3.12.41. In relation to EMF, the ExA agrees with the Applicant's conclusions that the Proposed Development is in accordance with the relevant guidance and Codes of Practice.
- 3.12.42. Overall, the ExA considers that the human health impacts of the Proposed Development have been considered, minimised and mitigated as much as possible. On this basis, whilst there are some outstanding adverse effects on a small number of receptors, given their temporary duration and being limited to the construction phase, the ExA is content that the effect would be neutral, and does not weigh for or against the order being made.

3.13. HISTORIC ENVIRONMENT

POLICY CONSIDERATIONS

NPS EN-1

- 3.13.1. Part 5 identifies the construction, operation and decommissioning of energy infrastructure as having the potential to result in adverse impacts on the historic environment.
- 3.13.2. Paragraphs 5.8.5-6 states that non-designated heritage assets should be considered subject to the same policy considerations as those that apply to designated heritage assets.
- 3.13.3. In considering applications, paragraph 5.8.11 states that the SoS should seek to *“identify and assess the particular significance of any heritage asset that may be affected by the proposed development, including by development affecting the setting of a heritage asset, taking account of:*
- *evidence provided with the application;*
 - *any designation records;*
 - *the Historic Environment Record, and similar sources of information;*
 - *the heritage assets themselves;*
 - *the outcome of consultations with interested parties; and*
 - *where appropriate and when the need to understand the significance of the heritage asset demands it, expert advice.”*
- 3.13.4. *“In considering the impact of a Proposed Development on any heritage assets, the SoS should take into account the particular nature of the significance of the heritage assets and the value that they hold for this and future generations. This understanding should be used to avoid or minimise conflict between conservation of that significance and proposals for development”* (paragraph 5.8.12.)
- 3.13.5. *“The SoS should take into account the desirability of sustaining and, where appropriate enhancing the significance of heritage assets, the contribution of their settings and the positive contribution they can make to sustainable communities and economic vitality”* (paragraph 5.8.13).
- 3.13.6. *“There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be”* (paragraph 5.8.14).
- 3.13.7. *“Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss”* (paragraph 5.8.15).
- 3.13.8. Paragraph 5.8.16 sets out that not all elements of a Conservation Area will necessarily contribute to its significance. When considering proposals, the SoS

should take into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

- 3.13.9. *“When considering applications for development affecting the setting of a designated heritage asset, the IPC should treat favourably applications that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset. When considering applications that do not do this, the IPC should weigh any negative effects against the wider benefits of the application. The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval”* (paragraph 5.8.18).
- 3.13.10. *“Where the SoS considers there to be a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the SoS should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction”* (paragraph 5.8.22).
- 3.13.11. dNPS EN-1 contains similar policies to NPS EN-1.

NPS EN-3

- 3.13.12. Paragraph 2.5.34 states *“In considering the impact on the historic environment as set out in Section 5.8 of EN-1 and whether it is satisfied that the substantial public benefits would outweigh any loss or harm to the significance of a designated heritage asset, the IPC should take into account the positive role that large-scale renewable projects play in the mitigation of climate change, the delivery of energy security and the urgency of meeting the national targets for renewable energy supply and emissions reductions.”*
- 3.13.13. dNPS EN-3 contains similar policies to NPS EN-3.

National Planning Policy Framework (NPPF)

- 3.13.14. The NPPF describes the setting of a heritage asset as the surroundings in which a heritage asset is experienced. A core planning principle in the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (paragraph 189). When considering the impact of Proposed Development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, and the more important the asset, the greater should be that weight (paragraph 199). Any harm or loss of designated heritage assets requires clear and convincing justification (paragraph 200). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (paragraph 202).
- 3.13.15. Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

National Planning Practice Guidance (NPPG)

- 3.13.16. The NPPG regarding the historic environment provides further advice and guidance to accompany policies in the NPPF and expands on terms such as ‘significance’ and its importance in decision making.
- 3.13.17. When considering impacts to a heritage asset, the NPPG discusses levels of harm, noting where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm.
- 3.13.18. In terms of public benefits, the NPPG states benefits should follow from the Proposed Development and should be of a nature and scale to be of benefit to the public and not just a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be of public benefit.

Local Development Plan

- 3.13.19. Cambs CC and Peterborough City Council Minerals and Waste Local Plan 2036 (2021) Policy 21; Fenland Local Plan (2014) Policy LP18; Norfolk Core Strategy and Minerals and Waste Development Management Policies DPD (2011) Policy DM9 and Kings Lynn and West Norfolk Local Development Framework Core Strategy (2011) Policy CS12 are considered relevant to the Proposed Development.

THE APPLICATION

- 3.13.20. The Applicant’s assessment of historic environment matters is within ES Chapter 10 (Historic Environment) [APP-037]. This is supported by Historic Environment Figures [APP-062] and Historic Environment Appendices [APP-080].
- 3.13.21. There are no designated heritage assets within the order limits of the Proposed Development. Within the 2km study area there are three conservation areas, one registered park and garden, 317 listed buildings and three scheduled monuments. There are seven non-designated heritage records within the order limits of the EfW CHP Facility, Access Improvements, TCC and CHP Connection, 11 within the grid connection order limits and 235 within the 1km study area. There are two previous archaeological events within the order limits.
- 3.13.22. Data Sources for the identification of heritage assets included, amongst other sources:
- National Heritage List for England;
 - Norfolk County Council Historic Environment Record;
 - Cambridge County Council Historic Environment Record;
 - Light detections and ranging data;
 - National Library of Scotland for historic Ordnance Survey mapping;
 - Norfolk Heritage Explorer (online);
 - The results of previous archaeological investigations; and
 - Wisbech Conservation Area Appraisal.
- 3.13.23. Whilst the Applicant’s assessment was desk-based, a site visit walkover survey, photography and plotting recorded features in GIS was undertaken in April 2021.

- 3.13.24. The environmental assessment in ES Chapter 10 [APP-037] of historic environmental effects includes an assessment of effects from direct disturbance and from change in setting. A summary of the significance of adverse historic environment effects is provided in Table 10.17.
- 3.13.25. Table 10.18 summarises the environmental measures to be implemented. This comprises the provision for archaeological investigation and recording, to be outlined in a Written Scheme of Investigation (WSI), which is included in the Outline CEMP, secured in draft DCO requirement 10.
- 3.13.26. ES Chapter 10 concludes that there would be no significant effects upon the historic environment from the Proposed Development.

ISSUES ARISING DURING THE EXAMINATION

- 3.13.27. In the signed SoCG between the Applicant and Cambs CC and Fenland DC [REP8-011] the Applicants assessment methodology is agreed as appropriate. Furthermore, the parties agree that there would be no likely significant effects on the setting of heritage assets or on archaeology during the construction, operation or decommissioning of the Proposed Development.
- 3.13.28. Historic England (HE) in the signed SoCG [REP3-027] with the Applicant, agree that the scope and methodology of the assessment of effects on the historic environment is appropriate and has been carried out in accordance with HE guidance. They agree that the Proposed Development would not cause substantial harm to the significance of any designated heritage asset or its setting.
- 3.13.29. Nevertheless, in their WR [REP2-036], they express concerns relating to the impact of the Proposed Development on the significance of the Wisbech Conservation Area (WCA), notably, Character Area No.1 The Brinks. They note that most of the views from within the Brinks area are close to mid-range views of the immediate townscape in the context of the riverside setting. However, the longer, southerly views from the southernmost parts provide a greater sense of the edge of town hinterland and the low-lying Fenland countryside beyond. They consider that this typifies the character of the wider setting of the Conservation area at this point. Viewpoint 7 of the LVIA demonstrates this [APP-054].
- 3.13.30. HE state [REP2-036] that the Proposed Development site is within an industrial and commercial area approximately 1km from the southern edge of the WCA. They note that whilst this modern development has compromised the historic character of the edge of the town and had a negative effect upon the wider setting of the WCA, there is minimal inter-visibility between the WCA and the application site. The heights of the buildings are such that they have minimal impact on views out from this part of the WCA.
- 3.13.31. They go on to note that *'the Proposed Development would introduce additional bulky and tall structures within the wider setting of the Wisbech Conservation Area which are likely to be apparent in some long views from parts of the North Brinks area of the conservation area' as demonstrated in Viewpoint 7 [APP-054]. 'The facility is shown appearing substantially taller above the existing rooftops and prominent in this particular view. Whilst we appreciate that this may not be considered to be a key view that is intrinsic to the significance of the conservation area, we believe that the generally unimpacted views out, due to the prevailing lower roof line, makes some contribution to the way in which this particular part of it*

is experienced. We therefore consider that the presence of the facility within the wider setting of the conservation area would, by virtue of its bulk and height, be readily visible in some southerly views out, and would have a somewhat negative effect upon the way this part of it is experienced and enjoyed.'

3.13.32. In addition, HE draws attention to No.15 South Brink, which is listed grade II*, noting the unique glazed octagonal cupola feature which is designed specifically for viewing/observation from an elevated position through 360 degrees, including long views towards the Proposed Development. They consider that the quality of the views from the cupola affect how this historic feature is experienced and appreciated. Whilst they accept that these views have already been compromised, HE believes that it is *'somewhat regrettable that the existing negative effect on the visual experience would be compounded'*.

3.13.33. They conclude [REP2-036] that the Proposed Development would result in less than substantial harm to these heritage assets and that such harm would need to be weighed against the public benefits of the Proposal.

CONCLUSION ON HISTORIC ENVIRONMENT

3.13.34. The ExA have found that the Applicant has adequately assessed the significance of the designated and non-designated heritage assets affected by the Proposed Development. Furthermore, that sufficient information to reach a conclusion on the nature, significance and value of identified designated and non-designated heritage assets, along with sufficient understanding of the contribution that setting makes to their significance and the implications of the Proposed Development for those settings, has been submitted. This allows the extent of the impact to be understood. In the ExA's view, the application meets the requirements of NPS EN-1 in that regard.

3.13.35. The ExA are satisfied that the WSI, included in the Outline CEMP and secured through draft DCO requirement 10 would ensure that appropriate procedures are in place for the identification and treatment of assets discovered during construction, in line with NPS EN-1 Paragraph 5.8.22.

3.13.36. The ExA are clear that the Proposed Development would result in less than substantial harm to the designated heritage assets of WCA and No.15 South Brink. In line with NPS EN-1 paragraph 5.8.15 and the NPPF paragraph 202, the less than substantial harm is weighed against the public benefits of the Proposed Development at Chapter 5 of this report, in the planning balance, where the ExA conclude on the cultural heritage effects of the Proposed Development.

3.14. NOISE AND VIBRATION

INTRODUCTION

This section of the report considers the effects of the Proposed Development in relation to noise and vibration. The effects of noise and vibration on biodiversity are considered under 3.9 biodiversity. This section should also be read in conjunction with section 3.12 Human Health.

POLICY CONSIDERATIONS

- 3.14.1. NPS EN-1 notes that excessive noise and vibration can result in adverse effects on a range of receptors including impacts on the quality of human life, health, wildlife and biodiversity. Furthermore, it states that development consent should not be granted unless significant adverse noise impacts on health and quality of life are avoided and other adverse impacts are mitigated and minimised. It also advises that the SoS should be satisfied that, where possible, proposals contribute to improvements to health and quality of life through the effective management and control of noise.
- 3.14.2. Where impacts are likely to arise, paragraph 5.11.4 of NPS EN-1 sets out the matters that an applicant should include in the noise assessment, recognising that the nature and extent should be proportionate to the likely noise impact. It also advises that operational noise, with respect to human receptors, should be assessed using the principles of relevant British Standards (BS).
- 3.14.3. NPS EN-5 sets out national policy for noise and vibration considerations for electricity networks infrastructure. It recognises that audible noise can arise from the operation of substation equipment, such as transformers, given its tendency to emit a low frequency hum.
- 3.14.4. Paragraph 2.9.10 of NPS EN-5 advises that for decision making there is a need to ensure that the relevant noise assessment methodologies have been used by applicants and that appropriate mitigation options have been considered and adopted. Where applicants can demonstrate that appropriate mitigation measures would be in place the residual noise impacts are unlikely to be significant.
- 3.14.5. These principles in relation to noise are carried forward into dNPS EN-1 and dNPS EN-5 respectively. In addition, dNPS EN-3 states that proposals for renewable energy infrastructure should demonstrate good design to mitigate impacts such as noise.
- 3.14.6. The Noise Policy Statement for England (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The statement sets out the long-term vision of the Government's noise policy which is to: "promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development".
- 3.14.7. The Explanatory Note within the NPSE provides further guidance on defining significant adverse effects and adverse effects using the concepts:
- No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
 - Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
 - Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.

- 3.14.8. When assessing the effects of the Proposed Development on noise matters, the aims of the development should firstly be to avoid noise levels above the SOAEL; and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.

THE APPLICATION

- 3.14.9. ES Chapter 7: Noise and Vibration [APP-034] sets out the likely significant effects of the Proposed Development with respect to noise and vibration. The Noise and Vibration Assessment is then complemented by the Noise and Vibration Figures [APP-051], Noise and Vibration Appendix 7A-7C [APP-076], the Noise and Vibration Appendix 7D – Outline Operational Noise Management Plan [APP-077] and the Outline CEMP [APP-103].
- 3.14.10. Having taken into consideration relevant consultation and stakeholder engagement as well as relevant legislation, planning policy and BS technical guidance, the Applicant has carried out work to define the study area for each element of the Proposed Development and create a current and future baseline for ambient noise.
- 3.14.11. The study area for construction noise was defined as an area up to 300m away from the activities, in line with the Design manual for Roads and Bridges LA 111 (2020) (DMRB LA 111). The study areas for the assessment of construction noise from the different components of the proposal are shown in Figures 7.1 and 7.2 of the Noise and Vibration Figures [APP-051]. Figure 7.3 of the Noise and Vibration Figures [APP-051] show the Study Area for the construction and operational noise in relation to the Grid Connection from the EfW CHP Facility to Walsoken Substation.
- 3.14.12. The study area for traffic noise impacts along construction and operational vehicular access routes is shown in Figure 7.4 of the Noise and Vibration Figures [APP-051] and consists of a 50m area around the affected road link, in line with DMRB LA 111.
- 3.14.13. In relation to operational noise, a study area was defined as 1km from the site boundary, on the basis of professional judgment. This is shown in Figure 7.5 of the Noise and Vibration Figures [APP-051].
- 3.14.14. As the only significant source of vibration associated with the construction and operation of the Proposed Development is the proposed use of vibratory rollers for the constructions of the access improvements, a study area of 100m was defined around these in accordance with the DMRB LA 111, as set out in Figure 7.1 of the Noise and Vibration Figures [APP-051].
- 3.14.15. This allowed the Applicant to define the scope of the assessment including the identification of potential Receptors that could be subject to significant effects due to the construction and operation of the Proposed Development.
- 3.14.16. To inform the assessment, a representative baseline data describing the ambient noise environment in the vicinity of the nearest Receptors to the Proposed Development was acquired in accordance with BS 5228-1:2009+A1:2014³ as per included in Appendix 7A Baseline Monitoring Report [APP-076]. This information

³ British Standards Institution, 2014. BS 5228-1:2009 + A1:2014 Code of construction practice for noise and vibration control on construction and open sites – Part 1: Noise. BSI, London.

was then complemented by noise monitoring data obtained from surveys undertaken in November 2021, and together with traffic surveys, these have informed the assessment of noise generated by the construction and operation of the Proposed Development. Eight short-term and three long-term monitoring locations, were used and it has been concluded that the current sound climate is dominated by local road traffic, and industrial noise from the existing industrial area.

- 3.14.17. Section 7.8 of the ES Chapter 7: Noise and Vibration [APP-034] sets out the assessment methodology used for the assessment of construction noise, construction vibration, operational noise and traffic noise (construction and operation), whilst in Section 7.9 sets out the assessment as carried out by the Applicant.
- 3.14.18. The assessment carried out by the Applicant, as set out in Section 7.9 of the ES Chapter 7 [APP-034] identifies potential significant effects to some residential Receptors and non-residential Receptors due to construction noise. Table 7.39 Summary of significance of adverse effects presents the results of the assessment of the likely significant effects during construction and operation of the Proposed Development.
- 3.14.19. Significant effects in relation to construction noise have been identified for residential Receptors R2, R3, R4 and R5 and industrial and commercial Receptors R16, R17, R18, R22, R23 and R24. In relation to construction vibration and vehicle induced vibration during the construction and operational phase, significant effects have been identified in relation to residential Receptor R2. In relation to operational noise, significant effects have been identified for both Residential Receptors R2 and R3.
- 3.14.20. As significant effects in relation to noise and vibration were identified by the Applicant in relation to several receptors, additional mitigation measures were considered in order to reduce the significant of the effect from significant to not significant. These were set out in Appendix 7B Construction Noise Assessments [APP-076].
- 3.14.21. In relation to construction noise effects identified for residential Receptors, the Applicant states, in paragraph 7.10.6 of the ES Chapter 7 [APP-034] that precise mitigation requirements would be determined following appointment of a contractor, but that a final CEMP would be prepared, consistent with the Outline CEMP [APP-103], which would set out the mitigation measures required to avoid significant effects. In paragraph 7.10.8 of the ES Chapter 7 [APP-034] the Applicant states that where Receptors may be exposed to construction noise for extended periods, noise monitoring may be required to quantify construction noise levels. Results of monitoring should be used to identify any potential impacts, inform investigations into the cause of any impacts and to aid in the determination of additional mitigation measures, as appropriate, to reduce and avoid the impacts identified. Potential measures to reduce construction noise levels are set out in paragraph 7.10.10 the ES Chapter 7 [APP-034].
- 3.14.22. The Applicant concludes, in paragraph 7.10.13 of ES Chapter 7 [APP-034], that Based on the implementation of the approach outlined above, residual effects at residential Receptors would be not significant, or in terms of the NPSE, NOEL.
- 3.14.23. Similarly, in relation to non-residential Receptors, identified effects of construction noise would be controlled via the final CEMP to be prepared consistently with the

Outline CEMP [APP-103]. The Applicant does also state that, similar to its approach to residential Receptors, that thresholds of significance/construction noise limits/baseline sound levels may need to be periodically reviewed to ensure appropriate controls are in place. Potential measures to reduce construction noise levels for non-residential Receptors are set out in paragraph 7.10.20 the ES Chapter 7 [APP-034].

- 3.14.24. The Applicant concludes, in paragraph 7.10.21 of ES Chapter 7 [APP-034], that based on the implementation of the approach outlined above, residual effects at residential Receptors would be not significant.
- 3.14.25. The assessment of construction vibration identified significant effects at 9 New Bridge Lane (R2) located within 20m of vibratory rollers required for works on the access, as per ES Chapter 7 [APP-034]. To address this, the Applicant proposes that residents should be informed of the nature, extent and duration of the works being undertaken, therefore adequately reducing potential for annoyance. To address the potential for cosmetic building damage to residential premises within 20m of vibratory rollers, the Applicant proposes that building condition surveys be undertaken before and after the works, and any damage made good. This is secured through the Outline CEMP Appendix F Outline Construction Noise and Vibration [APP-103].
- 3.14.26. Significant effects in relation to vehicle induced vibration were also identified for residential Receptor 9 New Bridge Lane (R2), as stated in the ES Chapter 7 [APP-034]. To mitigate against significant effects, the Applicant proposes that this dwelling would be acquired either through agreement or with compulsory powers by the Applicant and would be taken out of residential use. This is the same approach as that propose to mitigate against operational noise in relation to 9 New Bridge Lane (R2).
- 3.14.27. The Applicant also states, in relation to vehicle induced vibration, in paragraph 7.10.26 of the ES Chapter 7 [APP-034], that though it is anticipated that effects at 2 New Bridge Lane (R1) due to vehicle induced vibration would be not significant, it is recommended that a building condition survey be undertaken prior to the construction phase such that, if deterioration of the dwelling's condition is reported, there is a pre-development baseline to compare against.
- 3.14.28. To mitigate against operational noise in relation to 10 New Bridge Lane (R3) the Applicant proposes an acoustic fence of approximately 49m length and 3m height is built within the property of 10 New Bridge Lane and in close proximity to the boundary. The Applicant claims that this would achieve significant attenuation. This is proposed to be secured through the dDCO.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.14.29. Key issues for the ExA in relation to the Applicant's approach to Noise and Vibration were linked to the methodology used to assess the significance of effects, the sensitivity of receptors, proposed mitigation and monitoring. These issues were explored in written questions and also at ISH5 [EV-036].
- 3.14.30. As stated within [REP4-021] The written summary of the Applicant's Oral Submissions at ISH5 [REP4-021], at the Hearing the Applicant was asked by the ExA to set out its methodology for the assessment and definition of the Study Area, the assessment methodology of Significant Effects, how different levels of sensitivity

had been established and how proposed mitigation and monitoring had been considered.

- 3.14.31. The Applicant confirmed that the Study Area was defined in accordance with relevant guidance and that the identification of receptors and the analysis carried out in relation to their sensitivity took into consideration the nature of the receptor (i.e. residential, industrial, commercial and educational) and their distance to the Proposed Development. The Applicant also confirmed that the identification of receptor was carried out through a combination of desktop mapping and professional experience.
- 3.14.32. The Applicant also confirmed, in [REP4-021], that the different levels of sensitivity for the different receptors identified have been established based on the outcomes of the assessment and that the Applicant has looked at the various effect thresholds under the relevant NPSE and the National Planning Practice Guidance – Noise, which looks at the significant health effects. Additionally, in BS8233⁴, there are guidance levels for ambient noise for various types of establishments, including offices. The methodology was designed such that a significant effect would be found if noise levels created a situation where they were contributing an exceedance of that guideline level.
- 3.14.33. The ExA, at ISH5, also asked the Applicant to explain further their approach to its calculation of operational noise and how it determined the significance of the change in relation to residential and non-residential Receptors.
- 3.14.34. At USI2 [EV-029] the ExA identified that 10 Algores Way, which appeared to be an education receptor, was not identified or included in the Applicant's assessment as a potential noise sensitive receptor. Following from USI2, at ExQ2 NV.2.1 [PD-013], the ExA asked the Applicant to explain why 10 Algores Way, the Helping Hands Group, was not included as part of the Applicant's assessment or identified as a potential noise sensitive receptor. In response to ExQ2 [REP5-032], the Applicant stated although 10 Algores Way was not identified as a potential noise sensitive receptor, assessments undertaken for nearby receptors R26 and R27 are deemed to be representative of 10 Algores Way, as that, since the assessment was that the Proposed Development would not result in effects that are considered significant, the Applicant's view was that the same outcomes would apply to 10 Algores Way.
- 3.14.35. Concerns were also raised, at ISH5 by BCKLWN in line with its LIR [REP1-064] and WR [REP2-028] and by Cambs CC and Fenland DC, in line with their LIR [REP1-074] and WR [REP2-033] in relation to noise and vibration impacts. The Applicant's response, as stated in [REP5-032], confirms that it is in conversations with the relevant Host Local Authorities (HLAs) in order to address concerns were on-going and as a result an updated version of Appendix 7D Outline Operational Noise Management Plan [REP5-013/014] was submitted into Examination.
- 3.14.36. Following from ISH5, the ExA also asked further questions to the Applicant in ExQ2. Question ExQ2 NV.2.2 [PD-013] was linked to construction traffic and how the Applicant had considered its impact on sensitive Receptors, particularly Receptor R26 TBAP Unity Academy (Trinity School). The Applicant's response in [REP5-032] expands on how predicted construction phase increases in traffic noise were

⁴ British Standards Institute, 2014, BS 8233:2014 Guidance on sound insulation and noise reduction for buildings. BSI, London

assessed. With regard to R26, the Applicant states that sound from road traffic on Weasenham Lane is dominant in terms of the soundscape at this location. In this context, the predicted 1.1 dB increase in road noise at R26 caused by increased vehicular flow on Algores Way during construction of the Proposed Development is unlikely to be perceptible to the Receptor.

- 3.14.37. Question ExQ2 NV.2.3 [PD-013] also related to the construction phase and increases in traffic noise during this period, particularly along Algores Way and New Bridge Lane. The Applicant stated, in [REP5-032], that the assessment of construction traffic noise indicates that the greatest impact to any receptor on New Bridge Lane and Algores Way is of low impact and that there are significant contributions to the baseline acoustic environment from surrounding industrial sound sources which has affected the Applicant's assessment in relation to increase in road noise.
- 3.14.38. Question ExQ2 NV.2.5 [PD-013] dealt with potential effects to R3 (10 New Bridge Lane) due to construction vibration. The ExA asked how the Applicant proposes to monitor any building damage to the property, proposed compensation and how this would be secured. The Applicant stated, in [REP5-032], that requirement to monitor any building damage, alongside the requirements to carry out all construction in accordance with the CEMP [REP4-008] which would minimise impacts on the Receptors secured through the dDCO. Furthermore, the Applicant added that the revised Appendix F (Outline Construction Noise and Vibration Management Plan) of the Outline CEMP [REP4-008], includes a statement securing the monitoring of any building damage to the property and compensation.
- 3.14.39. The ExA notes that the last version of the SoCG between the Applicant and the Host Authorities (DRAFT) [REP6-019] does not seem to show any outstanding disagreements in relation to noise and vibration. This is also reflected in the Statement of Commonality (SoC) [REP8-012]. Nevertheless, as the SoCG between the Applicant and the Host Authorities [REP6-019] has not been signed and was submitted as a draft version, the ExA has reviewed subsequent information submitted by the LHAs in relation to noise and vibration. The SoCG between the Applicant and Cambs CC and Fenland DC [REP8-011] does not highlight any outstanding concerns in relation to noise and vibration, therefore the ExA is satisfied that any concerns between these parties have been resolved during Examination.
- 3.14.40. BCKLWN, in [REP7-041] and in response to ExQ3 GCT.3.4 confirmed it has no outstanding objections in relation to noise and vibration. Norfolk CC, in [REP7-052], also confirmed that it has no outstanding objections in relation to noise and vibration.
- 3.14.41. The SoCG between the Applicant and Wisbech Town Council [REP6-020] states that agreement has not been reached between the parties in relation to noise and vibration issues, namely whether the scope and methodology set out in ES Chapter 7 [APP-034] are sufficiently robust for the purposes of identifying any likely significant noise and vibration effects resulting from the construction and operation of the Proposed Development. Nevertheless, Wisbech Town Council's response to the ExA's ExQ3 GCT.3.3 [REP7-052] does not raise concerns on this topic as part of matters where agreement has not been reached. Furthermore, having reviewed all the previous submissions made by Wisbech Town Council including its post-hearing submission [REP4-032] following from ISH5, where noise and vibration matters were discussed, no specific further comments were made by Wisbech Town Council highlighting outstanding concerns in relation to noise and vibration.

CONCLUSIONS

- 3.14.42. Based on the evidence before us, the ExA considers the Applicant's assessment of the noise and vibration impacts likely to arise from the construction, operation and decommissioning of the Proposed Development meets the requirements of NPS EN-1, NPS EN-5 and of dNPS EN-1, dNPS EN-3 and dNPS EN-5.
- 3.14.43. Furthermore, the ExA are satisfied that the noise resulting from the construction, operation and decommissioning of the Proposed Development would remain below the significance thresholds as set out in the NPSE and NPPF.
- 3.14.44. The inclusion in the dDCO of Requirement 10 (CEMP), Requirement 11 (CTMP) Requirement 12 (OTMP), Requirement 19 (Noise management) and Requirement 28 (Decommissioning) provide sufficient safeguards to ensure that the adverse impacts resulting from the Proposed Development would be minimised.
- 3.14.45. Accordingly, the ExA concludes that the application accords with the Government's policy on noise and vibration as set out in NPS EN-1 and NPS EN-5, the NPSE and NPPF. It would also accord with the dNPSs as well as local planning policy. Accordingly, the ExA considers the effect would be neutral and does not weigh for or against the order being made.

3.15. FLOOD RISK, DRAINAGE AND WATER ENVIRONMENT POLICY CONSIDERATIONS

National Policy

- 3.15.1. NPS EN-1 Paragraph 4.10.3 recognises that the SoS should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including land drainage and water abstraction, will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them. Applicants are advised to make early contact with relevant regulators including the EA to discuss their requirements for environmental permits and other consents (paragraph 4.10.6). The SoS should be satisfied that the relevant pollution control authority is satisfied that potential releases can be adequately regulated and to consider the cumulative effects of pollution, particularly in relation to statutory environmental quality limits (paragraph 4.10.7).
- 3.15.2. Paragraph 5.7.3 of NPS EN-1 indicates that development and flood risk must be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall.
- 3.15.3. Paragraph 5.7.4 of NPS EN-1 states that all proposals within Flood Zones 2 and 3 should be accompanied by a FRA that should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account.
- 3.15.4. Paragraphs 5.7.12 of NPS EN-1 states that the SoS should not consent development in Flood Zone 3 unless they are satisfied that the Sequential and Exception Test requirements have been met. It goes on to state that *'The*

technology specific NPSs set out some exceptions to the application of the sequential test. However, when seeking development consent on a site allocated in a development plan through the application of the Sequential Test, informed by a strategic flood risk assessment, applicants need not apply the Sequential Test, but should apply the sequential approach to locating development within the site.'

- 3.15.5. Paragraph 5.7.9 of NPS EN-1 states that the SoS should be satisfied, amongst other things, that priority has been given to the use of sustainable drainage systems (SuDs) and that the project is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed over the lifetime of the development. Flood Warning and Evacuation Plans should be in place in line with Paragraph 5.7.25 of NPS EN-1.
- 3.15.6. Section 5.15 of NPS EN-1 addresses water quality and resources and states that the SoS should be satisfied that a proposal has regard to the River Basin Management Plans and meets the requirements of the Water Framework Directive (WFD) (paragraphs 5.15.5-6).
- 3.15.7. Where the project is likely to have effects on the water environment Applicants should undertake an assessment addressing water quality, water resources and physical characteristics of the water environment according to paragraph 5.15.2 of NPS EN-1.
- 3.15.8. The SoS should consider the role of good pollution control practice and whether appropriate requirements should be attached to any development consent to mitigate adverse effects on the water environment (paragraph 5.15.7-10 NPS EN-1).
- 3.15.9. NPS EN-5 Section 2.4 advises that as climate change is likely to increase risks to the resilience of electricity network infrastructure, applicants should set out to what extent the Proposed Development is expected to be vulnerable to extreme weather, including flooding, and, as appropriate, how it would be resilient, particularly for substations that are vital for the electricity transmission and distribution network.
- 3.15.10. dNPS EN-1 and EN-5 includes similar policies to those highlighted from NPS EN-1 and NPS EN-5 above. NPS EN-3 and dNPS EN-3 include no additional requirements beyond those already covered in EN-1.
- 3.15.11. NPPF Paragraphs 152 to 169 confirm the requirement for a site-specific FRA and that inappropriate development should be avoided in areas at the highest risk of flooding and where development is necessary in those areas, it should be made safe without increasing flood risk elsewhere.

Local Policy

- 3.15.12. Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021) Policy 22 Flood and Water Management and Fenland Local Plan (2014) Policy LP14 include the requirements for FRA and sequential and exception tests if necessary and require the use of SuDs.
- 3.15.13. BCKLWN Site Allocations and Development Management Policies Plan Policy DM21 states that the BCKLWN will take into account advice from the Lead Local Flood Authority and the King's Lynn and West Norfolk Settlements Surface Water Management Plan to ensure that where a serious and exceptional risk of surface

water flooding exists, adequate and appropriate consideration has been given to mitigating the risk. Mitigation measures should minimise the risk of flooding on the development site and within the surrounding area.

- 3.15.14. In addition, Policy DM3 (Groundwater and surface water) seeks to protect ground and surface water quality and resources and required a hydrological/hydrogeological risk assessment to be submitted.
- 3.15.15. BCKLWN Local Development Framework Minerals and Waste Core Strategy Policy CS01 seeks to avoid development in areas at risk of flooding and Policy CS14 (Environmental Protection) seeks to ensure the protection and enhancement of Norfolk's natural environment and that new development does not give rise to any unacceptable adverse impacts to natural resources including water.

THE APPLICATION

Flood Risk

- 3.15.16. Chapter 12 of the ES [APP-039] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to surface water and flood risk. An FRA is presented in Appendix 12A: FRA (Volume 6.4) [APP-084]. The likely significant effects associated with flood risk are also addressed in Section 12.6 and Section 12.9.
- 3.15.17. The Applicant sets out that the order limits boundary is not intersected by main rivers but is intersected by numerous artificial drainage channels (ordinary watercourses) within the Hundred of Wisbech Internal Drainage Board (HWIDB) and King's Lynn Internal Drainage Board (KLIDB) areas.
- 3.15.18. The Study Area is shown on Figure 12.1 [APP-064] and includes the Proposed Development area and upstream and downstream extents of the IDB drainage network. The Applicant considers the primary flood risk to the Proposed Development is from the tidal River Nene.
- 3.15.19. The Applicant states that the EA Flood Map for Planning (Figure 12.6ii) [APP-064] shows that the entirety of the EfW CHP Facility Site and CHP connection corridor and large areas of the access improvements, TCC and water connections lie within Flood Zone 3. Small areas of the TCC, access improvements and most of the water connections lie within Flood Zone 2. The flood risk mapping assumes no flood defences along the River Nene and does not take account of climate change.
- 3.15.20. The EA's Surface Water Flood Risk Map shows that the majority of the EfW CHP Facility Site, CHP Connection, TCC, access improvements and water connections are at very low risk of flooding from surface water (Figure 12.7i) [APP-064]. The map also shows small areas of low to medium surface water flood risk within the EfW CHP Facility Site, TCC and Access Improvements and low to high surface water flood risk within the CHP Connection Corridor.
- 3.15.21. The Applicant states that most of the grid connection is within Flood Zones 2 and 3 and the Walsoken substation is within Flood Zone 2. The Lincolnshire and Northamptonshire Tidal Breaching Hazard Mapping provided by the Environment Agency indicates that there is no flood risk to the Grid Connection during the overtopping of the flood defences in the River Nene for the 0.5% Annual Event Probability (AEP) plus climate change event in 2115. The Grid Connection and

substation would also remain dry during the 0.1% AEP plus climate change event in 2115 (data included in the FRA) [APP-084].

Sequential and Exception Tests

- 3.15.22. The Applicant's consideration of the sequential test is set out within the FRA [APP-084] and summarised within the Planning Statement (Volume 7.1) [APP-091]. The Applicant sets out that at the time the EfW CHP Facility Site was first identified and at the point the option agreement for the land comprising the majority of the EfW CHP Facility Site was signed in 2019, the Site was allocated in the Cambridgeshire and Peterborough Waste and Minerals Development Plan Site Specific Allocations 2012, as site allocation W1C (an allocation for waste recycling and recovery facilities (non-landfill) under Policy SSP W1.
- 3.15.23. There was no requirement upon the Applicant to undertake a sequential test at the time it selected the site, nor through the stages of scoping and period of non-statutory consultation (at which times it still comprised an allocation). In July 2021 (after the commencement of the statutory consultation period for the Proposed Development), the Development Plan was replaced by Cambridgeshire and Peterborough Minerals and Waste Local Plan 2036 (2021). This Plan does not allocate sites for waste management purposes, instead identifying WMA (Policy 10). WMAs are existing or committed waste management sites. The EfW CHP Facility Site is identified as a WMA in the Minerals and Waste Local Plan (2021) and retained within the Fenland Local Plan (2014) as an allocated waste management site.
- 3.15.24. Following the adoption of the Cambridgeshire and Peterborough Minerals and Waste Local Plan 2036 (2021), and taking into account feedback received during statutory consultation, the Applicant states that it re-evaluated its site selection process. As part of this re-evaluation, the Applicant undertook a sequential test which considered other WMAs in the Wisbech area as set out in Section 7.1 of the FRA [APP-084]. The FRA records that the WMA which is located approximately 0.5km to the east of the EfW CHP Facility is too small to accommodate the EfW CHP Facility of the type and size proposed (3.5 hectares (ha)). A further WMA, located approximately 2.5km to the north and alongside the River Nene, is close to residential areas and the Applicant considers that it does not benefit from proximity to larger users of heat. The Applicant did not identify any other available sites that met its essential site selection criteria, in particular, the availability of potential CHP users, that were located in either Flood Zone 1 or 2.
- 3.15.25. In addition, the Applicant followed a sequential approach at the site level, with the identification on compatible and non-compatible uses within the relevant flood zones. The definition of such uses was agreed with the EA and with Cambs CC. Essential infrastructure elements of the EfW CHP Facility, CHP Connection and Grid Connection were required to pass Part 2 of the Exception Test. The Part 2 assessment is presented in the FRA [APP-084] and provides further detail at Section 7.2 which the Applicant consider demonstrates that the Proposed Development would be safe, without increasing flood risk elsewhere and, where possible, would reduce flood risk overall. It also demonstrates how the Essential Infrastructure located in Flood Zone 3a has been designed and constructed to remain operational and safe in times of flood.

- 3.15.26. The Flood Management Measures presented in Table 6.2 of the FRA [APP-084] take into account the recommended climate change scenarios, with mitigation including raised finished floor levels and Emergency Flood Response Plans.

SuDS

- 3.15.27. ES chapter 3: Description of the Proposed Developments (Volume 6.2) [APP-030] states that *“During the operational phase, surface water runoff would be collected and attenuated underground with further attenuation occurring in SuDS features (swale, detention basin and filter strip) in the southern part of the site which would meet the treatment requirements set out in the CIRIA SuDS Manual.”* The indicative proposals for SuDS components would be confirmed at the detailed design stage. This is secured in dDCO Requirement 8 (Drainage Strategy).

Water resources

- 3.15.28. The assessment of impacts on water resources and of discharges to the water environment are described in ES Chapter 7 [APP-039], and determines that all anticipated effects are not significant.

Water Framework Directive

- 3.15.29. The Proposed Development is not hydrologically connected with any WFD waterbodies; however, the Applicant states that the assessment has taken into account potential impacts on current and future water quality and hydromorphology in a way which mirrors WFD approaches.

Water quality

- 3.15.30. The Applicant sets out the embedded environmental measures in table 12.10 [APP-039]. These include the implementation of a water quality monitoring programme, agreed with the EA, as required by the Outline CEMP which is secured through draft DCO Requirement 10. This also includes the provision of oil interceptors and trapped gullies, appropriate storage of chemicals, fuel and oil, including an accident response protocol and development and implementation of a materials management plan to manage potentially contaminated excavated material. The Drainage Strategy would utilise SuDS principles for attenuation storage and treatment to reduce the discharge to greenfield runoff rates and prevent pollution of the water environment (details in Appendix 12A FRA) [APP-084].

ISSUES CONSIDERED DURING THE EXAMINATION

Flood Risk

- 3.15.31. IPs including Mr Clive Landa [REP2-047], Ms Carla Johnson [REP2-046] and Dr Ursula Waverley [REP2-049] WR raised concerns in relation to the floodplain location.
- 3.15.32. The joint LIR for Cambs CC and Fenland DC [REP1-074] raised concerns relating to the CEMP; groundwater pumps; works to watercourses; pollution control; climate change allowances; small diameter flow controls and pumping of surface water. The Councils sought additional work as part of the Examination to ensure that the system is appropriately designed, and all surfaces are suitably treated.

- 3.15.33. As Lead Local Flood Authority (LLFA) for the proposed cable route and substation, Norfolk CC in their LIR [REP1-064] state that their review of the surface water flood risk along the route of the order limits, indicates that surface water flood risk is localised and of a limited extent. They consider that the proposed Walsoken substation and the grid connection would be subject to a minimal increase in surface water runoff during both the construction and operational phases of the development. They consider that appropriate attenuation approaches are proposed.
- 3.15.34. BCKLWN RR [RR-001] sought a flood emergency plan for the grid connection in west Norfolk to cover both the construction and operational phases.
- 3.15.35. The EA RR [RR-014] and WR [REP2-034] state that they are satisfied that the submitted flood risk information is sufficient. They note that the site is located within flood zone 3, but that this does not take into account any flood defences. As such the development area is classified as flood zone 3a. They note that the Planning Practice Guide indicates that these development types are appropriate in flood zone 3a, provided the sequential and exception tests are passed for the elements that require them.
- 3.15.36. They describe the site as tidally influenced and note that loss of floodplain storage is less likely to be a concern in areas where the source of flood risk is mainly tidal. They state that the Wisbech flood defences are designed to a 0.5% (1 in 200 year) level. The EA Hazard Mapping for the Wisbech area, shows no overtopping of defences for the 2115 0.5% annual event probability and the 0.1% (plus climate change scenario).
- 3.15.37. They consider that in the unlikely event that a breach were to occur, the Hazard Mapping indicates potential breach depths between 0 and 0.7m for the 2115 0.1% scenario. A large proportion of the site falls within the 0 – 0.25 depth of flooding from a breach for the 2115 0.1%, with a smaller area in the 0.5-1m (to the south). They note that in terms of development, only the access road, less vulnerable and water compatible elements are located in this area.
- 3.15.38. They note that the Proposed Development Site (as with most sites in the Fens) is relatively flat, and the provision of floodplain compensation is not usually a requirement as this would exclude a significant number of planning applications from being brought forward. They recognise that the brownfield site, located within an area of industrial developments, should not have an impact on any residential properties should a breach occur.
- 3.15.39. They are satisfied that the applicant has assessed the impacts of climate change within the FRA (section 4.3.2 – 4.3.5) in line with the current national guidance and that based on the proposed lifetime of the development, that this assessment is appropriate.
- 3.15.40. The SoCG between the Applicant and the EA [REP4-010] agrees all matters including that there would be no likely significant effects on hydrology and flood risk during the construction, operation or decommissioning of the Proposed Development taking account of the embedded mitigation measures (Section 12.9 of the ES) [APP-039].
- 3.15.41. In the signed SoCG between Medworth CHP and Cambs CC and Fenland DC [REP8-011] all hydrology matters are agreed and the authorities agree the content of the Outline Drainage Strategy [REP5-018] secured in Requirement 8 of the

dDCO, the Outline Flood Emergency Management Plan [REP1-019] secured in Requirement 13 of the dDCO and the Outline Water Management Plan within Appendix B of the Outline CEMP [REP5-022], secured in Requirement 10 of the dDCO.

- 3.15.42. Issues raised by HWIDB {RR-017} and Kings Lynn IDB [RR-019] were negotiated with the Applicant throughout the Examination and discussed at ISH5. The signed SoCG between Medworth CHP and the Kings Lynn IDB [REP7-019] and the SoCG with HWIDB [REP7-018] agree all hydrology matters subject to embedded mitigation measures and consultation during the design stage.

Water resources

- 3.15.43. During the Examination Anglian Water raised concerns regarding uncertainties relating to future water supply and demand [REP3-043] and [REP4-034]. The Applicant provided a water supply availability statement [REP5-039], summarising engagement between Anglian Water and the Applicant and confirming that potable and foul water supplies are available for the Proposed Development. This confirmed that Anglian Water has the ability to supply the day-to-day baseline requirement when the facility is commissioned in Quarter 1 2027 as a result of a strategic interconnector bringing additional supply into the Fenland water resource zone.
- 3.15.44. Anglian Water [REP5-041] confirmed the day-to-day supply and stated that they understand that the steam supply requirement should not result in a net increase in terms of available water resources, as it would replace the water supply used by existing customers in the vicinity of the Proposed Development. In addition, they noted that water demands during the construction process should not be excessive, as water for concrete batching is not required and water would generally be required for amenity and sanitary uses for construction workers on site.
- 3.15.45. Anglian water SoCG [REP6-021] agrees all matters and encourages the Applicant to begin the application process for the maximum daily demand as soon as reasonably practicable. Prior to deadline 8, the ExA issued a Rule 17 letter seeking confirmation from Anglian Water that they are content with the conclusions and the approach set out in the water supply availability assessment [REP5-039] , particularly in relation to water demands for the construction of the Proposed Development [PD-019].
- 3.15.46. Anglian Water's response [REP8-024] to the Rule 17 letter reaffirms their position and states that *"Anglian Water can provide our best indication at this stage, that water resources will be available for the commissioning and operational demands of the facility based on the information provided by the Applicant in the Water Supply Availability Statement and the strategic supply options we have indicated. However, our regulatory framework means we are not in a position where we can irrevocably guarantee a non-domestic supply that is some 3-4 years away, when we have a legal duty to prioritise domestic demand. The Applicant has been advised to secure their maximum daily demand (MDD) requirement for water supply as soon as practicable, and from our perspective an MDD can be provided up to 12 months before it is required. Delays to the timetable for delivering the facility could also impact on our ability to provide the supply, and therefore regular dialogue with our pre-development team should be undertaken, as prescribed in the next steps of the Water Supply Availability Statement."*

Water Framework Directive

- 3.15.47. In the SoCG between the Applicant and the EA [REP4-010], the EA agrees with the Applicant that the Proposed Development is not hydrologically connected to WFD waterbodies, and as such the EA has not undertaken detailed review of the WFD assessment.

CONCLUSIONS ON FLOOD RISK, DRAINAGE AND WATER ENVIRONMENT

Flood Risk

- 3.15.48. In light of the evidence from the Applicant and the views of the HLAs IDB's and the EA, the ExA are satisfied that the FRA [APP-084] appropriately assesses the risks for the construction and operation of the Proposed Development within a flood risk area in line with NPS EN-1 paragraph 5.7.4.
- 3.15.49. Whilst the Applicant's exploration of alternative sites was limited in scope to other WMA's in the area, the ExA recognises that the proposed EfW CHP Facility Site has a previous site allocation and a current local plan allocation as a WMA. This, along with the evidence set out in the FRA, satisfies us that the sequential and exception tests have been appropriately applied and met.
- 3.15.50. The ExA are also satisfied that the Applicant, through liaison with the EA and host authorities, has applied the sequential approach to locating development within the site, in line with paragraph 5.7.12 of NPS EN-1. Essential infrastructure located in Flood Zone 3a has been designed and constructed to remain operational and safe in times of flood and the ExA considers the Outline Flood Emergency Management Plan [REP1-019] secured in Requirement 13 of the dDCO to be in line with Paragraph 5.7.25 of NPS EN-1.
- 3.15.51. The Proposed Development includes the use of SuDS in line with Paragraph 5.7.9 of NPS EN-1.
- 3.15.52. SoCG with host authorities, EA, IDB's demonstrate that parties are comfortable that flood risk issues have been appropriately considered and mitigation secured through the draft DCO and supporting documents. Therefore, the ExA are satisfied that the flood risk elements of the Proposed Development have been appropriately considered and mitigated, in accordance with the tests in NPS EN-1 and NPS EN-5.
- 3.15.53. The ExA agrees with the EA that the applicant has appropriately assessed the impacts of climate change within the FRA (section 4.3.2 – 4.3.5) in line with the NPS EN-5 Section 2.4.

Water resources

- 3.15.54. The ExA are satisfied that through continuing engagement between the Applicant and Anglian Water, that water supply issues for the Proposed Development are likely to be addressed.

Water Framework Directive

- 3.15.55. The Applicant and the EA have confirmed that the Proposed Development is not hydrologically connected to WFD waterbodies. The ExA are therefore satisfied that there are no implications for the WFD in line with Section 5.15 of NPS EN-1.

Water Quality

- 3.15.56. The SoCG with the EA [REP4-010] agrees that the content of the CEMP secured in draft DCO requirement 10 is appropriate for managing and mitigating any potential impacts of the Proposed Development. The ExA are satisfied that the Applicant has engaged with the EA from an early stage and that the EA is satisfied that potential releases can be adequately regulated in line with paragraph 4.10.7 of NPS EN-1 and that good pollution practice has been secured in line with paragraphs 5.15.7-10 of NPS EN-1.

Conclusion

- 3.15.57. The ExA considers that there should not be any significant adverse effects in relation to flood risk, drainage and water environment from the Proposed Development. The ExA concludes that the requirements in respect of flood risk, drainage and water environment set out in NPS EN-1 and EN-5 and dNPS EN-1 and EN-5 are met. Taking all matters into account, the ExA concludes that the effect would be neutral, and does not weigh for or against the order being made. The planning balance is considered in Chapter 5 of this report.

3.16. GEOLOGY, HYDROGEOLOGY AND CONTAMINATED LAND POLICY CONSIDERATIONS

- 3.16.1. This section includes consideration of groundwater and agricultural land.

National Policy

NPS EN-1

- 3.16.2. Paragraph 5.3.3-4 states that the Applicant should ensure that the ES sets out any effects on internationally, nationally and locally designated sites of geological conservation importance and show how the project has taken advantage of opportunities to conserve and enhance geological conservation interests.
- 3.16.3. Development should aim to avoid significant harm to geological conservation interests, including through mitigation and consideration of reasonable alternatives. Where significant harm cannot be avoided, then appropriate compensation measures should be sought. Appropriate weight should be attached to designated sites of international, national and local importance and geological interests within the wider environment (paragraphs 5.3.7-8).
- 3.16.4. The SoS should give due weight to sites of regional and local geological interest, however, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent (paragraph 5.3.13).
- 3.16.5. Paragraph 5.10.8 seeks to minimise impacts on the best and most versatile (BMV) agricultural land and on soil quality. For developments on previously developed

land, applicants should ensure that they have considered the risk posed by land contamination.

3.16.6. Paragraph 5.10.15 states *“The SoS should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. It should give little weight to the loss of poorer quality agricultural land (in grades 3b, 4 and 5), except in areas (such as uplands) where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy.”*

3.16.7. Paragraph 5.15.3 states that the ES should describe any impacts of the proposed project on water bodies or protected areas under the Water Framework Directive (WFD) and source protection zones around potable groundwater abstractions.

NPS EN-5

3.16.8. Paragraph 2.2.6 notes the general duty at Schedule 9 to the Electricity Act 1989 that proposals for new electricity infrastructure should *“have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest...”*. In addition, EN-5 paragraph 2.8.9 requires consideration of underground electricity network development effects on soil, geology and agricultural land.

3.16.9. dNPS EN-1 and dNPS EN-5 contain similar policies to NPS EN-1 and NPS EN-5. Paragraph 5.4.38 of dNPS EN-1 states *“To further minimise any adverse impacts on geodiversity, where appropriate applicants are encouraged to produce and implement a Geodiversity Management Strategy to preserve and enhance access to geological interest features, as part of relevant development proposals.”*

3.16.10. NPPF Paragraph 183 aims to *“ensure that sites are suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.”*

Local Policy

3.16.11. Cambridgeshire and Peterborough Minerals and Waste Local Plan 2036 (2021) Policy 20 includes the requirement to protect geodiversity, avoiding development on sites of international or national importance. Development on Local Geological Sites will only be permitted where the need and benefits of the development clearly outweigh the loss.

3.16.12. Policy 24 states that: *“waste development which adversely affects agricultural land categorised as ‘best and most versatile’ will only be permitted where it can be shown that:(a) it incorporates proposals for the sustainable use of soils (whether that be off-site or as part of an agreed restoration scheme); and (b) (for non-allocated sites) there is a need for the development and an absence of suitable alternative sites using lower grade land has been demonstrated.”*

3.16.13. BCKLWN Site Allocations and Development Management Policies Plan Policy DM 15 (Environment, Design and Amenity) states proposals will be assessed against a number of factors including their impacts on water quality and contamination.

- 3.16.14. In addition, Policy DM3 (Groundwater and surface water) seeks to protect ground and surface water quality and resources and required a hydrological/hydrogeological risk assessment to be submitted.
- 3.16.15. Norfolk CC Minerals and Waste Development Framework (2011) Policy CS14 (Environmental Protection) seeks to ensure the protection and enhancement of Norfolk's natural environment and that new development does not give rise to any unacceptable adverse impacts to natural resources including water.

THE APPLICATION

- 3.16.16. Chapter 13 of the ES [APP-040] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to Geology, Hydrogeology and Contaminated Land including soils and agricultural land, geology and geodiversity, hydrogeology, and land contamination.
- 3.16.17. For geology, soils and agricultural land assessment, the Study Area is defined as the Order limits for all elements of the Proposed Development and a desk study provided baseline information for these receptors. For hydrogeology and land contamination the zone of influence extends beyond the Order limits with a 250m zone of influence. Baseline information was acquired through completion of phase 1 geoenvironmental desk studies for all areas of the Proposed Development, and a Phase 2 intrusive ground investigation of the EfW CHP Facility Site as it existed at the time of survey.
- 3.16.18. The Grid Connection was treated as a distinct Study Area from the other components of the Proposed Development due to its linear shape, and the type of development proposed and a 250m zone of influence was applied to this area.
- 3.16.19. The ES states that there are no international or national geodiversity sites located within the Proposed Development and no Regionally Important Geological and Geomorphological Sites or Locally Important Geological Sites.
- 3.16.20. With regards to the impact of the Proposed Development on agricultural land, the Applicant notes that the grid connection is located predominantly within the road verge of the A47 and therefore avoids the Grade 1 ALC land surrounding. Impacts on agricultural land were scoped out for the grid connection.
- 3.16.21. The EfW CHP Facility Site includes an area of land in the south-east, covering approximately 0.77 ha which was mapped as being provisional ALC Grade 2. The southern half of this land comprises a hedged area where there is evidence in 1999 aerial photography of disturbed ground, and the Applicant notes that this unknown previous use of the land may have resulted in a deterioration in the soil quality. In addition, The TCC would be located on land currently mapped as being provisional ALC Grade 2. This land covers an area of approximately 1.6 hectares. This area is noted to be allocated for urban extension in Fenland Local Plan (2014), Policy LP8.
- 3.16.22. The Water Connections potable connection is partially located on land at the south-western edge of an agricultural field (orchard) covering an area of approximately 0.16 hectares. As the land is at the edge of the field, the Applicant notes that there are vehicle tracks and bare soil visible in 2021 aerial photography and the soil in this area is likely to have undergone some deterioration as a result of compaction by vehicles. This area is also noted to be allocated as urban extension in Fenland Local Plan (2014), Policy LP8.

- 3.16.23. In terms of hydrogeology, there are no groundwater Source Protection Zones (SPZ) present. Based on the low groundwater sensitivity it was agreed that hydrogeological impacts could be scoped out for the EfW CHP Facility Site and the same low hydrogeological sensitivity applies to the Access Improvements, CHP Connection, TCC and Water Connections. Hydrogeological impacts were, therefore, scoped out for these components of the Proposed Development and were not assessed further in the EIA.
- 3.16.24. The Proposed Development is not hydrologically connected with any WFD waterbodies; however, the Applicant states that the assessment has taken into account potential impacts on current and future water quality and hydromorphology in a way which mirrors WFD approaches.
- 3.16.25. Further Phase 2 ground investigation would be completed, based on the findings of the Phase 1 Geo-environmental desk study and Phase 2 intrusive ground investigation of the EfW CHP Facility Site, and in accordance with the UK Government's LCRM guidance, to target identified potential sources of contamination in areas of the Proposed Development not previously subject to ground investigation (Access Improvements, CHP Connection, TCC and Water Connections). This would be completed prior to construction of the Proposed Development.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.16.26. In the signed SoCG between Medworth CHP and Cambs CC and Fenland DC [REP8-011] it is agreed that the assessment as set out in Chapter 13 of the ES and embedded environmental measures is appropriate. The joint LIR for Cambs CC and Fenland DC [REP1-074] does not raise any issues in relation to geology, hydrogeology or contaminated land. Furthermore, Norfolk CC and BCKLWN LIR [REP1-064] state that Norfolk CC does not have any concerns in relation to any impacts on geology, hydrogeology and contaminated land. The BCKLWN state that based on the information provided, and providing the environmental measures, including further investigation are followed, the BCKLWN consider that the risks should be acceptable within Norfolk.
- 3.16.27. In the SoCG between the Applicant and the EA [REP4-010], the EA agrees with the Applicant that the Proposed Development is not hydrologically connected to WFD waterbodies, and as such the EA has not undertaken detailed review of the WFD assessment.

CONCLUSIONS ON GEOLOGY, HYDROGEOLOGY AND CONTAMINATED LAND

- 3.16.28. There are no internationally, nationally or locally designated sites of geological importance on the Proposed Development site.
- 3.16.29. The ExA are satisfied with the suitability of the Applicants assessment methodology and that the Applicant has carried out an appropriate investigation of potential effects on sites of geological conservation importance and has considered the risk posed by land contamination in line with NPS EN-1 (paragraphs 5.3.3-4 and 5.3.7-8).
- 3.16.30. The Applicant has considered the risk posed by land contamination in line with NPS EN-1 paragraph 5.10.8. The ExA are satisfied that prior to the construction of the

Proposed Development, further Phase 2 ground investigation, assessment reporting and remedial measures, in consultation with the Environment Agency (EA) would be completed. This is secured through draft DCO Requirement 9.

- 3.16.31. The Proposed Development would not impact water bodies or protected areas under the WFD or source protection zones around potable groundwater abstractions in line with NPS EN-1 paragraph 5.15.3. The Applicant and the EA have confirmed that the Proposed Development is not hydrologically connected to WFD waterbodies. The ExA are therefore satisfied that there are no implications for the WFD in line with Section 5.15 of NPS EN-1.
- 3.16.32. The Proposed Development would result in the loss of an area of 0.77 hectares of ALC Grade 2 land for the duration of the EFW CHP facility and approximately 0.16 hectares for the water connection. These areas of land are relatively small in scale and both areas of land appear to have experienced some disturbance to the soils or compaction which may have impacted soil quality. In addition, the TCC would result in the temporary loss of 1.6 hectares. This would be for a temporary period during the construction phase. The ExA notes that the TCC land and the land for the water connection are allocated for an urban extension in the Fenland Local Plan (2014).
- 3.16.33. The ExA considers that the Applicant has sought to minimise the impacts on BMV agricultural land in line with NPS EN-1 paragraph 5.10.15. Nevertheless, the Proposed Development would result in loss of BMV agricultural land. This matter carries little weight against the order being made.
- 3.16.34. The ExA concludes that there should not be any significant adverse effects in relation to geology, hydrogeology, and contaminated land from the Proposed Development. Taking all matters into account, the ExA considers the effects would be neutral and do not weigh for or against the order being made.

3.17. SOCIO-ECONOMIC AND POPULATION EFFECTS POLICY CONSIDERATIONS

National Policy

- 3.17.1. NPS EN-1 states that the assessment should consider all relevant socio-economic impacts, including: job creation and training; local service provision and improvements to local infrastructure; education facilities; effects on tourism and cumulative effects. This may also include the impact of a changing influx of workers during the different phases of the development (paragraphs 5.12.1 – 5.12.3). Socio-economic impacts may be linked to other impacts, for example the visual impact of a development is considered but may also have an impact on tourism and local businesses (paragraph 5.12.5).
- 3.17.2. The SoS should have regard to potential socio-economic impacts of new energy infrastructure. The SoS may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out the NPS). The SoS should consider whether mitigation measures are necessary and consider any positive provisions to mitigate impacts and any legacy benefits that may arise (paragraphs 5.12.6-9).

3.17.3. dNPS EN-1 adds:

- The Applicant's assessment should consider all relevant socio-economic impacts which may include: job creation and training opportunities; contribution to the development of low-carbon industries; provision of additional local services and improvements to local infrastructure; indirect beneficial impacts such as local support services and supply chains; tourism; changing influx of workers; and cumulative effects (paragraph 5.13.4).
- The SoS may wish to include a requirement that specifies the approval by the local authority of an employment and skills plan (paragraph 5.13.12);
- Applicants are encouraged, where possible, to demonstrate that local suppliers have been considered in any supply chain (paragraph 5.13.6); and
- Applicants should consider developing accommodation strategies where appropriate, especially during construction and decommissioning phases, that would include the need to provide temporary accommodation for construction workers if required (paragraph 5.13.7).

National Planning Policy Framework

3.17.4. Section 6 seeks to ensure that planning decisions help to create a strong and competitive economy and paragraph 81 places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Local Policy

3.17.5. Whilst there are no specific policies in the Cambridgeshire and Peterborough Minerals and Waste Local Plan addressing socio-economics, Objective 6 of the Plan is to "*Support sustainable economic growth and the delivery of opportunities,*" and it seeks to achieve this through the enabling of adequate waste management and minerals development.

3.17.6. The Fenland Local Plan (2014) Policy LP6 seeks to maximise opportunities for new job growth in the District with the aim of achieving 7200 net additional jobs over the period 2011-2031. Policy LP8 highlights that Wisbech, alongside March, is the main focus for housing, employment and retail growth. All development should contribute to the promotion of Wisbech into a strong, safe and community focused market town, preserving and enhancing its unique character and making appropriate use of its heritage assets to benefit its regeneration, tourism potential and sense of place.

3.17.7. BCKLWN Local Development Framework Core Strategy (2011) Policy CS10 recognises that tourism plays a significant role in the local economy. BCKLWN Site Allocations and Development Management Policies (2016) Policy DM 20 states that applications will be assessed to determine whether the benefits in terms of energy generated are outweighed by the impacts with reference to, for example, tourism and other economic activity.

THE APPLICATION

3.17.8. Chapter 15 of the ES [APP-042] presents the environmental assessment of the likely significant effects of the Proposed Development with respect to socio-economics, tourism, recreation and land use.

- 3.17.9. Receptors are identified based on a consideration of baseline conditions, policy, response to scoping and the scale and magnitude of the development as proposed. These include:
- Economic, including direct and indirect employment, local supply chain;
 - People seeking education and skills, including apprenticeships;
 - Providers and occupiers/users of housing and local facilities;
 - Tourists and those partaking in recreation (Grid Connection and indirect only); and
 - Owners and users of land uses, including the Belgrave Retail Park.
- 3.17.10. Direct effects on tourism and recreation were scoped out of the assessment and effects on the amenity of local residents and the local community due to traffic, noise, air quality, visual impacts, health and cumulative effects are assessed in their own ES chapters respectively.

Economy and Employment

- 3.17.11. A spend of £450 million is anticipated during construction, though the Applicant notes that not all of this money may be spent in the UK. Overall, the economic effect at the local, district and county level during construction is assessed as not significant.
- 3.17.12. The Proposed Development is expected to support around 700 direct construction jobs with up to a maximum of 500 workers on site at any one time. In total, the construction would run for an estimated build period of 36 months. Levels of employment would ebb and flow over this time to reflect the skill requirements of the various stages of the build programme, so the proportion of staff employed across the whole construction lifecycle is considered by the Applicant to be small.
- 3.17.13. In terms of direct employment during construction, given the range of jobs available and the Applicant's commitment to improving skills and encouraging the take up of local jobs in the local area, the Applicant considers this to be significant at both the local and district level. At Cambridgeshire and Norfolk County level, employment would represent less than 1.5% of current construction jobs across both counties and would not result in a significant economic effect.
- 3.17.14. In addition, in terms of both indirect employment and use of local suppliers, the Applicant considers that businesses in the local and wider study area would benefit from supply chain linkages and trade connections established during the construction phase. As with direct employment, these are considered to be significant at both the local and district level, and not significant at the county level. During operation, the Applicant considers that the local supply chain would remain important, but that the beneficial effect would be not significant.
- 3.17.15. During operation 40 full time equivalent permanent jobs would be created as a result of the Proposed Development. The Applicant intends that the majority of these jobs would be filled locally, subject to any skills and training requirements. Furthermore, the Applicant estimates a further 24 indirect jobs at the local level and 32 at the County Level. This employment effect is considered not significant.

Education and skills, including apprenticeships

- 3.17.16. The Outline Employment and Skills Strategy [APP-099] commits the Applicant to work with key stakeholders to support the delivery of the existing skills plans and strategies. The number of apprenticeships, experience and skills development offered by contractors during construction and operation is unknown. Therefore, whilst recognising their commitment to supporting education and skills, including apprenticeships, the Applicant considers that beneficial economic effects would be not significant.

Housing market, local facilities and education facilities

- 3.17.17. With around 700 temporary construction jobs required for construction and a maximum of around 500 workers on site at any one time, the Applicant recognises that there could be temporary pressures on the local housing market during the construction phase and a potential demand for school places. However, due to the Applicant's proposed focus on the use of a local construction workforce and the fact that the construction workforce would ebb and flow in numbers throughout the construction period, the Applicant considers that the level of effects on the housing market, local facilities and education facilities during construction would be not significant.
- 3.17.18. However, the ExA notes that the Applicant has acquired 9 New Bridge Lane which has been lost to residential use until the Proposed Development has been decommissioned, as per Requirement 19 of the dDCO. As this represents the loss one residential unit, its overall impact on the local housing supply would be negligible.

Effects on local businesses

- 3.17.19. The Applicant recognises that disruption from construction activities have the potential to have a temporary adverse direct effect on local businesses in the surrounding area. An Outline CEMP [APP-103] provides an overview of measures to control the environmental effects of the construction including a Construction Code of Practice. The Applicant considers that these measures would help to mitigate any adverse effects (from traffic, dust, or noise) on local businesses from the construction of the Proposed Development.
- 3.17.20. In addition, the Applicant has prepared a Construction Traffic Management Plan (CTMP) [REP1-011], which sets out the measures to mitigate the effects arising from construction traffic.
- 3.17.21. Traffic effects during construction and operation are assessed in Chapter 6 of the ES [APP-033] and the Applicant has prepared an Outline Operational Travel Plan [APP-074] which sets out measures to ensure that HGVs are properly routed to the site and to encourage employees to consider sustainable modes of transport to work.
- 3.17.22. Chapter 7 of the ES [APP-034] Noise and Vibration and Chapter 8 Air Quality [APP-035] conclude with regard to local businesses that there would be no potentially significant effects.
- 3.17.23. The Applicant considers the effects on local businesses during construction and operation would be not significant.

Tourism

- 3.17.24. The landscape and visual assessment concludes that recreational visual receptors visiting tourism destinations would not experience significant visual effects [APP-079 Appendix 9J]. Chapter 10 of the ES [APP-037] has considered the construction and operational effects on several heritage assets. Of those accessible to the public which have a tourism or recreational role, visitors would have limited visibility of the Proposed Development and their settings would not be compromised.
- 3.17.25. The Applicant considers that each tourism Receptor has a particular offer which it trades upon, a brewery, a Victorian garden or historic Georgian town. Visitors are attracted by these features and consequently, the Applicant considers that they are unlikely to be dissuaded from visiting by the Proposed Development.
- 3.17.26. It is concluded that there would not be any significant tourism or recreation effects on the relevant receptors.

ISSUES CONSIDERED DURING THE EXAMINATION

Economy and Employment

- 3.17.27. Cambs CC and Fenland DC Local Impact Report (LIR) [REP1-074] accepts that the construction phase would potentially bring some employment opportunities for local people and that local businesses would benefit from additional trade. They welcome the commitment to use local labour and suppliers. Nonetheless, they note that the potential benefits to the local economy are uncertain.
- 3.17.28. In terms of the operational phase, the LIR recognises that the Proposed Development would result in some long-term employment opportunities locally. The stated commitment to source local labour and train and develop the workforce is welcomed. Notwithstanding this, they regard the scale of these potential benefits to be uncertain and modest.

Housing market, local facilities and education facilities

- 3.17.29. During SWQ the ExA questioned the Applicant (SPC.2.1 and SPC.2.2) [REP5-032] with regards to demand for accommodation from temporary workers and capacity in tourism accommodation. The Applicant's response [REP5-032], considers that by maximising the use of local labour, the need for temporary accommodation could be minimised. Furthermore, the Applicant considers that occupancy percentages for accommodation of 52% in March 2023 at the East of England Regional Level (Visit England, England Occupancy Survey March 2023 Results) indicate that capacity in tourism accommodation should not be affected significantly.

Effects on local businesses

- 3.17.30. Several local businesses, most notably from the surrounding industrial estate and Algores Way including Ms Helen Pentelow [REP1-079]; Hair World UK Limited [REP1-078]; Hutchinson Group Limited [REP2-051]; and Optimum Packaging Limited [REP2-057] raised concerns throughout the Examination in relation to how the Proposed Development would impact upon the ability for their businesses to function. Concerns include effects relating to air quality, health, noise, traffic, and general disruption.

- 3.17.31. Cambs CC and Fenland DC outlined concerns in relation to the disruption and inconvenience that the construction phase would bring to the local area throughout the Examination, including in their LIR [REP1-074], final position statement [REP8-026] and signed Statement of Common Ground (SoCG) [REP8-011].
- 3.17.32. The Councils shared concerns with regards to the impact on local businesses, particularly those on Algores Way, due to increased traffic, noise, vibration, and dust. They consider that this may impact their ability to operate as normal and may impact negatively on their business expansion plans. Furthermore, the Councils consider that there would be perceived economic harm due to disruption to the local road network affecting existing businesses which would also discourage new businesses from the area.
- 3.17.33. The Councils also echo the concerns from local food businesses close to the site, including Mr Oliver Mackle [REP1-090], that noise and air quality impacts would affect their ability to meet the required health and safety standards for their industry.

Tourism

- 3.17.34. Mr Philip Brown's Written Representation (WR) considers that building an incinerator in Wisbech would negatively impact the town's tourism industry. He states that Wisbech is a beautiful and historic town with a vibrant local community, and many people visit the area to enjoy its natural beauty and cultural attractions. He considers that an incinerator would likely deter visitors and would harm the local economy.
- 3.17.35. In their LIR [REP1-074] and SoCG [REP8-011] Cambs CC and Fenland DC consider that the presence of the Proposed Development would represent a detractor for visitors to the town. They note that *"although there may only be glimpsed views of the highest parts of the facility from the town centre, it will be highly visible from every entrance route into Wisbech. Visitors will be aware of the presence, which could, to an extent, detract from their enjoyment of the Georgian character of the central area."*
- 3.17.36. The Applicant's response [REP2-020] highlights that consideration of the potential for the Proposed Development to detract, indirectly from tourism within the study area, is provided within ES Chapter 15 [APP-042]. This considers the potential for effects upon the visitor experience at attractions in the town and concludes that those historic attractions which have a visitor or tourist role: Elgoods Brewery; the Wisbech Conservation Area; and Peckover House Grade II Registered Park and Garden have a particular tourism or recreational offer which is not likely to be affected by the Proposed Development. The Applicant states that effects are considered to be not significant.

CONCLUSIONS ON SOCIO-ECONOMIC AND POPULATION EFFECTS

- 3.17.37. The ExA considers that the Applicant has properly considered the relevant socio-economic impacts and has demonstrated that the Proposed Development would be consistent with EN-1 paragraphs 5.12.1-5.12.3.

Economy and Employment

Construction phase

- 3.17.38. The Proposed Development is expected to support around 700 direct construction jobs and at a local and district level, businesses would benefit from local supply chain linkages during the construction phase (in accordance with dNPS EN-1 paragraph 5.13.6).
- 3.17.39. A spend of £450 million is anticipated during construction, though it is unclear how much of this money may be spent in the UK. Overall, the Applicant has assessed the economic effect at the local, district and county level during construction as not significant.
- 3.17.40. The ExA considers that economic and employment benefits during construction carries moderate weight in favour of the order being made.

Operational phase

- 3.17.41. During operation the Proposed Development would create 40 full time equivalent permanent jobs and 24 indirect jobs at a local level and 32 at the County level are estimated. During operation, the local supply chain would remain important, but the beneficial effect would not be significant. The ExA therefore considers that economic and employment benefits during operation carries little weight for or against the order being made.

Education and skills, including apprenticeships

- 3.17.42. The Outline Employment and Skills Strategy [APP-099], secured under draft DCO requirement 21, accords with dNPS EN-1 (paragraph 5.13.12) and commits the Applicant to work with key stakeholders. Nevertheless, the number of apprenticeships, experience and skills development offered by contractors during construction and operation is unknown. Therefore, this matter carries little weight for or against the order being made.

Housing market, local facilities and education facilities

- 3.17.43. From the evidence provided, the ExA are satisfied that the effects on the housing market, tourism accommodation, local facilities and education facilities during construction would be not significant. This matter carries little weight for or against the order being made.

Effects on local businesses

- 3.17.44. The ExA notes the concerns from Cambs CC and Fenland DC and local businesses in relation to disruption and inconvenience during construction. The Outline CEMP, CTMP and Operational Travel Plan, secured through the draft DCO, would set out measures to ensure that traffic is appropriately routed and that adverse effects (from traffic, dust or noise) are mitigated during the construction phase.
- 3.17.45. Effects from noise and vibration, air quality and human health are considered in Sections 3.14, 3.11 and 3.12 of this report where the ExA considers that there should not be any significant adverse effects from the Proposed Development.
- 3.17.46. The ExA therefore considers that this matter carries little weight for or against the order being made.

Tourism

- 3.17.47. The ExA recognises that socio-economic impacts may be linked to other impacts, for example the visual impact of a development may also have an impact on tourism (NPS EN-1 paragraph 5.12.5).
- 3.17.48. Whilst the Proposed Development would be highly visible from the entrance routes into Wisbech, there is no evidence to demonstrate that this would detract from visitors enjoyment of the Georgian character of the central area of the town, or dissuade people from visiting the town and its various visitor attractions.
- 3.17.49. This matter carries little weight for or against the order being made.

Conclusion

- 3.17.50. The ExA concludes that there should not be any significant adverse effects in relation to socio-economic and population effects from the Proposed Development.
- 3.17.51. The economic and employment benefits during construction carries moderate weight in favour of the order being made and the ExA considers all other socio-economic effects would be neutral, and do not weigh for or against the order being made. The planning balance is considered in Chapter 5 of this report.

3.18. MAJOR ACCIDENTS AND DAMAGE

- 3.18.1. This section considers major accidents and disasters, safety and hazardous substances in relation to the Proposed Development.

POLICY CONSIDERATIONS

National Policy

NPS EN-1

- 3.18.2. Paragraphs 4.11.1 to 4.11.3 cover safety and state that The Health and Safety Executive (HSE) should be consulted on all safety related matters. Energy infrastructure projects may be required to meet the Control of Major Accident Hazards Regulations 2015 and in such instances, the Applicant should consult with the competent authority.
- 3.18.3. Paragraphs 4.12.1 to 4.12.3 cover hazardous substances and state that Hazardous Substances Consent should be sought by all applications proposing to hold hazardous substances above the relevant thresholds. This could be included in the application for a DCO.
- 3.18.4. Paragraph 4.11.4 states that the SoS needs to be satisfied that where required, an assessment has been done of whether the inherent features of the design are sufficient to prevent, control and mitigate major accidents.
- 3.18.5. Paragraph 4.13.3 recognises that hazardous waste and substances can have direct impacts on health, and paragraph 4.13.2 states that the ES should assess these effects and identify measures to avoid, reduce or compensate for these impacts as appropriate.

- 3.18.6. Paragraph 5.4.14 states that the SoS should be satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence assets have been addressed by the applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out.

EN-3

- 3.18.7. Paragraph 2.5.83 states that the management of hazardous waste will be considered by the EA through the environmental permitting regime.

Local Policy

- 3.18.8. Cambridgeshire and Peterborough Minerals and Waste Local Plan Policy 18: Amenity considerations states that *'New development must not result in unacceptable adverse impacts on the amenity of existing occupiers of any land or property, including: (a) risk of harm to human health or safety;...'*

THE APPLICATION

- 3.18.9. Chapter 17 of the ES [APP-044] presents a description of the potential major accidents and disasters and the embedded environmental measures, and detail on how they would be secured in the DCO to ensure that there would be no significant effects arising from major accidents and disasters associated with the Proposed Development.
- 3.18.10. The Scoping Report sets out the potential major accidents and disasters which may be relevant to the Proposed Development, and determined there would not be any significant effects arising from major accidents and disasters. In its Scoping Opinion, the Planning Inspectorate stated that 'The Inspectorate agrees that the measures described in the Scoping Report can be sufficient in addressing any likely significant effects.' This position was clarified at a meeting with PINS on 04 June 2021 at which it was confirmed that the topic could be scoped out.
- 3.18.11. As a result, no further assessment of effects has been undertaken for the ES which, instead, seeks to address specific detailed comments raised in relation to the securing of embedded environmental measures and minor points relating to the methodology used in the assessment applied for scoping.
- 3.18.12. HSE were consulted on the Proposed Development during Statutory Consultation and confirmed that it would not advise against the DCO Application. Further detail is provided in the Consultation Report (Volume 5.1) [APP018].
- 3.18.13. Chapter 17 [APP-044] confirms that the Proposed Development does not fall under the Control of Major Accident Hazards Regulations 2015 and, further, that it would not require Hazardous Substances Consent due to the low inventories of any hazardous substances which may be stored or used at the EfW CHP Facility.
- 3.18.14. HSE has additionally confirmed that the EfW CHP Facility Site is outside the consultation distances for any sites with Hazardous Substances Consent or Major Accident Hazard Pipelines. This means that it is extremely unlikely that an accident on one of these sites could lead to a major accident at the EfW CHP Facility.
- 3.18.15. The Grid Connection crosses or is in close proximity to, several gas pipelines. However, in the major accidents and disasters assessment presented in Chapter 17

[APP-044], the Applicant considers that any impacts during construction or operation would be suitably managed in conjunction with the pipeline operator, to ensure they are not significant.

- 3.18.16. With regards to civil and military aviation and defence interests, the Applicant consulted with the Ministry of Defence (MoD), Civil Aviation Authority (CAA), NATS and relevant aerodromes.
- 3.18.17. The MOD responded at Scoping and was reconsulted via email on 5 May 2021 when it confirmed its agreement to a DCO requirement for a static infra-red light to be placed on both chimneys and for the Applicant to provide the MOD with specific details regarding the Proposed Development (see Table 3A.2 in ES Chapter 3: Description of the Proposed Development Appendix 3A Consultation and stakeholder engagement (Volume 6.4) [APP-070].
- 3.18.18. NATS responded to the Applicant's scoping request to state that the Proposed Development does not conflict with its safeguarding criteria and that it had no objection to the proposal. This was confirmed within its S42 response to statutory consultation via an email dated 06 July 2021. The CAA was consulted at ES Scoping and at non-statutory and statutory consultation. No responses were received.

ISSUES CONSIDERED DURING EXAMINATION

- 3.18.19. The Joint Local Impact Report for Cambs CC and Fenland DC [REP1-074] endorses the proposal to develop a Flood Emergency Management Plan for the site, to be developed in cooperation with the Cambridgeshire and Peterborough Local Resilience Forum (CPLRF). It goes on to state that once completed, the operator should undertake training, testing and validation of the plan with partners to ensure that the arrangements are effective. The operator would be expected to put in place an appropriate programme to periodically review, amend and update the arrangements, including liaison and validation with the CPLRF.
- 3.18.20. The Applicants' response to [REP2-020] states that as set out in the Flood Risk Assessment [APP084], the Proposed Development would remain entirely dry during the design flood event (overtopping of the Nene flood defences plus climate change) but is at risk of flooding during a residual risk event (breach of the Nene flood defences plus climate change) and/or a particularly severe overtopping event in excess of the design flood. The Applicant has prepared an Outline Flood Emergency Management Plan [REP1-019] which is secured by draft DCO Requirement 13. The relevant planning authority would be responsible for discharging this requirement and the applicant anticipates consulting the CPLRF as part of the plan finalisation.
- 3.18.21. Norfolk CC and BCKLWN LIR [REP1-064] highlighted issues relating to the provision of fire hydrants at the proposed grid connection at the electricity substation site at Walsoken and the need for particular importance to be attributed to the flood plans for the construction and post-completion phases and for further coordination when emergency plans are being prepared.
- 3.18.22. The Applicants response [REP2-021] states that the substation would be subject to a fire risk assessment in line with the requirements of the Regulatory Reform (Fire Safety) Order 2005. The Applicant has prepared an Outline Flood Emergency Management Plan [REP1-019] and the draft DCO Requirement requires that the

final plan is submitted to the relevant planning authority for approval which would include NCC. The Applicant has also prepared an Outline Fire Prevention Plan [REP2-012], secured through draft DCO Requirement 17, to manage the risk of any fires at the EfW CHP Facility.

- 3.18.23. Ms Nicola Sutheran's WR [REP2-056] raises concerns in relation to the site suffering an explosion or fire, including not enough fire engine capacity, the closure of roads and the A47 causing gridlock and preventing emergency vehicles getting through.
- 3.18.24. The Applicant's response [REP3-040] clarifies that the Applicant has engaged with and developed a Statement of Common Ground [REP2-014] with the East of England Ambulance Service NHS Trust and Cambridgeshire and Peterborough Integrated Care System which confirms that all parties agree that no significant effects would occur. In addition, the Outline CTMP [REP6-010] includes the establishment of a liaison group which would provide advance warning of any planned operational changes that may have the potential to affect the free flow of traffic on the surrounding highway network.

CONCLUSIONS ON MAJOR ACCIDENTS AND DISASTERS

- 3.18.25. The Scoping Report determined that there would not be any significant effects arising from major accidents and disasters and accordingly this topic was scoped out of the ES.
- 3.18.26. The ExA are satisfied that the assessment methodology presented in ES Chapter 17 [APP-044] is suitable. Mitigation measures including the Outline Flood Emergency Management Plan [REP1-019] and the Outline Fire Prevention Plan [REP2-012], secured through draft DCO Requirements 13 and 17 are considered appropriate and the ExA are satisfied with the Applicant's responses to concerns raised by Interested Parties (IP) in relation to flood and fire emergency planning.
- 3.18.27. In line with NPS EN-1 Paragraph 5.4.14 the ExA are satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence assets have been addressed by the applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out.
- 3.18.28. The Applicant has consulted the HSE in line with Paragraphs 4.11.1 to 4.11.3 of NPS EN-1. The Proposed Development does not fall under the Control of Major Accident Hazards Regulations 2015 and would not require Hazardous Substances Consent due to the low inventories of any hazardous substances which may be stored or used at the EfW CHP Facility. HSE has additionally confirmed that the EfW CHP Facility Site is outside the consultation distances for any sites with Hazardous Substances Consent or Major Accident Hazard Pipelines.
- 3.18.29. The ExA are satisfied that the Proposed Development meets the requirements set out in EN-1 in relation to safety and hazardous substances and that there should not be any significant adverse effects from major accidents and disasters.
- 3.18.30. Taking all matters into account, the ExA concludes that major accidents and disasters effects would be neutral, and do not weigh for or against the order being made. The planning balance is considered in Chapter 5 of this report.

3.19. CUMULATIVE EFFECTS

POLICY CONSIDERATIONS

- 3.19.1. The EIA Regulations require an ES to include a description of the likely significant effects of the development on the environment resulting from the cumulation of effects with other existing and/or approved projects. Furthermore, NPS EN-1 advises that the SoS should take into account, amongst other things, any long term and cumulative adverse impacts. It requires applications to include information on how the effects of the proposal would combine and interact with the effects of other development. Similar advice can be found in the emerging dNPS EN-1.

THE APPLICATION

- 3.19.2. Two types of cumulative effects assessment have been considered in the ES Chapter 18: Cumulative Effects Assessment [APP-045]:
- Inter-project effects are those effects resulting from the Proposed Development combining with the same topic-related effects generated by other developments to affect a common receptor;
 - Inter-related effects consider individual environmental topic effects resulting from the Proposed Development, which are not significant in their own right, but could combine with other environmental topic effects from the Proposed Development to create effects that are significant.
- 3.19.3. ES Chapter 18: Cumulative Effects Assessment [APP-045] also explains the approach to addressing such matters. Paragraph 18.1.4 ES Chapter 18 [APP-045] the Applicant states that the methodology used was presented to relevant local planning authorities and other interested parties within the Preliminary Environmental Impact Report (PEIR) and that the list was then finalised and confirmation sought in a technical note to the relevant local authorities dated 14 February 2022.

Inter-related effects

- 3.19.4. Table 18.8 of ES Chapter 18: Cumulative Effects Assessment [APP-045] sets out the overview of potential inter-related effects and *Table 18.10 - Common Receptors and the significant of identified effects* summarises the effects of different topics on the same receptor and indicates the presence of likely cumulative significant effects, during the construction and operational phases.
- 3.19.5. The Applicant's reasoning for its assessment in relation to inter-related effects on the same receptor is set out in paragraphs 18.7.3 to 18.7.7. The applicant has found that no significant cumulative effects would be predicted for any of the Receptors identified. Consequently, no additional mitigation measures, above those already identified within ES Chapter 6 to ES Chapter 17 were proposed to further reduce the effects identified in this ES Chapter 8 Cumulative Effects Assessment [APP-045].

Inter-project effects

- 3.19.6. Table 18.9 sets out the short-listed projects for Cumulative Effects Assessment which were assessed. The methodology used for the creation of the short list is set in Section 18.4 ES Chapter 18 [APP-045] and Appendix 18A Long List and Short List of Other Developments [APP-090] sets out the long list and the short list of

other development and Figure 18.2 Location of short list developments (Volume 6.3) maps out the location of the other developments considered.

- 3.19.7. As set in paragraph 18.6.4, the Applicant has carried out a review of the developments in the short list and only those relevant effects of the respective ten schemes that the Applicant has identified as having the potential to result in likely significant cumulative effects together with the Proposed Development have been taken forward for further consideration in the assessment for each technical topic.
- 3.19.8. The detailed Topic by Topic Assessment of Cumulative Effects is set out in section 18.8 of ES Chapter 18: Cumulative Effects Assessment [APP-045]. In conclusion, having carried out its analysis of the potential effects of the Proposed Development in conjunction with the committed developments identified, the Applicant has found, as stated in paragraph 18.9.6 that, in all cases, whilst the developments/proposals themselves might give rise to significant effects the likely cumulative effects with the Proposed Development were found to be not significant.

ISSUES CONSIDERED DURING THE EXAMINATION

- 3.19.9. Key issues for the ExA on Cumulative Effects were linked to the methodology for the assessment and its overall conclusions in relation to the cumulative effects of the Proposed Development on certain Receptors, mainly 10 New Bridge Lane, PRoW and also businesses located in close proximity to the EfW CHP Facility.
- 3.19.10. These issues were explored in written questions and also at ISH7 [EV-062]. Question ExQ1 SPC.1.2 [PD-008] asked for confirmation, from the HLAs and SUs, of agreement in relation to the Applicant's long and short list of developments considered for the purpose of the assessment of cumulative effects as included in Appendix 18A of the Cumulative Effects Assessment Appendices [APP-090]. The BCKLWN in [REP2-072], Cambs CC and Fenland DC in [REP2-030] and Norfolk CC in [REP2-040], all in response to ExQ1 SPC.1.2, provided a list of additional developments for consideration as part of the Applicant's assessment of cumulative effects.
- 3.19.11. In [REP3-041] the Applicant responded to the lists of additional developments provided by BCKLWN, Cambs CC, Fenland DC and Norfolk CC. In relation to the submission made by BCKLWN, the Applicant stated that of the list submitted, only 4 applications were current prior to the submission of the DCO and that all other were either already considered or submitted subsequently from the DCO, and therefore do not form part of the Applicant's assessment. The Applicant then goes on to assess the additional 4 application suggested by BCKLWN but finds that significant effects are not predicted, that the relevant application already form part of the baseline or that it is outside of the Zone of Influence.
- 3.19.12. In relation to the list provided by Cambs CC and Fenland DC in [REP2-030] the Applicant responded in [REP3-041], that the additional applications were either already considered as part of the baseline, already included in the Applicant's assessment or that due to their scale are not likely to give rise to significant effects that in combination with the Proposed Development would be cumulatively significant.
- 3.19.13. In relation to the list provided by Norfolk CC in [REP2-040], the Applicant responded in [REP3-041], that the additional applications were all located outside of the Zone

of Influence and therefore not likely to give rise to significant effects that in combination with the Proposed Development would be cumulatively significant.

- 3.19.14. ExQ1 SPC.1.5 [PD-008] asked for further detail from the Applicant on its conclusions in relation to the cumulative effects of the Proposed Development on several receptors, namely: Potty Plants, The Chalet New Drove, Peckover House, Wisbech Town Centre Conservation Area and River Nene County Wildlife Site; which were all identified as having two or more 'Not Significant' effects which cumulatively have the potential to be significant. In its response to the ExA's Written Questions [REP2-019], the Applicant stated that, based on professional judgement, in the case of the Receptors identified, it did conclude that the measures embedded to address individual 'not significant' effects would also prevent significant cumulative effects from occurring.
- 3.19.15. In light of the EfW CHP Facilities proximity to several education facilities, ExQ1 SPC.1.7 [PD-008] asked the Applicant for further explanation of how it has considered cumulative effects, particularly in the context of young people. In the Applicant's response to the ExA's Written Questions [REP2-019], in relation to ExQ1 SPC.1.7, the Applicant stated that the ES does not commonly consider young people or indeed any age cohort as a distinct Receptor group, with the exception of the Human Health Risk Assessment in ES Appendix 8B: Air Quality Technical Report, Annex G [REP2-006/007]. [REP2-006/007] states, in para 3.1.5 that children are important because they tend to ingest soil and dust directly and have lower body weights such that the effect of the same dose is greater in the child than the adult. The assessment assesses the potential effects upon children, adults and children and adults (farmers) across each of the emissions modelled and concludes that exposure would not be significant.
- 3.19.16. The ExA, at ISH7 [EV-062], asked the Applicant a series of questions regarding its approach to cumulative effects and asked for the Applicant to explain in further detail how the assessment was carried out, particularly in relation to inter-related effects and inter-project effects.
- 3.19.17. As set out in the Applicant's Written Summary of the Applicant's Oral Submissions at ISH7 [REP6-025], the Applicant explained the methodology used for the assessment of Cumulative Effects. The ExA asked further questions to the Applicant in relation to its overall conclusions regarding cumulative effects, including its reasoning for the overall assessment of cumulative effects for 10 New Bridge Lane. The Applicant clarified, in [REP6-025], that although it recognised that some significant effects remained unmitigated, the cumulative effects overall would still be considered to remain not significant. The Applicant also noted that this assessment is a matter of professional judgement and that there is no specific methodology or published guidance on this matter and that it was important to consider cumulative effects as another level of assessment in the context of all other effects as, otherwise, it would be double counting.
- 3.19.18. Following from this intervention, the ExA asked the Applicant to provide the Examination with a further written submission where more detailed information regarding the process of assessment of cumulative effects, explaining the Applicant's conclusion that the inter-related cumulative effects upon the occupiers of Nos. 9 and 10 New Bridge Lane and to users of certain PRowS would not be significant. This was submitted as Appendix B of [REP6-025].

- 3.19.19. At ISH7, the Applicant also confirmed, as set in Written Summary of the Applicant's Oral Submissions at ISH7 [REP6-025] that, the potential for significant cumulative effects upon 9 New Bridge Lane arising from noise and visual impacts are addressed by the Applicant not putting this identified Receptor back in as a residential property throughout the lifetime of the Proposed Development. This is secured through Requirement 19(1) of Schedule 2 of the DCO which requires its residential use to cease prior to the commencement of construction and Requirement 19(2) which provides that it cannot be used for residential purposes until the Proposed Development is decommissioned.

Cambs CC and Fenland DC

- 3.19.20. At ISH7 [EV-062], Cambs CC and Fenland DC were invited to comment on the Applicant's approach to cumulative effects. Cambs CC and Fenland DC, as detailed in [REP6-035], made reference to a specific case *R (Leicestershire County Council) -v- Secretary of State for Communities and Local Government [2007] EWHC 1472 (Admin)* which might be helpful to the ExA when considering cumulative effects. A copy of the case was attached to Cambs CC and Fenland DC submission [REP6-035]. The Applicant responded to this submission in [REP6-025] and stated that the four criteria raised in the case cited are known to the Applicant and are considered in Chapter 18 of the ES [APP-045].
- 3.19.21. There were no outstanding issue reported, by the end of the Examination, between Cambs CC, Fenland DC and the Applicant.

CONCLUSIONS

- 3.19.22. The ExA are satisfied that no long term, cumulative adverse impacts are likely to arise from construction, operation and decommissioning activities. Accordingly, the ExA are satisfied that the requirements of the EIA Regulations, NPS EN-1 and dNPS EN-1 are met in this regard.
- 3.19.23. Accordingly, the ExA considers the effect would be neutral, and does not weigh for or against the making of the order.
- 3.19.24. The planning balance is considered at Chapter 5 of this report.

4. SUMMARY OF CONCLUSIONS IN RELATION TO HABITATS REGULATION ASSESSMENT

4.1. INTRODUCTION

- 4.1.1. This chapter provides a summary of the Examining Authority's (ExA) conclusions relevant to the Habitats Regulations Assessment (HRA). The full analysis can be found in Appendix C.
- 4.1.2. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European sites and no reasonable scientific doubt remains.
- 4.1.3. The ExA has been mindful throughout the Examination of the need to ensure that the Secretary of State (SoS) has such information as may reasonably be required to carry out their duties as the Competent Authority. The ExA have sought evidence from the Applicant and the relevant Interested Parties (IP), including Natural England (NE) as the Appropriate Nature Conservation Body, through written questions.

4.2. HABITAT REGULATIONS ASSESSMENT IMPLICATIONS

- 4.2.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, as stated in paragraph 1.3.8 of [AS-007]. Therefore, the SoS must make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 4.2.2. The Applicant's assessment of effects is presented in the following application document:
- ES Volume 5.3: Habitats Regulations Assessment No Significant Effects Report (NSER) hereafter referred to as 'the Applicant's HRA Report' [AS-007].
- 4.2.3. As part of the original suite of application documents, the Applicant provided a HRA Report dated June 2022 [APP-025]. However, this document was updated in August 2022 [AS-007] to address comments relating to HRA raised in the Section (s)51 advice provided in August 2022 [PD-003].
- 4.2.4. To avoid confusion, this Chapter refers to the content of the updated document [AS-007]. No further documents or updated documents were provided regarding the HRA.
- 4.2.5. During the Examination, the Applicant submitted a change request as described in Chapter 1 of this Report. These changes were accepted by the ExA. The change request did not affect the HRA and no updates to the HRA were required.
- 4.2.6. The Applicant did not identify any likely significant effects (LSE) on non-UK European sites in European Economic Area States in its HRA Report [AS-007]. Only UK European sites are addressed in this Report. No such impacts were raised for discussion by any IPs during the Examination.

4.3. SUMMARY OF FINDINGS IN RELATION TO ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

4.3.1. Nine European Sites and their qualifying features were considered in the Applicant's assessment of LSE:

- Nene Washes Special Protection Area (SPA)
- Nene Washes Ramsar
- Nene Washes Special Area of Conservation (SAC)
- The Ouse Washes SPA
- The Ouse Washes Ramsar
- The Ouse Washes SAC
- The Wash SPA
- The Wash Ramsar
- The Wash and North Norfolk Coast SAC

4.3.2. No LSE were identified for all sites, both from the Proposed Development alone and in-combination with other plans or projects.

4.4. CONCLUSIONS

4.4.1. The ExA are satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified. The ExA also note that NE agreed that LSE could be excluded.

4.4.2. Our findings are that LSE on European Sites as a result of the Proposed Development alone and in combination with other plans and projects can be excluded.

5. THE CASE FOR MAKING A DEVELOPMENT CONSENT ORDER

5.1. INTRODUCTION

5.1.1. This chapter provides an evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in Chapter 2 and individual applicable legal and policy requirements identified in Chapters 3 and 4 of this report. Whilst the Habitats Regulations Assessment (HRA) has been documented separately in Appendix C (summary in Chapter 4), relevant facts and issues set out in that chapter are taken fully into account.

5.1.2. The ExA have taken into account all Relevant Representations, Written Representations and responses to the Examining Authority's First Written Questions and Second Written Questions and Rule 17 requests for further information as well as all other representations made during the course of the Examination including the joint Local Impact Report (LIR) from Cambridgeshire County Council (Cambs CC) and Fenland District Council (Fenland DC) and the joint LIR from Norfolk County Council (Norfolk CC) and the Borough Council of King's Lynn and West Norfolk (BCKLWN).

5.2. SUMMARY OF THE MAIN PLANNING ISSUES

THE PRINCIPLE OF DEVELOPMENT

5.2.1. The ExA therefore concludes that the Proposed Development:

- makes a positive contribution to addressing the need for new nationally significant electricity infrastructure by using waste for the production of electricity and heat;
- has generating capacity greater than 50MW available to export to local users (including via a CHP connection) and the electricity distribution network via a connection to Walsoken SubStation;
- proposes an effective system for managing hazardous and non-hazardous waste from the construction, operation and decommissioning of the Proposed Development;
- conforms with the Waste Hierarchy, by reducing the amount of waste that goes into landfill and assesses the effects of the scheme on relevant waste plans;
- does not prejudice the achievement of local or national waste management targets in England;
- does not compete with greater waste prevention, re-use, or recycling, or result in over capacity of EfW treatment at national or local level; and
- it is in general conformity with the 2021 Waste Management Plan for England, including the proximity principal.

5.2.2. However, the ExA would like to draw the SoS's attention to the fact that the Applicant's analysis of future national need of EfW facilities is based on a median scenario, which takes into consideration the targets set out in the EIP 2023 but does not fully adopt these as part of its calculations. On balance of probability, the ExA finds that the median scenario presented by the Applicant is sound. The dNPS EN-3 (March 2023) states, in paragraph 3.3.7 that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan.

- 5.2.3. The ExA concludes, notwithstanding the consideration of project-specific issues, that the overarching need argument for the Proposed Development is very strong in terms of meeting the urgent need for low carbon energy and this weighs heavily in favour of making the order and carries very great weight in the planning balance.

THE ENVIRONMENTAL STATEMENT

- 5.2.4. The ExA considers that the Environmental Statement (ES), as supplemented with additional information during the Examination, is sufficient to enable the Secretary of State (SoS) to take a decision in compliance with the Environmental Impact Assessment (EIA) Regulations. The ExA have taken full account of all environmental information in its consideration of this Application.

HRA CONSIDERATIONS

- 5.2.5. The Proposed Development is development for which an HRA Report has been provided. In reaching the overall conclusion and recommendations in this report, the ExA have considered all documentation relevant to HRA.
- 5.2.6. The SoS is the competent authority under the Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) and will make the definitive assessment. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of the Habitats Regulations. Our findings are that Likely Significant Effects (LSE) on European Sites as a result of the Proposed Development alone and in combination with other plans and projects can be excluded.

ALTERNATIVES

- 5.2.7. As stated in paragraph 3.3.1, the Overarching National Policy Statement for Energy (EN-1) (NPS EN-1) does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option, but applicants are required to include in their ES information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility.
- 5.2.8. The Applicant has included description of the main alternatives considered and the reasons for selecting the preferred options for the Proposed Development in Chapter 2 of the ES [APP-029]. Furthermore, and in line with policies 2.5.22 to 2.5.27 of the NPS EN-3, the Applicant has put forward a proposal that includes a grid connection, considers the available transport infrastructure, as far as it relates to the policies included in NPS EN-3 in relation to Alternatives and Site Selection.
- 5.2.9. In relation to the draft National Policy Statement for Renewable Energy Infrastructure (EN-3) (dNPS EN-3) (March 2023), the site is free from nationally recognised designation and can make a positive contribution to the overarching objectives of the Government's Environmental Improvement Plan.
- 5.2.10. In light of the above, it is the Examining Authority's (ExA) view that the Applicant has provided adequate information on a range of alternative configurations and locations for the Proposed Development and associated works which meets the requirements set out in EN-1, EN-3, the dNPS EN-1 (March 2023), the dNPS EN-3

(March 2023) and the EIA Regulations 2017 and has followed the guidance in PINS Advice Note 7.

- 5.2.11. Taking all these matters into consideration, the ExA considers that these matters are neutral and do not weigh for or against the order being made.

GOOD DESIGN

- 5.2.12. In light of the above, it is the ExA's view that the Applicant has adequately taken into account functionality and aesthetics in designing the Proposed Development. The Applicant has also demonstrated, within the constraints of the site, good design in terms of siting the Proposed Development. The ExA also notes the role that the Outline Landscape and Ecology Strategy [REP2-026] and the Outline Landscape and Ecology Management Plan [REP3-021], both documents certified within the draft Development Consent Order (dDCO), would play in the Design of the proposal.

- 5.2.13. The Applicant documents and the documents submitted during Examination do demonstrate how the design process was conducted and how the design process evolved. Taking all these matters into consideration, the ExA concludes that good design matters are neutral and do not weigh for or against the making of the order.

CLIMATE

- 5.2.14. The ExA are satisfied that the Applicant has taken into account the potential impacts of climate change and has identified appropriate mitigation or adaptation measures in line with paragraphs 4.8.4 and 4.8.6 of NPS EN-1 and that there should not be any significant adverse effects in relation to climate change resilience from the Proposed Development.

- 5.2.15. The ExA are satisfied that the Applicant has as far as possible assessed the Greenhouse Gas (GHG) emissions of all stages of the development, in line with paragraph 5.3.8 of dNPS EN-1 (March 2023), and has used an appropriate assessment methodology, whilst recognising that the assessment relies on a number of assumptions and estimates.

- 5.2.16. The ExA are satisfied that the Applicant has taken reasonable steps to reduce the GHG emissions of the construction and decommissioning stage of the development in line with paragraph 5.3.9 of dNPS EN-1 (March 2023).

- 5.2.17. The ExA cannot reconcile the differences between the parties on operational GHG emissions, however, the ExA agrees with all parties that there are many variables. Whilst the Applicant's overall assessment methodology is considered appropriate, the ExA recognises that it has relied upon a number of assumptions and estimates. The Applicant has explored a wide range of scenarios including an additional sensitivity assessment [REP6-030] which allows a reasonable worst case for GHG emissions to be explored.

- 5.2.18. dNPS EN-1 (March 2023) paragraph 3.3.41 acknowledges that "*Energy recovery from residual waste has a lower GHG impact than landfill*". Evidence provided by the Applicant in the ES [APP-041] supports this view. However, the available evidence casts considerable doubt on whether the claimed 'net benefit' (and resulting significant beneficial effect) can be arrived at with any great certainty, given it is highly sensitive to the assumptions applied.

- 5.2.19. dNPS EN-1 (March 2023) would not require the Applicant to compare the Proposed Development with the alternative and demonstrate that it would be a net benefit and Paragraph 5.3.11 recognises that operational GHG emissions are a significant adverse impact from some types of energy infrastructure that cannot be totally avoided. It goes on to state that “operational GHG emissions are not reasons to prohibit the consenting of energy projects or to impose more restrictions on them.”
- 5.2.20. Taking all matters into account, the ExA concludes that these matters are neutral and do not weigh for or against the order being made.

CARBON CAPTURE AND STORAGE

- 5.2.21. The ExA are satisfied that the capacity of the Proposed Development as defined in the dDCO is below the threshold at which it should be designed to be Carbon Capture Ready (CCR).
- 5.2.22. The ExA recognises that despite being significantly below the EN-1 threshold, that the Proposed Development has set aside sufficient land to install and use carbon capture equipment, would implement embedded design measures and would submit reports to the SoS to monitor the ongoing feasibility of Carbon Capture and Storage (CCS). This shows commitment by the Applicant to explore the feasibility of CCS, however, it does not show a commitment to provide CCS at the present time.
- 5.2.23. The Applicant has confirmed that to fully realise the capture and sequestration of carbon from the Proposed Development would require another DCO application as the pipeline would be over 10 miles long. Given the current obstacles to delivery of CCS the ExA does not consider that positive weight can be attributed to the ability of the Proposed Development to deliver CCS in the future. Furthermore, the ExA considers that carbon capture cannot therefore be relied on for the consideration of related matters elsewhere in this report, including climate.
- 5.2.24. The ExA considers this matter to be neutral and does not weigh for or against the order being made.

CONSIDERATION OF COMBINED HEAT AND POWER

- 5.2.25. As set out in EN-1, paragraph 4.6.6, requires any application to develop a thermal generating station to either include CHP or contain evidence that the possibilities of CHP had been fully explored.
- 5.2.26. The ExA are satisfied that the Applicant has considered the opportunities for CHP at an early point in the process, using heat mapping and availability of potential customers as a criterion to inform their choice of location for the Proposed Development, in line with paragraph 4.6.7 of NPS EN-1.
- 5.2.27. In line with the 2006 Guidance noted in paragraph 4.6.6 of NPS EN-1, the Applicant has satisfactorily explained their choice of location, including the potential viability of the site for CHP as an essential siting criterion in their assessment of alternatives [APP-029]. The Applicant has also listed the companies that they have contacted.
- 5.2.28. Evidence is lacking as to how they have worked with local planning authorities and other organisations to identify opportunities for CHP in line with NPS EN-1 paragraph 4.6.11 and dNPS EN-1 (March 2023) paragraph 4.7.17. Furthermore, as discussions with potential heat users are in the preliminary phase and due to

confidentiality reasons, the Applicant has provided limited evidence of discussions with potential customers.

- 5.2.29. The Applicant has not been able to reach agreement with a potential customer, however, they are confident that agreements with customers would come forward once the necessary consents are in place. They consider that it is reasonably possible to reach an agreement during the lifetime of the Proposed Development in line with dNPS EN-1 (March 2023) paragraph 4.7.11.
- 5.2.30. The Proposed Development would be CHP ready and would have the embedded design measures (secured through Requirement 25 of the draft DCO) necessary to ensure it could deliver CHP as soon as a CHP customer is secured, in line with paragraph 4.6.12 of NPS EN-1 and paragraph 4.7.19.
- 5.2.31. The ExA considers that the Proposed Development meets the overall aim of NPS EN-1 and EN-3, which seek to ensure that CHP has been properly considered. In order for substantial positive weight to be given, as outlined in paragraph 4.6.8 of NPS EN-1, the application would need to incorporate CHP. The ExA considers that the Proposed Development would only incorporate CHP when a customer is secured. As no customers have currently been secured, the ExA cannot therefore afford substantial positive weight. Taking these matters into account, the ExA considers this matter to be neutral and does not weigh for or against the order being made.
- 5.2.32. Notwithstanding the ExA's conclusions in relation to NPS EN1 and EN-3, dNPS EN-1 (March 2023) goes further than NPS EN-1, most notably in paragraph 4.7.16 that notes that *"The Secretary of State should not give development consent unless satisfied that the applicant has provided appropriate evidence that CHP is included or that the opportunities for CHP have been fully explored."*
- 5.2.33. The SoS may therefore wish to satisfy themselves that the opportunities for CHP have been fully explored, such as clear evidence of discussions with potential heat customers and bodies such as Homes England, Local Enterprise Partnerships (LEPs) and Local Authorities in line with dNPS EN-1 (March 2023) paragraph 4.7.17.

LANDSCAPE AND VISUAL

- 5.2.34. The ExA are satisfied that the Applicant has considered appropriate siting and design in line with NPS EN-1 paragraph 5.9.22 and NPS EN-3 paragraph 2.5.50. The ExA are content that the proposed mitigation in relation to design, landscaping and external lighting, secured through requirements, has mitigated as far as can reasonably be achieved in light of the scale of the project in line with NPS EN-1 (paragraph 5.9.22) and NPS EN-3 (paragraphs 2.5.51-52).
- 5.2.35. Nevertheless, the ExA considers that a number of significant landscape and visual effects would result from the Proposed Development including:
- During construction, major and significant effects for VPs 1 and 6, moderate significant effects for VP 5;
 - During operation, major significant effects for VPs 1,5,6 and 8 and moderate significant effects for VPs 7,9 and 12;

- During construction and operation, major and significant visual effects for No.10 New Bridge Lane and No. 25 Cromwell Road; and a major and significant effect would be experienced by residents at the northern edge of Begdale;
- During construction and operation, significant visual effects for recreational receptors on the Nene Way, Sustrans NCR 63, Halfpenny Lane Byway and users of the PRow network west of Elm;
- During construction, a moderate effect that is significant on sections of the A47 and B198;
- During operation, a major adverse effect that is significant for approximately 1.6km for eastbound receptors on the A47 and moderate and significant for the southernmost section of the B198 Cromwell Road; and
- Moderate and significant effects on the Wisbech Settled Fen LCA.

5.2.36. Overall, taking all matters into account the ExA ascribe great weight to the landscape and visual matters against the order being made.

BIODIVERSITY

5.2.37. The ExA are satisfied with the Applicant's assessment methodology. The ES sets out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity in line with NPS EN-1 paragraph 5.3.3.

5.2.38. The ExA considers that adequate mitigation measures would be put in place, in line with NPS EN-1 paragraph 5.3.18, to ensure that there would be no significant residual effects on biodiversity. These measures are adequately secured through the proposed Ecological Mitigation Strategy included within the Outline CEMP, Landscape and Ecology Strategy, LEMP and Lighting Strategy, all of which would be secured through the recommended Development Consent Order (rDCO) by Requirement 4 (Landscape and Ecology Strategy), Requirement 5 (LEMP), Requirement 10 (CEMP) and Requirement 18 (Lighting Strategy).

5.2.39. The ExA are satisfied that the mitigation measures would adequately protect turtle doves in line with the considerations put forward by the RSPB.

5.2.40. Furthermore, the ExA considers that the BNG, secured through rDCO 6, would represent a benefit which weighs positively in favour of the Proposed Development in line with dNPS EN-1 (March 2023) paragraphs 4.5.4 and 5.4.36. Overall, the ExA considers that those mitigation measures and the BNG arising from the Proposed Development would enhance biodiversity and as such attracts moderate weight in favour of the order being made.

TRAFFIC AND TRANSPORT

5.2.41. The ExA have had regard to the relevant policies set out in NPS EN-1, dNPS EN-1 (March 2023) and dNPS EN-3 (March 2023) in consideration of the transport impacts of the Proposed Development.

5.2.42. Cambs CC and Fenland DC as the host Local Highways Authority and LPA respectively, have confirmed via their SoCG [REP8-011] confirmed that, in relation to traffic and transport matters, they have no concerns over the impact of the Proposed Development, subject to the enhancements to New Bridge Lane and the signalisation of the Cromwell Road/New Bridge Lane junction. Issues in relation to

the both construction and operational mitigation were also agreed matters between the parties [REP8-011].

- 5.2.43. National Highways as street authority for the SRN which includes the A47, confirmed that the Proposed Development was unlikely to have a severe impact upon the network [REP5-051]. On this basis, the ExA have been presented with no substantive evidence upon which to come to a different view.
- 5.2.44. The ExA accepts that some impacts are anticipated on the surrounding network during the construction phase. However, the ExA considers the control and management measures contained in the Outline Construction Traffic Management Plan (CTMP) [REP7-010] and the Outline Operational Traffic Management Plan (OTMP) [REP6-017/REP6-018] are sufficient to mitigate any likely adverse effects of the Proposed Development to an acceptable level.
- 5.2.45. Furthermore, the ExA are satisfied that no significant traffic or transportation effects are likely to arise from the Proposed Development either alone or in combination with other developments.
- 5.2.46. The ExA also notes that the NPS EN-3 paragraph 2.5.25 Multi-modal transport is encouraged and that the Secretary of State expects materials (fuel and residues) to be transported by water or rail where possible. The Proposed Development does not allow for this although land has been reserved to accommodate the future unloading of waste from a rail siding, should the potential reopening of the disused March to Wisbech Railway provide an opportunity for waste deliveries. Nevertheless, the same paragraph of the NPS EN-3, which is consistent with the dNPS EN-3 (March 2023) does state that although there may in some instances be environmental advantages to rail or water transport, whether such methods are viable is likely to be determined by the economics of the scheme.
- 5.2.47. Taking the above matters into account, the ExA finds that the traffic and transport assessment set out in the ES meets the requirements of NPS EN-1, NPS EN-3 dNPS EN-1 (March 2023) and dNPS EN-3 (March 2023). The ExA are also content that it accords with the NPPF and local development plan policies.
- 5.2.48. As such, the ExA considers that transport effects would be neutral, and do not weigh for or against the order being made.

AIR QUALITY

- 5.2.49. Paragraph 5.2.6 and 5.2.7 of NPS EN-1 require that, where the project is likely to have adverse effects on air quality, the Applicant should undertake an assessment of the impacts of the proposed project as part of the ES describing:
- Significant air emissions their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;
 - the predicted absolute emission levels of the proposed project, after mitigation methods have been applied;
 - existing air quality levels and the relative change in air quality from existing levels; and
 - any potential eutrophication impacts.

- 5.2.50. It is the ExA's view that the Applicant has adequately assessed the impacts of the Proposed Development in accordance with paragraphs 5.2.6 and 5.2.7 of NPS EN-1.
- 5.2.51. In light of the provided by the applicant, the ExA also finds that the project is unlikely to lead to a breach of the air quality legislation referred to in NPS EN-1 and NPS EN-3, or a deterioration in air quality and that mitigation measures for operational and construction emissions have been adequately identified through: Outline Odour Management Plan [APP-102], the Outline CEMP [REP6-019] and the Outline Construction Traffic Management Plan [REP1-010]. Taking all these matters into consideration the ExA conclude that air quality and emissions effects would be neutral, and do not weigh for or against the order being made.

HUMAN HEALTH

- 5.2.52. Paragraph 4.13.1 to 4.13.5 of NPS EN-1 relate to health considerations. Paragraph 4.13.2 require that, where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate. It also states that the impacts of more than one development may affect people simultaneously, so the Applicant, and the SoS should consider cumulative impacts.
- 5.2.53. The ExA are satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures are proportionate to the adverse effects that would result from the Proposed Development and that these are adequately secured through the rDCO. The ExA are therefore of the view that appropriate consideration has been given to the human health matters in accordance with paragraph 4.12.2 of NPS EN-1 and the relevant Development Plan policies.
- 5.2.54. The ExA finds that there are likely to be a number of negative health impacts during the construction period. These include disturbance from increased noise, and severance at New Bridge Lane, although the ExA considers this to be limited due to the proposed pedestrian crossing. The ExA finds that these effects would however be short term and they could be mitigated through the CEMP and the Schedule of Mitigation and Monitoring.
- 5.2.55. Once operational, the ExA finds that there would be negative health impacts from noise and emissions. However, these would be appropriately mitigated through the provision of an acoustic fence to 10 New Bridge Lane and the purchase of 9 New Bridge Lane and the removal of the property from residential use. Although this represent the loss one residential unit, its overall impact on the local housing supply would be negligible. All the proposed mitigation measures are also secured through the dDCO [REP7-033]. All the proposed mitigation measures are also secured through the dDCO [REP7-033].
- 5.2.56. The ExA considers that a positive human health outcome would result from the creation of new employment opportunities during both the construction and operational stages. However, the number of new employment opportunities created during the Operational Phase of the development are considerably less than during construction, therefore this carries little weight in favour of the order being made.
- 5.2.57. Overall, the ExA considers that the human health impacts of the Proposed Development have been considered, minimised and mitigated as much as possible.

On this basis, whilst there are some outstanding adverse effects on a small number of receptors, given their temporary duration and being limited to the construction phase, the ExA is content that the effect would be neutral, and does not weigh for or against the order being made.

HISTORIC ENVIRONMENT

- 5.2.58. The ExA have found that the Applicant has adequately assessed the significance of the designated and non-designated heritage assets affected by the Proposed Development. Furthermore, that sufficient information to reach a conclusion on the nature, significance and value of identified designated and non-designated heritage assets, along with sufficient understanding of the contribution that setting makes to their significance and the implications of the Proposed Development for those settings, has been submitted. This allows the extent of the impact to be understood. In the ExA's view, the application meets the requirements of NPS EN-1 in that regard.
- 5.2.59. The ExA are satisfied that the WSI, included in the Outline CEMP and secured through draft DCO Requirement 10 would ensure that appropriate procedures are in place for the identification and treatment of assets discovered during construction, in line with NPS EN-1 Paragraph 5.8.22.
- 5.2.60. The ExA are clear that the Proposed Development would result in less than substantial harm to the designated heritage assets of WCA and No.15 South Brink to which the ExA attach great weight. This harm requires clear and convincing justification and is weighed against the public benefits of the Proposed Development in the planning balance.

NOISE AND VIBRATION

- 5.2.61. Based on the evidence before us, the ExA considers the Applicant's assessment of the noise and vibration impacts likely to arise from the construction, operation and decommissioning of the Proposed Development meets the requirements of NPS EN-1, NPS EN-5, dNPS EN-1 (March 2023), dNPS EN-3 (March 2023) and dNPS EN-5 (March 2023).
- 5.2.62. Furthermore, the ExA are satisfied that the noise resulting from the construction, operation and decommissioning of the Proposed Development would remain below the significance thresholds as set out in the NPSE and NPPF.
- 5.2.63. The inclusion in the dDCO of Requirement 10 (CEMP), Requirement 11 (CTMP) Requirement 12 (OTMP), Requirement 19 (Noise management) and Requirement 28 (Decommissioning) provide sufficient safeguards to ensure that the adverse impacts resulting from the Proposed Development would be minimised.
- 5.2.64. Accordingly, the ExA concludes that the application accords with the Government's policy on noise and vibration as set out in NPS EN-1 and NPS EN-5, the NPSE and NPPF. It would also accord with the dNPSs (March 2023) as well as local planning policy. Accordingly, the ExA considers the effect would be neutral and does not weigh for or against the order being made.
- 5.2.65. The ExA is satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures are proportionate to the adverse effects that would result from the Proposed Development and that these are adequately secured

through the dDCO. The ExA is therefore of the view that appropriate consideration has been given to the human health matters in accordance with paragraph 4.12.2 of NPS EN-1 and the relevant Development Plan policies.

- 5.2.66. It is the ExA's view that the Applicant has adequately assessed the impacts of the Proposed Development in accordance with paragraphs 4.13.1 to 4.13.5 of NPS EN-1.

FLOOD RISK, DRAINAGE AND WATER ENVIRONMENT

Flood Risk

- 5.2.67. The ExA are satisfied that the FRA [APP-084] appropriately assesses the risks for the construction and operation of the Proposed Development within a flood risk area in line with NPS EN-1 and that the sequential and exception tests have been appropriately applied and met.
- 5.2.68. The ExA are also satisfied that the Applicant has applied the sequential approach to locating development within the site, in line with paragraph 5.7.12 of NPS EN-1 and the ExA consider the Outline Flood Emergency Management Plan [REP1-019] secured in Requirement 13 of the dDCO to be in line with Paragraph 5.7.25 of NPS EN-1.
- 5.2.69. The Proposed Development includes the use of SuDS in line with Paragraph 5.7.9 of NPS EN-1.
- 5.2.70. The ExA agrees with the EA that the applicant has appropriately assessed the impacts of climate change within the FRA in line with the NPS EN-5 Section 2.4 and the ExA are satisfied that the flood risk elements of the Proposed Development have been appropriately considered and mitigated, in accordance with the tests in NPS EN-1 and NPS EN-5.
- 5.2.71. The ExA are satisfied that through continuing engagement between the Applicant and Anglian Water, that water supply issues for the Proposed Development are likely to be addressed.
- 5.2.72. The Applicant and the EA have confirmed that the Proposed Development is not hydrologically connected to WFD waterbodies. The ExA are therefore satisfied that there are no implications for the WFD in line with Section 5.15 of NPS EN-1.
- 5.2.73. The SoCG with the EA [REP4-010] agrees that the content of the CEMP secured in draft DCO requirement 10 is appropriate for managing and mitigating any potential impacts of the Proposed Development. The ExA are satisfied that the Applicant has engaged with the EA from an early stage and that the EA is satisfied that potential releases can be adequately regulated in line with paragraph 4.10.7 of NPS EN-1 and that good pollution practice has been secured in line with paragraphs 5.15.7-10 of NPS EN-1.
- 5.2.74. The ExA considers that there should not be any significant adverse effects in relation to flood risk, drainage and water environment from the Proposed Development. Taking all matters into account, the ExA concludes that the effect would be neutral and does not weigh for or against the order being made.

GEOLOGY, HYDROGEOLOGY AND CONTAMINATED LAND

- 5.2.75. There are no internationally, nationally or locally designated sites of geological importance on the Proposed Development site. The ExA are satisfied with the suitability of the Applicants assessment methodology and that the Applicant has carried out an appropriate investigation of potential effects on sites of geological conservation importance and has considered the risk posed by land contamination in line with NPS EN-1 (paragraphs 5.3.3-4 and 5.3.7-8).
- 5.2.76. The ExA are satisfied that prior to the construction of the Proposed Development, further Phase 2 ground investigation, assessment reporting and remedial measures, in consultation with the Environment Agency (EA) would be completed. This is secured through draft DCO Requirement 9.
- 5.2.77. The Proposed Development would not impact water bodies or protected areas under the Water Framework Directive (WFD) or source protection zones around potable groundwater abstractions in line with NPS EN-1 paragraph 5.15.3.
- 5.2.78. The Proposed Development would result in the loss of an area of 0.77 hectares of ALC Grade 2 land for the duration of the EFW CHP Facility and approximately 0.16 hectares for the water connection. In addition, the TCC would result in the temporary loss of 1.6 hectares. This would be for a temporary period during the construction phase. The ExA considers that the Applicant has sought to minimise the impacts on BMV agricultural land in line with NPS EN-1 paragraph 5.10.15. Nevertheless, the Proposed Development would result in loss of BMV agricultural land. This matter carries little weight against the order being made.
- 5.2.79. The ExA concludes that there should not be any significant adverse effects in relation to geology, hydrogeology, and contaminated land from the Proposed Development. Taking all matters into account, the ExA concludes that the effects would be neutral, and do not weigh for or against the order being made.

SOCIO-ECONOMIC

- 5.2.80. The ExA considers that the Applicant has properly considered the relevant socio-economic impacts and has demonstrated that the Proposed Development would be consistent with NPS EN-1.
- 5.2.81. The ExA considers that economic and employment benefits during construction carries moderate weight in favour of the order being made.
- 5.2.82. During operation, these benefits reduce significantly and carry little weight for or against the order being made.
- 5.2.83. As the number of apprenticeships, experience and skills development offered by contractors during construction and operation is unknown, this matter carries little weight for or against the order being made.
- 5.2.84. The ExA are satisfied that the effects on the housing market, tourism accommodation, local facilities and education facilities during construction would be not significant. This matter carries little weight for or against the order being made.
- 5.2.85. The ExA are satisfied that the Outline CEMP, CTMP and Operational Travel Plan, secured through the draft DCO, would set out measures to ensure that traffic is

appropriately routed and that adverse effects (from traffic, dust or noise) are mitigated during the construction phase.

- 5.2.86. Effects from noise and vibration, air quality and human health are considered in Sections 3.14, 3.11 and 3.12 of this report where the ExA considers that there should not be any significant adverse effects from the Proposed Development. The ExA therefore considers that this matter carries little weight for or against the order being made.
- 5.2.87. Whilst the Proposed Development would be highly visible from the entrance routes into Wisbech, there is no evidence to demonstrate that this would detract from visitors enjoyment of the Georgian character of the central area of the town, or dissuade people from visiting the town and its various visitor attractions. This matter carries little weight for or against the order being made.
- 5.2.88. The ExA considers that there should not be any significant adverse effects in relation to socio-economic and population effects from the Proposed Development.
- 5.2.89. The economic and employment benefits during construction carries moderate weight in favour of the order being made and all other socio-economic effects would be neutral, and do not weigh for or against the order being made.

MAJOR ACCIDENTS AND DISASTERS

- 5.2.90. The ExA are satisfied that the Applicant's assessment methodology is suitable. Mitigation measures including the Outline Flood Emergency Management Plan [REP1-019] and the Outline Fire Prevention Plan [REP2-012], secured through draft DCO Requirements 13 and 17 are considered appropriate and the ExA are satisfied with the Applicant's responses to concerns raised by Interested Parties (IP) in relation to flood and fire emergency planning.
- 5.2.91. In line with NPS EN1 Paragraph 5.4.14 the ExA are satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence assets have been addressed by the applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out.
- 5.2.92. The Applicant has consulted the HSE in line with Paragraphs 4.11.1 to 4.11.3 of NPS EN-1. The Proposed Development does not fall under the Control of Major Accident Hazards Regulations 2015 and will not require Hazardous Substances Consent due to the low inventories of any hazardous substances which may be stored or used at the EfW CHP Facility. HSE has additionally confirmed that the EfW CHP Facility Site is outside the consultation distances for any sites with Hazardous Substances Consent or Major Accident Hazard Pipelines.
- 5.2.93. The ExA are satisfied that the Proposed Development meets the requirements set out in EN-1 in relation to safety and hazardous substances and that there should not be any significant adverse effects from major accidents and disasters.
- 5.2.94. The ExA concludes that major accidents and disasters effects would be neutral and do not weigh for or against the order being made.

CUMULATIVE EFFECTS

- 5.2.95. The ExA are satisfied that no long term, cumulative adverse impacts are likely to arise from construction, operation and decommissioning activities. Accordingly, the ExA are satisfied that the requirements of the EIA Regulations, NPS EN-1 and dNPS EN-1 (March 2023) are met in this regard. The ExA considers that the effect would be neutral and does not weigh for or against the making of the order.

5.3. THE PLANNING BALANCE

- 5.3.1. In reaching their conclusions on the case for making the DCO, the ExA have had regard to the relevant NPS and dNPS (March 2023), the NPPF, the LIRs and all other matters which the ExA considers are both important and relevant to the SoS decision.
- 5.3.2. The ExA considers that the environmental information submitted by the Applicant, including the ES, other environmental information submitted during the Examination and information relevant to the HRA, is adequate in terms of statutory and policy requirements purposes for decision-making. The ExA have taken it into account, along with all submissions made to the Examination, in reaching their recommendation and their view is that the SoS can rely on it in determining the case for making the DCO.
- 5.3.3. The ExA concludes that matters in relation to alternatives, good design, climate, carbon capture and storage, combined heat and power, traffic and transport, air quality, human health, noise and vibration, flood risk, drainage and water environment, accidents and disasters and cumulative effects are neutral and do not weigh for or against the order being made.
- 5.3.4. The ExA comments next on the matters counting against making the DCO and matters counting in favour, before considering the balance of issues and reaching their conclusions.
- 5.3.5. The ExA have taken account of Regulation 3 of the Decisions Regulations in their conclusions on historic environment matters and had full regard to the desirability of preserving scheduled ancient monuments and their settings; preserving listed buildings, their settings and any features of special architectural or historic interest; and preserving or enhancing the character or appearance of conservation areas.
- 5.3.6. The ExA have found that the Proposed Development would lead to less than substantial harm to the setting of designated heritage assets. Whilst the ExA afford great weight to the conservation of those assets, the ExA agree with the Applicant that this harm would be less than substantial and that harm is at the lower end of the scale.
- 5.3.7. The Proposed Development would result in significant landscape and visual effects on residential, recreational and vehicular receptors and the Wisbech Settled Fen LCA during construction and operation. As such, this is afforded great weight.
- 5.3.8. The Proposed Development would result in loss of BMV agricultural land. However, most of the area lost would be during the temporary construction period and the ExA affords this matter little weight.

- 5.3.9. The ExA is not satisfied that the opportunities for CHP have been fully explored, in line with dNPS EN-1 (March 2023) paragraph 4.7.17.
- 5.3.10. The ExA concludes, notwithstanding the consideration of project-specific issues, that the overarching need argument for the Proposed Development is strong, that makes a positive contribution to addressing the need for new nationally significant electricity infrastructure by using waste for the production of electricity and heat; conforms with the Waste Hierarchy, by reducing the amount of waste that goes into landfill and assesses the effects of the scheme on relevant waste plans; does not prejudice the achievement of local or national waste management targets in England; does not compete with greater waste prevention, re-use, or recycling, or would result in over capacity of EfW treatment at national or local level.
- 5.3.11. Consequently, the ExA concludes that, on balance, the principle of the Proposed Development including waste and need matters carries great weight for the Order being made.
- 5.3.12. The Proposed Development would make a significant contribution to the urgent need for low carbon electricity generation established in NPS EN-1 and dNPS EN-1 (March 2023). The ExA affords this very great weight.
- 5.3.13. Furthermore, it would result in some enhancements to biodiversity through the achievement of a minimum 10% BNG, which would be managed and secured over the long term. The ExA considers that this carries moderate positive weight.
- 5.3.14. In addition, the Proposed Development would result in some positive benefits to employment and the local economy. However, as the greatest benefit is during the construction period and therefore temporary, this is afforded only moderate weight.
- 5.3.15. After considering the assessment of effects on the historic environment, having regard to the considerations in Regulation 3 of the Decisions Regulations, the ExA are satisfied that even though the Proposed Development would result in less than substantial harm to the significance of designated heritage assets, that harm is clearly outweighed by the public benefits of the Proposed Development. Therefore, the ExA considers that the Proposed Development is acceptable in this regard. As such the effects of the Proposed Development on the historic environment does not weigh against the order being made.
- 5.3.16. Taking the above factors into account and having had regard to all important and relevant matters, the ExA concludes that there are no adverse impacts of sufficient weight, either on their own or collectively, that would suggest the DCO should not be made for an application made under the currently designated NPSs.
- 5.3.17. The ExA concludes that the harm identified to designated heritage assets, landscape and BMV land is clearly outweighed by the very great benefit from the provision of low carbon energy to meet the need identified in NPS EN-1 (and continued into dNPS EN-1 (March 2023) and dNPS EN-3 (March 2023)) and by the other benefits of the application as summarised above.
- 5.3.18. For the reasons set out in the preceding chapters and summarised above, the ExA finds that the Proposed Development is acceptable in principle in planning terms for the currently designated NPSs and that the case for Development Consent is made.

- 5.3.19. In respect of the dNPSs, the ExA concludes that the Proposed Development is potentially in accordance with the dNPSs except where the evidence base is not complete for the test required in dNPS EN-1 para 4.7.17 in relation to the exploration of the opportunity for CHP.
- 5.3.20. Under the dNPS EN-3, the SoS should also have regard to the aims and goals of the EIP. These matters will be discussed further in the final conclusions.

6. LAND RIGHTS AND RELATED MATTERS

6.1. INTRODUCTION

- 6.1.1. The application included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land. This chapter records the examination of those proposals and related issues.

6.2. THE REQUEST FOR CA AND TP POWERS

- 6.2.1. The Application draft Development Consent Order (dDCO) (Revision 1.0) [APP-013] and all subsequent versions include provision for CA of freehold interests and private rights and the creation of new rights over land. They also contain provisions for the TP of land.
- 6.2.2. None of the land included in the CA request is Crown Land, National Trust land, open space or common land.
- 6.2.3. A Land Plan [APP-006], Statement of Reasons (SoR) [APP-017], Funding Statement [APP-016] and Book of Reference (BoR) [APP-015] were provided with the application. Revisions to the BoR were submitted throughout the Examination. The first revision was submitted before the start of the Examination [AS-006] to reflect the change in ownership of 9 New Bridge Lane, which was by then acquired by the Applicant. Subsequently, further revisions were also submitted at DL1 [REP1-001/008], DL2 [REP2-004/005], DL3 [REP3-008/009] with a final version submitted at DL7 [REP7-030/031], which reflects the changes following from the Change Request as detailed in Appendix E of the Change Application Report [AS-028]. These revisions were accompanied by a Schedule of Changes to the BoR at each Deadline and also for the Change Request [AS-030].
- 6.2.4. Revisions to the Land Plan were submitted throughout the Examination. The first revision was submitted before the start of the Examination [AS-004] with minor amendments. Subsequently, at DL1, a revision was also submitted [REP1-004] which adequately reflected the extent of the public highway on New Bridge Lane and the change in powers, from CA of land to CA of new rights, requested by the Applicant for a specific a section of Algores Way following confirmation from Cambridgeshire County Council (Cambs CC) of not having the intention to adopt the highway. Further revisions were also submitted at DL3 [REP3-003]. The Change Request triggered an addition and expansion of the Order limits which is reflected in Land Plan Rev 4A [AS-019]. A final version of the Land Plan was then submitted at DL7 [REP7-002].
- 6.2.5. A revision to the SoR was submitted at DL3 [REP3-010/011]. The DL3 revision was submitted in order to update the SoR in line with the changes made to the Land Plans. The Change Request triggered an addition and expansion of the Order limits which is reflected in the Schedule of Changes for the Change Request [AS-030]. A final version of the SoR was then submitted at DL7 [REP-008/009].
- 6.2.6. The Examining Authority (ExA) was kept updated by the Applicant throughout the Examination on the progress of negotiations with Affected Parties (APs) by means of a CA Schedule. A final CA schedule setting out the position at the close of the Examination was submitted at Deadline 7 [REP7-039].

- 6.2.7. These documents, taken together, form the basis of the analysis in this chapter. References to the BoR and the Land Plans in this chapter from this point should be read as references to the latest revisions cited above.

6.3. THE PURPOSE FOR WHICH LAND IS REQUIRED

- 6.3.1. The Order limits for the Proposed Development are shown by the red line boundary on the Key Plan of the revised Land Plans [AS-004]. The land over which powers are sought is referred to in this chapter as the Order land. The Order land covers the land required for the construction, operation and decommissioning of the Medworth Energy from Waste Combined Heat and Power Facility (EfW CHP Facility) Site, including CHP and electrical connection.
- 6.3.2. The purposes for which the CA and TP powers are required is set out in the SoR [REP7-008]. Appendix A to the revised SoR [REP7-008] sets out for each plot the purpose for which it is required, the relevant Work No and DCO article.
- 6.3.3. The Applicant states in the SoR [REP7-008] that it requires powers of CA to ensure that the Proposed Development can be built, maintained and operated so as to meet the Government's policies in relation to the waste hierarchy, the timely delivery of new renewable generating capacity and net zero targets.
- 6.3.4. The Applicant also states, in the same document, that it has entered into an Option for Lease for the majority of the EfW CHP Facility Site. However, it is including the power to acquire this land within the Order Land in order to ensure that land assembly and title to it can be secured with certainty. In addition, it also states that there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be overridden, removed and/or extinguished in order to facilitate the construction and operation of the Proposed Development without hindrance.
- 6.3.5. Having compared the works plans, land plans and BoR carefully, the ExA is satisfied that each area of land affected by CA or TP is required for the carrying out of one or more of the works identified in Schedule 1 of the dDCO or their maintenance.

6.4. THE CA AND TP POWERS SOUGHT

- 6.4.1. The powers sought are for:
- a) the acquisition of all interests in land, including freehold - shown edged red and shaded in pink on the Land Plans (Art 23 in the dDCO);
 - b) the acquisition of new rights over land and the imposition of restrictions - shown edged red and shaded blue on the Land Plans (Art 25 of the dDCO);
 - c) the acquisition of subsoil only rights in the land, shown edged red and shaded pink and blue on the Land Plans (Art 26 of the dDCO);
 - d) the extinguishment and/or suspension of private rights over land, shown edged red and shaded in pink, blue and green on the Land Plans (Art 27 of the dDCO);
 - e) temporary use of land to permit construction or maintenance of the Proposed Development, shown red and shaded in green on the Land Plans (Art 32 and 33 of the dDCO).

6.5. CHANGES TO THE APPLICATION

- 6.5.1. During the Examination the Applicant submitted a formal Change Request (please see further detail in section 1.5 of this Report) which did not invoke the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regs.). Nevertheless, having reviewed the information carefully, and for the reasons stated in [PD-016], the ExA requested the Applicant to carry out non-statutory consultation on the change request. The ExA accepted the change on the 28 July 2023 [PD-018] following the Applicant's submission of a non-statutory consultation report [AS-033 and AS-034].

6.6. LEGISLATIVE REQUIREMENTS

PA2008

- 6.6.1. Section 122(2) of the PA2008 provides that a DCO may include provision authorising CA only if the SoS is satisfied that certain conditions are met. These include that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or is incidental to it. The CA Guidance states that in respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.
- 6.6.2. In addition, S122(3) requires that there must be a compelling case in the public interest for the land to be acquired compulsorily.
- 6.6.3. Department for Communities and Local Government (DCLG) Guidance related to procedures for the CA of land ("the CA Guidance") 2013¹ indicates the SoS must conclude that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired.
- 6.6.4. Section 123 requires the SoS to be satisfied that one of the three procedural conditions set out in subsections (2) to (4) are met, namely:
- that the application for the order included a request for CA of the land to be authorised – S123(2); or
 - that all persons with an interest in the land consent to the inclusion of the provision – S123(3); or
 - that the prescribed procedure has been followed in relation to the land – S123(4).
- 6.6.5. The application included a request for CA of the land to be authorised. As such, the ExA are satisfied that the condition set out in s123(2) of the PA2008 has been met.

Statutory Undertakers

- 6.6.6. Section 127 of the PA2008 applies to SU land. S127(2) and (3) state that an order granting development consent may include provisions authorising the CA of SU land only to the extent that the SoS is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking. Similarly, s127(5) and (6)

of the PA2008 provide that an order granting development consent may only include provision authorising the CA of rights over SU land where new rights over that land are created to the extent that the SoS is satisfied that the right can be taken without serious detriment to the carrying on of the undertaking, or that any detriment as a consequence of the acquisition of that right can be made good by the undertakers by the use of other land belonging to or available for acquisition by them. A number of Statutory Undertakers (SUs) have land interests within the Order Limits. These are set out in the BoR [REP7-030].

- 6.6.7. Section 138 of the PA2008 relates to the extinguishment of rights and removal of apparatus on SU land. It states that an order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. For the Proposed Development, this section of the PA2008 is relevant to SUs with land and equipment interests within the Order limits.
- 6.6.8. TP powers are also capable of being within the scope of a DCO by virtue of Paragraph 2, Part 1 of Schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the associated CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole: only capable of proceeding if the primary development is justified.

NEIGHBOURHOOD PLANNING ACT 2017

- 6.6.9. The Neighbourhood Planning Act 2017 includes a number of provisions related to the TP of land including notice requirements, the service of counter notices and compensation. These provisions are not in force and are described as technical changes in the explanatory notes that accompany the Act. While it is not necessary to assess the proposal against these provisions, they may provide a useful indication of how Parliament considers these matters should be addressed and how a balance can be struck between acquiring authorities and those whose interests are affected by the use of such powers.

6.7. THE CA GUIDANCE

- 6.7.1. In addition to the legislative requirements set out above, the CA Guidance sets out a number of general considerations which also have to be addressed including:
- whether all reasonable alternatives to CA have been explored;
 - whether the Applicant has a clear idea of how it intends to use the land subject to CA powers;
 - whether the Applicant can demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
 - whether the SoS is satisfied that the purposes stated for the CA and TP are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

6.7.2. The ExA have taken all relevant legislation and guidance into account in my reasoning below and relevant conclusions are drawn at the end of this chapter.

6.8. EXAMINATION OF THE CA AND TP CASE

6.8.1. In examining the application, the ExA considered all written material in respect of CA and TP. The ExA asked questions of the Applicant and APs in ExQ1 [PD-008] and ExQ2 [PD-013]. In addition, the ExA held CAH1 [EV-019], CAH2 [EV-021] and CAH3 [EV-077] where issues in relation to CA and TP were explored in further detail.

Written Processes

6.8.2. In ExQ1 [PD-008] (ExQ1 CA.1.1 – ExQ1 CA.1.12), the ExA asked for further information on the BoR and any inaccuracies, on the SoR, land ownership (including in relation to unknown owners of land and users of unadopted sections of highway (and attempts made to identify them)) and updates on progress of discussions with APs, including SUs.

6.8.3. The ExA also sought further information on funding for the CA, the Applicant's intention in relation to the certain plots of land as identified in the Land Plans and special categories of land. These were resolved in subsequent versions of the BoR and of the Land Plans.

6.8.4. In ExQ2 [PD-013] the ExA asked for further information regarding CA, particularly in relation to the inclusion of Compulsory Acquisition Schedule Table 1.2 [REP3-030], clarification of challenges in relation to ownership of land included within the Order limits. The ExA also asked questions in relation to notification of APs and engagement with IPs.

Hearings

6.8.5. During the Examination, the ExA held three CAH hearings. CAH1 [EV-019] concentrated on the Applicant's case for CA and TP and how it meets the tests of the PA2008, the status of negotiations with SUs and funding. CAH2 concentrated on site specific issues for the Applicant, APs and SUs. CAH3 concentrated on site specific issues.

6.8.6. APs were provided an opportunity to be heard and comment on the process and on the rights sought and provisions proposed in the dDCO and SUs were afforded an opportunity to raise or expand on any concerns or objections.

6.8.7. Our oral questions sought information and/ or clarification on a number of matters including:

- matters not clear from the written evidence and raised by APs and IPs in relation to CA and TP;
- progress on negotiations with APs;
- the need to acquire rights and alternatives considered;
- updates to the BoR and Land Plans;
- PPs in relation to SUs and others; and
- whether there is a compelling case in the public interest.

Site Inspections

- 6.8.8. Our approach to site inspections is set out in Chapter 1 above (paragraph 1.4.8). In summary, the ExA conducted three USIs and one ASI where the ExA visited a number of the sites affected by the Applicant's CA/ TP proposals.
- 6.8.9. Taken together, these have provided us with a good understanding of the location of the affected plots, appreciation for the context in which the Proposed Development is located as well as any above ground infrastructure.

6.9. THE APPLICANT'S CASE

- 6.9.1. The Applicant's case for the CA and TP powers sought is set out in Section 6 (Justification of Powers for Compulsory Acquisition) and Section 7 (Purpose for which Acquisition Powers are Sought) of the SoR [REP7-008] and the Applicant explains how it considers its proposals meet the tests set out in s122 of PA2008. It also describes how the Applicant considers it has demonstrated the general considerations the CA Guidance.
- 6.9.2. The Applicant states that the purpose for which CA and TP powers are sought is to enable the Applicant to construct, operate, maintain and decommission the Proposed Development. In the absence of these powers, the Applicant states that there would be insufficient certainty about the Applicant's ability to deliver the Proposed Development within the necessary timescales. The Applicant therefore requires such powers to be included in the DCO, notwithstanding the Applicant's continuing efforts to acquire the necessary interests in land and rights over land by agreement.
- 6.9.3. In addition, it states that the acquisition of land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is no more than is reasonably required for, or to facilitate, or is incidental to the Proposed Development. Furthermore, it states that the land identified to be subject to CA, as is shown in the dDCO [REP7-033], the Works Plan [REP7-003] and other information both in the SoR and in other documents accompanying the Application, is no more than is reasonably necessary for that purpose and is proportionate.
- 6.9.4. Overall, the ExA are satisfied that the Applicant has demonstrated that the land is needed and would be no more than is reasonably required for the Proposed Development. Furthermore, the ExA are also satisfied that all of the land included is required either for the development, to facilitate it or is incidental to it. As such, subject to the ExA's further consideration of plots affected by outstanding objections/ representations in section 6.12 below, the ExA considers the test set out in s122(2) of the PA2008 to be met.
- 6.9.5. In relation to section 122(3), the Applicant points, in the SoR [REP7-008], to a number of public benefits that would result including:
- helping meet the urgent need for new energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development;
 - delivering additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;

- providing CHP connectivity;
- addressing the shortfall of non-landfill Household, Industrial and Commercial (HIC) residual waste management capacity, enabling waste to be managed further up the waste hierarchy and reducing the need to export waste for treatment abroad, consistent with the proximity principle as set out in Chapter 3 of this report;
- secure carbon reductions associated with the diversion of waste from landfill; and
- deliver a range of environmental, social and economic benefits including biodiversity net gain, jobs creation and investment in local supply chains.

6.9.6. Taking these matters into account, the Applicant that the proposed interference with the rights of those with an interest in the Order Land is for a legitimate purpose, the construction and operation of a nationally significant infrastructure project for which there is an identified need, namely the Proposed Development, and is necessary and proportionate to that purpose. The Applicant considered that the substantial public benefits to be derived from the proposed CA would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.

6.9.7. Overall, and subject to the ExA's further consideration of the plots affected by outstanding objections / representations in section 6.12 below, the ExA agrees and are satisfied that there is a compelling case in the public interest for that the land to be acquired compulsorily. The ExA is therefore satisfied that the test set out in s122(3) PA2008 is met.

6.10. ALTERNATIVES

6.10.1. The CA Guidance indicates that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.

6.10.2. The Applicant's approach to the consideration of alternatives to CA is set out in Section 5.6 of the SoR [REP7-008]. In addition, Chapter 2 of the ES [APP-029] sets out the Applicant's rationale for site selection and the factors that informed the consideration of alternative layouts and design, including alternative points of connection, grid connection route and technology. Please also see section 3.3 of this report.

6.10.3. In summary, the Applicant has chosen the site because it meets the Applicant's siting criteria, namely a location that responds to the requirement for additional EfW capacity, provides the opportunity for CHP connectivity and a grid connection, is of sufficient size to accommodate the Proposed Development and has good access to the strategic highway network.

6.10.4. in Section 5.6 of the SoR [REP7-008] notes that the Applicant has sought to acquire, by agreement, land and rights in land for the purposes of the Proposed Development and it has engaged in extensive consultation and negotiations with all persons with an interest in the relevant land in order to try to avoid the need for CA wherever possible. Moreover, it notes that all reasonable alternatives to CA have been explored. The Applicant states that it requires the powers of CA and TP sought in order to provide certainty that it would have all the rights required to

construct and operate the Proposed Development in order to realise its very significant public benefits.

- 6.10.5. The final CA Schedule [REP7-039] records that, at the close of the Examination, there were objections outstanding in relation to CA and not all agreements had been concluded by the end of the Examination. The ExA will, in section 6.12 below, look at the objections/representations outstanding in relation to CA. Nevertheless, in light of the above, the ExA considers that the Applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored.

6.11. Availability and Adequacy of Funds

- 6.11.1. The Applicant's Funding Statement [APP-016] explains that the Applicant is a Special Purpose Vehicle created to deliver the Proposed Development and is a wholly owned subsidiary of MVV Environment Limited (MVV). MVV is a wholly owned subsidiary of MVV Umwelt GmbH whose ultimate parent company is MVV Energie AG.
- 6.11.2. The financial statements provided indicate that the Applicant had the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any land and rights and the payment of compensation. Nevertheless, as stated within the Funding Statement [APP-016], the Applicant would have to draw down funds in the form of equity from its parent company and debt provided via a bank loan direct to the Applicant with one of its parent companies as guarantor.
- 6.11.3. The adequacy of funding for CA was not raised by any AP during the course of the Examination. However, the ExA asked the Applicant to provide, in response to the ExA questioning during CAH1, evidence that all potential three guarantors which the Applicant could rely upon in relation to funding for the capital costs of the Proposed Development, were willing to financially support the capital costs of the Proposed Development. Evidence was provided in the form of confirmation letters submitted at DL5 [REP5-030].
- 6.11.4. Furthermore, Art 9 of the dDCO [REP7-033] requires a guarantee or alternative form of security for compensation that may be payable pursuant to the DCO before the provisions for CA can be exercised. This provides a clear mechanism whereby the necessary funding for CA can be guaranteed.
- 6.11.5. Based on the information provided, the ExA are satisfied that the necessary funds would be available to the Applicant to cover the likely costs of CA.

6.12. CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES

- 6.12.1. Although this section specifically considers objections/ representations raised, the ExA appreciates that these represent only a proportion of the plots that would be affected. Even though a specific objection/ representation may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be the subject to the powers of CA or TP in reaching its overall conclusions.
- 6.12.2. Although the Applicant has submitted an official change request, which was accepted into the Examination on 28 July 2023 [PD-018], the ExA found that the change request did not engage the CA Regulations 2010, as stated in [PD-016].

- 6.12.3. The CA Schedule [REP7-039] details those APs that have submitted a relevant representation, the nature of their interest as set out in Parts 1, 2 and 3 of the BoR [REP7-030], the nature of the CA powers being sought and the current status of the objection.
- 6.12.4. Table 1.1 CA Schedule [REP7-039] identifies those affected persons where the Applicant has made reasonable attempts to acquire the land or rights required for the Proposed Development by voluntary agreement.
- 6.12.5. Table 1.2 of CA Schedule [REP7-039] identifies those affected persons who have interests listed in the BoR but where the Applicant does not consider it necessary to enter into a voluntary agreement as the affected person is not a landowner or a tenant nor do they have the benefit of restrictions on the use of the Order land that would be extinguished, suspended or interfered with by the Proposed Development. Consequently, the persons identified in Table 1.2 are dealt with under Chapter 7 The Development Consent Order.
- 6.12.6. Objections received from SU in relation to SU land, right or apparatus are addressed in section 6.14 of this Chapter.

National Highways Limited

Plots 1/1a 1/1b 1/1c 1/1d 1/1e 2/1a 2/1b 3/1a 3/1b 4/1a 4/1b 4/1c 4/1d 5/1a 5/1b 5/1c 6/1a 6/1b 6/1c 6/1d 6/1e 6/1f 6/1g 6/1h 6/1i 6/1j 6/1k 6/2a 6/2b 7/1a 8/1a 8/1b 8/1c 8/2a 9/1a 9/1b 9/1c 10/1a 10/1b 10/1c 10/2a 10/2b 10/2c 10/2d

- 6.12.7. National Highways Limited submitted a Relevant Representation (RR) [RR-021] and a WR [REP2-037] where it stated that it understands that the Applicant proposes to route cabling and water pipes beneath the A47 raising a number of geotechnical concerns due to ground conditions and that, as such, to safeguard its interests and to ensure the safety and integrity of the Strategic Road Network (SRN), it objects to the Compulsory Powers being granted.
- 6.12.8. National Highways Limited primary concerns were linked to the use of open cut trench along the A47 verge. It stated, in [REP2-037], that whilst open cut trenching was considered acceptable along the verge, additional information was required in relation of the acceptability of the geology of the soils in the area to accommodate the Horizontal Direction Drilling (HDD) works required for the proposed Water Connection. National Highways Limited stated that concerns were founded on the need to meet its statutory obligation and ensure that any development did not impact in any adverse way upon those statutory obligations.
- 6.12.9. It goes on to state, in [RR-021] that it considers that there is no compelling case in the public interest for the Compulsory Powers and that the Secretary of State, in applying section 127 of the Planning Act 2008, cannot conclude that new rights and restrictions over the Plots can be created without serious detriment to National Highways' undertaking and no other land is available to National Highways to make good the detriment.
- 6.12.10. In [REP2-037] National Highways Limited goes on to state that it does not object, in principle, to the Proposed Development, but subject to the incorporation of agreed protective provisions in the dDCO.

- 6.12.11. The Applicant responded to National Highways Limited RR [REP1-028] and its WR in [REP3-039]. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and National Highways Limited throughout the Examination, the last of which was [REP7-020].
- 6.12.12. The SoCG [REP7-020], which is signed by both parties, states that agreement has been reached between both parties in relation to CA and property matters. The dDCO [REP8-004] now contains protective provisions in paragraph 46 of Part 5 of Schedule 11 that would prohibit the use of CA power and temporary use powers in respect of National Highways' land and interests without the prior consent of National Highways.
- 6.12.13. As the SoCG [REP7-020] is signed at the close of the Examination, significant weight can be given to this document. Nevertheless, as National Highways Limited did not formally withdraw its objection to Compulsory Powers being granted, the ExA recommends that the SoS may wish to seek an update as to whether National Highways Limited is now content to withdraw its representation, as no formal withdrawal has been received.
- 6.12.14. Having considered the wording in the Protective Provisions (PPs) in the dDCO, the ExA are satisfied that the wording in Part 5, Schedule 11 of the dDCO provides adequate protection for National Highways Limited assets which provides that the Applicant may not acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over any part of any highway, including subsoil beneath the surface of any highway of Highways England Limited otherwise than by consent.
- 6.12.15. The PPs in the dDCO also include provisions that secure that the Applicant must submit to National Highways, before commencing the construction of, of the carrying out of any work which involve interference with a highway, plans for its approval and that works must not be carried out except in accordance with the plans submitted to, and approved by, National Highways.
- 6.12.16. Given the above, the ExA are satisfied that the PPs in favour of National Highways included in the dDCO are sufficient to ensure there would be no serious detriment. The ExA concludes that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA and TP powers sought.

Norfolk County Council

Plots 1/1a 1/1b 2/1b 5/1c 6/1c 6/1d 6/1f 6/1h 6/1i 6/1j 6/2a 10/1b

- 6.12.17. Norfolk County Council (Norfolk CC) submitted RR [RR-004]. No formal objection to the CA/TP of these plots was received. However, Norfolk CC raised a number of concerns on technical matters. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and Norfolk County Council throughout the Examination, the last of which was [REP7-016].
- 6.12.18. Norfolk CC's primary concerns were in relation to the impacts of the Proposed Development in Norfolk, namely those associated with the grid connection linking the primary EfW CHP Facility to Walsoken substation, which is located in Norfolk.

- 6.12.19. The Applicant responded to Norfolk County Council's RR in [REP1-028] acknowledging its comments. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this. Nevertheless, the ExA notes that the Applicant reiterated its commitment to its continued engagement with Norfolk CC in relation to its main concerns, including traffic management in its role as highways authority.
- 6.12.20. The SoCG [REP7-016], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties.

Anglian Water Services Limited

Plots 1/1a 1/1b 1/1c 1/2a 1/2b 2/1b 5/1c 6/1b 6/1c 6/1d 6/1e 6/1f 6/1j 6/1k 6/2a 6/2b 10/1a 10/2e 10/2f 10/2g 10/3a 10/5a 11/1a(i) 11/1a(ii) 11/1a(iii) 11/1b(i) 11/1b(ii) 11/1c 11/1d 11/2a 11/2e 11/2k 11/2l 11/2m 11/2n 11/2o 12/1a 12/1b 12/1d 12/1g 12/1h 12/1l 12/4a 13/1a 13/3a 13/4a 13/4c(i) 13/4c(ii) 13/4d 13/5a 14/1a 15/1a 16/1a(i) 16/1a(ii) 16/2a 16/3a 16/4a

- 6.12.21. Anglian Water Services Limited submitted a RR [RR-020] and a WR [REP2-040]. No formal objection to the CA/TP of these plots was received. However, Anglian Water raised a number of concerns on technical matters. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and Anglian Water Services throughout the Examination, the last of which was [REP6-021].
- 6.12.22. Anglian Water Services Limited primary concerns were in relation to the PPs set out in Schedule 11, Part 7 of the dDCO [APP-013]. Anglian Water Services Limited was that the PPs were based on an old version of Anglian Water's Protective Provisions template, which has been updated since the dDCO was drafted [APP-013].
- 6.12.23. The Applicant responded to Anglian Water Services RR in [REP1-028] and its WW in [REP3-039] acknowledging its comments. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this. Nevertheless, the ExA notes that the Applicant reiterated its commitment to its continued engagement with Anglian Water Services Limited in relation to its main concerns, including the drafting of PPs.
- 6.12.24. The SoCG [REP6-021], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties. But the ExA notes that it does not indicate any outstanding matters of disagreement between the parties and indicates that agreement had been reached in relation to PPs in the dDCO [REP8-004].

King's Lynn Internal Drainage Board

Plots 2/1a 5/1b

- 6.12.25. King's Lynn Internal Drainage Board (King's Lynn IDB) submitted RR [RR-019]. No formal objection to the CA/TP of these plots was received. However, King's Lynn Internal Drainage Board (IDB) raised a number of concerns on technical matters. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and King's Lynn IDB throughout the Examination, the last of which was [REP7-019].

- 6.12.26. King's Lynn IDB primary concerns were in relation to the impacts of the Proposed Development and its potential impact on the King's Lynn IDB's ability to carry out its statutory functions. The King's Lynn IDB was particularly concerned with works that included water crossings, surface water discharge and PPs.
- 6.12.27. The Applicant responded to King's Lynn IDB RR in [REP1-028] acknowledging its comments. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this. Nevertheless, the ExA notes that the Applicant reiterated its commitment to its continued engagement with King's Lynn IDB in relation to its main concerns, agreement on the works that would impact King's Lynn IDB statutory functions and PPs.
- 6.12.28. The SoCG [REP7-019], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties. It is worth noting that the SoCG [REP7-019] does not indicate that there were any outstanding concerns which remained unresolved by the end of the Examination and that agreement has been reached in relation to PPs in the dDCO [REP8-004].

Hundred of Wisbech Internal Drainage Board

Plots 8/2a 10/1a 10/1b 10/2c 10/2d 10/2e 10/2g 10/3a 10/4a 11/1d 11/1e 11/2a 11/2d 11/2e 11/2f 11/2g 11/6a 11/6b 11/7a 11/7b 11/7c 12/1a 12/5a 12/5b 13/3a 13/4a

- 6.12.29. Hundred of Wisbech Internal Drainage Board (Hundred of Wisbech IDB) submitted [RR-017]. No formal objection to the CA/TP of these plots was received. However, Hundred of Wisbech IDB raised a number of concerns on technical matters. In addition, a Statement of Common Ground (SoCG) were produced between the Applicant and Hundred of Wisbech IDB [REP7-018].
- 6.12.30. Hundred of Wisbech IDB primary concerns were in relation to the impacts of the Proposed Development and its potential impact on the Hundred of Wisbech IDB statutory functions and its need to fully understand the impacts of the scheme and to determine whether any mitigation measures proposed are sufficient. The Hundred of Wisbech IDB was particularly concerned with the need to review the design, construction and completion of environmental, water level and flood risk management works, prior to certification that such works are acceptable and the provision of a reasonable maintenance period during which time the Hundred of Wisbech IDB or its agents can require the applicant or its agents to resolve any defects in the completed works.
- 6.12.31. The Applicant responded to Hundred of Wisbech IDB RR in [REP1-028] acknowledging its comments. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this. Nevertheless, the ExA notes that the Applicant reiterated its commitment to its continued engagement with Hundred of Wisbech IDB in relation to its main concerns, namely those that affect its statutory functions, issues raised in their RR in relation to hydrology concerns, concerns in relation to stand off distance from drains, crossing of drains and water discharges into drains and also suitable PPs.
- 6.12.32. The SoCG [REP7-018], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties. It is worth noting that the SoCG [REP7-018] does not indicate

that there were any outstanding concerns which remained unresolved by the end of the Examination and that agreement has been reached in relation to PPs in the dDCO [REP8-004].

Cambridgeshire County Council

Plots 9/1b 10/1c 10/2a 10/2b 10/2f 10/2g 11/1a(i) 11/1a(iii) 11/1b(ii) 11/1c 11/4a 12/1a 12/1b 12/1c 12/1d 12/1e 12/1f 12/1g 12/1h 12/1i 12/1j 12/1k 12/1l 12/4a 16/1a(ii) 16/1b(i) 16/4a

- 6.12.33. Cambridgeshire County Council (Cambs CC) submitted a RR [RR-002], a summary of RR [REP1-069], a Procedural Deadline A submission [PDA-007] and a WR [REP2-033]. Although no formal specific objection to the CA/TP of these plots was received, Cambs CC does state, in Appendix 1 of its RR [RR-002] that the Council does not support the construction of an incinerator in Wisbech and that it will use all legal powers and avenues available to oppose any plans to build any incinerators in Wisbech. As such, the ExA is interpreting the Cambs CC statement as an objection to the Proposed Development, including the CA/TP of the plots mentioned above.
- 6.12.34. Cambs CC have raised a number of concerns on technical matters to which the Applicant has responded to during the Examination and to which Cambs CC was invited to comment on during the Examination process at hearings and through written submissions. These were raised in Cambs CC's submission including [AS-014], [REP1-067 to REP1-069], the Local Impact Report (LIR) submitted jointly with Fenland District Council [REP1-074], [REP2-030 to REP2-033], [REP3-044 to REP3-046], [REP4-028 to REP4-031], [REP5-043 to REP5-045], [REP6-035 to REP6-037], [REP7-042 to REP7-044], [REP8-025 to REP8-028].
- 6.12.35. The Applicant responded to Cambs CC's RR [REP1-028] and its WR in [REP3-039]. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and Cambs CC throughout the Examination, the last of which was [REP8-011].
- 6.12.36. The SoCG [REP8-011], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties. Nevertheless, it does show there are areas where agreement has not been reached between both parties, namely alternatives, traffic and transport, landscape and visual impact, climate change, socio-economic, tourism recreation and land use issues, planning policy and waste matters.
- 6.12.37. As no objection to CA was raised, submissions made by Cambs CC do not raise any specific concerns regarding any of the plots subject to CA or TP. Nevertheless, the SoR [REP7-008] does provide a detailed justification for all of the plot included above, with plot 9/1b need for Work No. 7, 10/1c, 10/2a, 10/2b, 10/2f, 10/2g for Work No. 6A, 11/1a(i), 11/1a(iii), 11/1b(ii), 11/1c, 11/4a, 12/1a, 12/1b, 12/1c, 12/1d, 12/1e, 12/1f, 12/1g, 12/1h, 12/1i, 12/1j, 12/1k, 12/1l, 12/4a for Work No. 4A, 16/1a(ii) for Work No. 3A and 16/1b(i), 16/4a for Work No. 3B as detailed in the dDCO [REP7-033].
- 6.12.38. Overall, the ExA are satisfied that these plots are either required for the Proposed Development, to facilitate it or are incidental to it and as such meet the test set out in s122(2) of the PA2008.

- 6.12.39. Turning then to the public interest, while the ExA acknowledges that the CA of rights and imposition of restrictions for all plots, with the exception of plots 11/1c and 11/4a where the Applicant seeks the CA of land for access to the EFW CHP Facility Site and access improvements on New Bridge Lane, would result in some disruption and inconvenience, the extent of the rights being sought are limited.
- 6.12.40. For plots 11/1c and 11/4a, the extension of the rights being sought is greater as includes the acquisition of land.
- 6.12.41. Although plot 11/4a, as stated in the SoR [REP7-008], has already been purchased by the Applicant by agreement, CA powers are still being sought in order to guarantee that no unknown interests would impede the commencement of the Proposed Development.
- 6.12.42. In relation to plot 11/1c (in respect of the footway), the SoR [REP7-008] states that the land forms part of the disused March-to-Wisbech Railway and that it is required to deliver vehicular access to the EFW CHP Facility. The Applicant also states in the SoR [REP7-008] that the exercise of CA powers needs to be considered in the context of other restrictions and obligations in the dDCO.
- 6.12.43. Accordingly, while the ExA accepts that the CA and TP powers sought might result in some adverse impacts, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, the ExA considers there is a compelling case in the public interest for that the land to be acquired compulsorily. The ExA are therefore satisfied that it meets the tests in s122(3) PA2008.
- 6.12.44. The SoCG [REP7-020], which is signed by both parties, states that agreement has been reached between both parties in relation the dDCO and the wording included in the Schedules. The dDCO [REP8-004] now contains protective provisions in paragraph 115 of Part 9 of Schedule 11 ensuring that, before commencing the construction of, or the carrying out of any work which involves interference with a highway, the undertaker must submit to Cambs CC for its approval plans relating thereto, and the works must not be carried out except in accordance with the plans submitted to, and approved by, Cambs CC.
- 6.12.45. Furthermore, the dDCO does state, in paragraph 116 of Part 9 of Schedule 11 that the Applicant must not alter, disturb or in any way interfere with any property of Cambs CC on or under any highway, or the access thereto, without the consent of the Cambs CC, and any alteration, diversion, replacement or reconstruction of any such property which may be necessary may be made by Cambs CC or the undertaker as the Cambs CC thinks fit, and the expense reasonably incurred by Cambs CC in so doing must be repaid to Cambs CC by the undertaker.
- 6.12.46. As the SoCG [REP7-020] is signed at the close of the Examination, significant weight can be given to this document.
- 6.12.47. Having considered the wording in the Protective Provisions (PPs) in the dDCO, the ExA are satisfied that the wording in Part 9, Schedule 11 of the dDCO provides adequate protection for Cambs CC as highway authority.
- 6.12.48. Given the above, the ExA are satisfied that the PPs in favour of Cambs CC included in the dDCO are sufficient to ensure there would be no serious detriment. The ExA concludes that the land is required for the Proposed Development or is required to

facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA and TP powers sought.

Fenland District Council

Plots 10/2f 10/3a 10/5a 11/1a(i) 11/1d 11/2a 11/2b 11/2c 11/2d 11/2e 11/2f 11/2g 11/2h 11/2i 11/2j 11/2k 11/2l 11/2m 11/2n 11/2o 11/7a 11/7b 11/7c 13/3a 13/4a 13/4b 13/4c(i) 13/4c(ii) 13/4d 14/1a

- 6.12.49. Fenland District Council (Fenland DC) submitted a RR [RR-003], a summary of RR jointly with Cambs CC [REP1-069], a Procedural Deadline A submission [PDA-008] and a WR jointly with Cambs CC [REP2-033]. Although no formal specific objection to the CA/TP of these plots was received, Fenland DC does state, in Appendix 1 of its RR [RR-003] that it does not support the construction of an incinerator in Wisbech and that it will use all legal powers and avenues available to oppose any plans to build any incinerators in Wisbech. Furthermore, Appendix B of the SoR [REP7-008] does confirm that Fenland DC is opposed to the Proposed Development and did not wish to engage in further discussions regarding a voluntary agreement. As such, the ExA are interpreting the Fenland DC's statements as an objection to the Proposed Development, including the CA/TP of the plots mentioned above.
- 6.12.50. Fenland DC have raised a number of concerns on technical matters to which the Applicant has responded to during the Examination and to which Fenland DC was invited to comment on during the Examination process at hearings and through written submissions. These were raised in Fenland DC's submission including [REP1-069], the Local Impact Report (LIR) submitted jointly with Cambs CC [REP1-074], [REP2-030 to REP2-033], [REP3-044 to REP3-046], [REP4-028 to REP4-031], [REP5-043 to REP5-045], [REP6-035 to REP6-037], [REP7-042 to REP7-044], [REP8-025 to REP8-028].
- 6.12.51. The Applicant responded to Fenland DC's RR [REP1-028] and its WR in [REP3-039]. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and Fenland DC throughout the Examination, the last of which was [REP8-011].
- 6.12.52. The SoCG [REP8-011], which is signed by both parties, does not cover concerns in relation to CA and property matters as these were not a matter of contention between the parties. Nevertheless, it does show there are areas where agreement has not been reached between both parties, namely alternatives, traffic and transport, landscape and visual impact, climate change, socio-economic, tourism recreation and land use issues, planning policy and waste matters.
- 6.12.53. As no objection to CA was raised, submissions made by Fenland DC do not raise any specific concerns regarding any of the plots subject to CA or TP. Nevertheless, the SoR [REP7-008] does provide a detailed justification for all of the plot included above, with plots 10/2f, 10/3a, 10/5a and 11/2a for works No. 6A; 11/1a(i) for works No. 4A; 11/1d for works No. 2B; 11/2b, 11/2c, 11/7a and 11/7c for works No. 1, 1A, 2A, 2B and 3; 11/2e, 11/2g, 11/2h, 11/2i, 11/2j, 11/2k, 11/2l, 11/2m, 11/2n, 11/2o and 13/4b for works No. 5; 13/3a for works No. 3A; 13/4c(i) and 13/4c(ii) for Works 4B as detailed in the dDCO [REP7-033].
- 6.12.54. Plots 11/2d, 11/2f, 11/7b and 13/4a relate to existing drainage ditches and rights are required in order to maintain and protect the existing drainage facilities in the area.

13/4d, 14/1a relate to access to the EFW CHP facility via Algores Way and rights to access the facility are required. It is worth noting that, Schedule 2 – Requirement in the dDCO [REP7-033] includes provisions to protect the rights of other users of Algores Way through the submission and approval by the relevant planning authority in consultation with the highways authority of a construction traffic management plan and an operational traffic management plan in accordance with the corresponding outline plan. Furthermore, Schedule 8 of the dDCO [REP7-033] confirms that the Applicant is only seeking a right of access and associated rights over Algores Way and not the acquisition of the freehold of the Algores Way.

- 6.12.55. Overall, the ExA are satisfied that these plots are either required for the Proposed Development, to facilitate it or are incidental to it and as such meet the test set out in s122(2) of the PA2008.
- 6.12.56. Turning then to the public interest, the Applicant requests for plots 11/1d, 11/2b, 11/2c, 11/7a, 11/7c, 13/3a and 13/4c(i) the CA of land for either the construction, operation and maintenance of the EFW CHP Facility Site or for construction, operation and maintenance of the EFW CHP Facility Site, access improvements and foul water connection.
- 6.12.57. For plots 11/2e, 11/2g, 11/2h, 11/2i, 11/2j, 11/2k, 11/2m, 11/2l, 11/2m, 11/2n, 11/2o and 13/4b the Applicant proposes the TP of land.
- 6.12.58. For all other plots, the Applicant request the CA of rights and imposition of restrictions.
- 6.12.59. Accordingly, while the ExA accepts that the CA and TP powers sought might result in some adverse impacts, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, the ExA considers there is a compelling case in the public interest for that the land to be acquired compulsorily. The ExA are therefore satisfied that it meets the tests in s122(3) PA2008.
- 6.12.60. The SoCG [REP7-020], jointly with Cambs CC which is signed by both parties, states that agreement has been reached between both parties in relation the dDCO and the wording included in the Schedules. As the SoCG [REP7-020] is signed at the close of the Examination, significant weight can be given to this document.
- 6.12.61. The ExA therefore concludes that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA and TP powers sought.

Wayne Clarke Cowling

Plots 11/1b(ii) 11/3a 11/3b 12/1a 12/5a 12/5b

- 6.12.62. Mr. Cowling submitted a RR into the Examination [RR-176]. No formal objection to the CA/TP of these plots was received. However, Mr. Cowling did raised a number of concerns in its RR on technical matters. The Applicant responded to Mr. Cowling's RR, and its concerns, in [REP1-030]. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this.
- 6.12.63. At CAH2 [EV-018] the Applicant provided an update on its negotiations with Mr. Cowling and stated that Head of Terms had been agreed and solicitors were due to be instructed to negotiate documents for the acquisition of this land, as per the

Applicant's draft written summary of oral submissions at CAH1 and CAH2 [REP3-037]. At CAH3 [EV-063] the Applicant provided another update on its negotiations with Mr. Cowling and confirmed that agreement had not been reached, as stated in [REP6-026].

- 6.12.64. During the Examination discussions continued between the Applicant and the AP but, as stated in the last revision of the Compulsory Acquisition Schedule [REP7-039], agreement had not been reached by DL7 and no confirmation of agreement being reached was submitted by the end of the Examination.
- 6.12.65. The SoR [REP7-008] does provide a detailed justification for the power sought for all of the plot included above. The Applicant is seeking, for plots 11/3a, 12/5a the CA of land, for 11/3b, 12/5b the TP of land and for 11/1b(ii), 12/1a CA of rights and imposition of restrictions. As stated in paragraph 6.3 having carefully reviewed the works plans, land plans and BoR, the ExA is satisfied that each area of land affected by CA or TP is required for the carrying out of one or more of the works identified in Schedule 1 of the dDCO or their maintenance. As such, these meet the test set out in s122(2) of the PA2008.
- 6.12.66. Accordingly, while the ExA accepts that the CA and TP powers sought might result in some adverse impacts to the owner's private interests, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, the ExA considers there is a compelling case in the public interest for that the land to be acquired compulsorily. The ExA are therefore satisfied that it meets the tests in s122(3) PA2008.

Network Rail Infrastructure Limited

Plots 11/a(ii) 11/1a(iii) 11/1b(i) 11/1c 11/4a 11/4b 11/5a 11/5b 13/1a 15/1a 15/2a 15/2b 16/1a(i) 16/1a(ii) 16/1b(i) 16/1b(ii) 16/3a 16/4a

- 6.12.67. Network Rail Infrastructure Limited (Network Rail) submitted a RR [RR-011] and a WR [REP2-039] where it stated that it understands that the Applicant proposes to lay an overground pipeline (CHP Connection) (Works No. 3A and 3B) within land forming part of the disused but operational March to Wisbech railway line (Plots 13/1a, 15/1a, 15/2a, 15/2b, 16/1a, 16/1b, 16/3a and 16/4a) (Railway Corridor). In addition, Network rail recognises that the Applicant seeks rights of access over the currently disused level crossing on New Bridge Lane (Works No. 4A) which would form part of the main site access to the Proposed Development (Plots 11/1c, 11/4a, 11/4b, 11/5a, and 11/5b).
- 6.12.68. Network Rail goes on to state that it intends to reopen the March to Wisbech railway line for services in the future which would necessitate installing kit and operating train services within the Railway Corridor alongside the CHP Pipeline. As part of this, the New Bridge Lane level crossing would also need to be brought back into operation to facilitate the crossing of the railway by pedestrians and vehicles. For those reasons, Network Rail states that it objects to the Compulsory Powers being granted.
- 6.12.69. In [REP2-039] Network Rail confirms that, in conjunction with the Applicant, they have undertaken discussions, and would continue to do so. It also states that the parties are confident that the form of protective provisions and the private agreement can be agreed before the close of the Examination. However, until such

time as the private agreement has been completed, Network Rail's objection to the dDCO will not be withdrawn.

- 6.12.70. The Applicant responded to Network Rail's RR [REP1-028] and its WR in [REP3-039]. In addition, Statements of Common Ground (SoCGs) were produced between the Applicant and Network Rail throughout the Examination, the last of which was [REP8-010]. At DL8 Network rail also submitted an additional position statement [REP8-029] in relation to progress with its private agreement with the Applicant.
- 6.12.71. The SoCG [REP8-010], which is signed by both parties, states that agreement has been reached between both parties in relation to CA and property matters.
- 6.12.72. The dDCO [REP8-004] now contains protective provisions in paragraph 95(4) of Part 8 of Schedule 11 that state the Applicant must not under the powers of the Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail. Furthermore, the dDCO also states that the Applicant must not under the powers of the Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway and that before commencing construction of any specified work, the Applicant must supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration. Paragraph 97 of Part 8 of Schedule 11 also secures that, in the event that damage to railway property or any such interference or obstruction shall be caused, the Applicant must make good such damage or compensate Network Rail for the damage.
- 6.12.73. As the SoCG [REP8-010] is signed at the close of the Examination, significant weight can be given to this document. Nevertheless, as Network Rail did not formally withdraw its objection to Compulsory Powers being granted, the ExA recommends that the SoS may wish to seek an update as to whether Network Rail is now content to withdraw its representation, as no formal withdrawal has been received.
- 6.12.74. Having considered the wording in the Protective Provisions (PPs) in the dDCO, the ExA are satisfied that the wording in Part 8, Schedule 11 of the dDCO provides adequate protection for Network Rail assets which provides that the Applicant may not acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.
- 6.12.75. Given the above, the ExA are satisfied that the PPs in favour of network Rail included in the dDCO are sufficient to ensure there would be no serious detriment. The ExA concludes that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA and TP powers sought.

Welle Stream Limited

Plots 11/1a(i) 11/8a

- 6.12.76. Welle Stream Limited submitted a RR into the Examination [RR-057] and a WR [REP2-069]. The RR stated that, as the owner of the land in relation to Plots 11/1a(i) and 11/8a, it welcomed the idea of the acoustic fence being erected as an alternative to the CA of the land. This is being interpreted by the ExA as Welle Stream Limited not objecting to the CA of rights and imposition of restrictions over the land. However, Welle Stream Limited did raise a number of concerns in its RR on technical matters. The Applicant responded to Welle Stream Limited's RR, and its concerns, in [REP1-029]. As no formal objection to the CA/TP of land was made, no specific comments were made in relation to this.
- 6.12.77. Welle Stream Limited, in its WR [REP2-069] raised additional concerns regarding how future changes to access to their property and land would be accommodated. The Applicant responded to this concern in [REP3-040].
- 6.12.78. At CAH2 [EV-018] the Applicant provided an update on its negotiations with Welle Stream Limited and confirmed, as per the Applicant's draft written summary of oral submissions at CAH1 and CAH2 [REP3-037], that it is seeking the CA of rights over the land in order to install an acoustic fence as part of the proposed mitigation against the Proposed Development. It also stated that it met with the owner at the end of February and that it is waiting for a response on the offer made. At CAH3 [EV-063] the Applicant provided another update on its negotiations with Welle Stream Limited and confirmed that agreement had not been reached, as stated in [REP6-026].
- 6.12.79. During the Examination discussions continued between the Applicant and the AP but, as stated in the last revision of the Compulsory Acquisition Schedule [REP7-039], agreement had not been reached by DL7 and no confirmation of agreement being reached was submitted by the end of the Examination.
- 6.12.80. The SoR [REP7-008] does provide a detailed justification for the power sought for the plots included above. The Applicant is seeking the CA of rights and imposition of restrictions in order to deliver a mitigation measure identified by the Applicant as necessary in order to reduce the effects of the Proposed Development, in relation to noise, on 10 New Bridge Lane. This work is identified and secured in the dDCO as Work No. 10 and Requirement 19 – Noise Management of Schedule 2 does state that The Applicant does state that no part of Work No. 4A may commence until Work No. 10 has been constructed. Work No. 10 must be maintained until the authorised development has been decommissioned.
- 6.12.81. Overall, the ExA are satisfied that these plots are either required for the Proposed Development, to facilitate it or are incidental to it and as such meet the test set out in s122(2) of the PA2008.
- 6.12.82. Accordingly, while we accept that the CA powers sought might result in some adverse impacts to the owner's private interests, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, the ExA considers there is a compelling case in the public interest for that the land to be acquired compulsorily. The ExA are therefore satisfied that it meets the tests in s122(3) PA2008.

6.13. EXA'S CONCLUSIONS ON OUTSTANDING OBJECTIONS AND ISSUES

- 6.13.1. The ExA are satisfied that the CA powers sought over all of the land identified in the Land Plans and BoR are required for the Proposed Development, to facilitate it or are incidental to it. It therefore follows that the ExA are satisfied that the powers sought meet the condition set out in s122(2) of the PA2008.
- 6.13.2. Furthermore, while it is accepted that the CA and TP powers sought might result in some adverse impacts to the private interests of the owners of the land affected, in view of the established need for the Proposed Development and the need to provide certainty in terms of project delivery, the ExA considers there is a compelling case in the public interest for the CA and TP powers sought. The ExA are therefore satisfied that it meets the tests in s122(3) of the PA2008.
- 6.13.3. Having considered the PPs, where applicable, the ExA considers they are sufficient to ensure that there would be no serious detriment to those SUs affected. Moreover, the ExA considers the extinguishment or removal of apparatus belonging to SUs is necessary for the purpose of carrying out the Proposed Development. Accordingly, the ExA considers the powers sought meet the requirements of s127 and s138 of the PA2008.

6.14. OTHER PARTICULAR CONSIDERATIONS

Special Land and Rights Provisions

- 6.14.1. The Applicant was asked throughout the Examination whether the Proposed Development bore on any of the special land and rights provisions that arise under PA2008. The Applicant confirmed, in the SoR [REP7-008] and in response to ExQ1 CA.1.9 [REP2-019] that no Crown Land or Special Category Land forms part of the Order land.

SU LAND, RIGHTS OR APPARATUS

- 6.14.2. S127 of PA2008 applies to land acquired by SUs for the purposes of their undertaking, and places restrictions on the CA, or CA of a new right, of such land where a representation is made in relation to a DCO application and is not withdrawn by the close of the Examination of that application. The dDCO includes provision to authorise the CA of land and rights held by SUs for the purposes of their undertaking.
- 6.14.3. If S127 applies, CA of SU's land can only be authorised if the SoS is satisfied:
- that the land can be purchased and not replaced without serious detriment to the SU or, if purchased, can be replaced by other land belonging to or available for purchase by the SU without detriment; or
 - the right can be purchased without serious detriment to the SU or, any detriment to the SU, in consequence of the acquisition of the right, can be made good by the SU by the use of other land belonging to or available for acquisition by them.

- 6.14.4. S138 of PA2008 applies where an Order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a relevant right or there is on, under or over the land relevant apparatus.
- 6.14.5. The Applicant has engaged with all of the SUs affected by the Proposed Development in order to address any representations raised by them where s127 or s138 apply. At the close of the Examination the Applicant's position in relation to these matters is set out in the Statement of Reasons [REP7-008] and the Status of Negotiations with SU Rev.5 [REP8-014] document. No representations were formally withdrawn.
- 6.14.6. Nevertheless, SoCG have been signed with the following SUs:
- Network Rail Infrastructure Limited (Network Rail) [REP8-010];
 - Anglian Water Services Limited (Anglian Water) [REP6-021];
 - National Highways [REP7-020];
 - Hundred of Wisbech IDB [REP7-018];
 - King's Lynn IDB [REP7-019];
- 6.14.7. In relation to the SUs stated above, namely: Network Rail, Anglian Water, National Highways, Hundred of Wisbech IDB, King's Lynn IDB; the ExA concluded in relation to each individual representations above. The dDCO includes PPs in respect of SUs (Art. 34 and Schedule 11) and bespoke to National Highways and Anglian Water. Part 6 of Schedule 11 also include PPs for the protection of Internal Drainage Board, with paragraph 66 of Part 6 of Schedule 11 mentioning specifically Hundred of Wisbech IDB and King's Lynn IDB. Part 6 of Schedule 11 also include PPs for the protection of Railway Interests, with paragraph 92 f Part 6 of Schedule 11 mentioning specifically Network Rail.
- 6.14.8. In addition to the above and in relation to S127, the dDCO proposes to CA the land in the ownership of Eastern Power Networks (EPN), Cadent Gas Limited, Fulcrum Pipelines Limited, Openreach Limited, Sky Telecommunications Services Limited (Sky), Virgin Media Limited (Virgin Media), Vodafone Limited, The Applicant states that:
- acquisition of EPN's land and rights would not result in serious detriment to the carrying on of the undertaking and that it included protective provisions in the dDCO, bespoke to EPN, to ensure that EPN's land and apparatus would be protected and access maintained during construction. The ExA agree with this conclusion.
 - acquisition Cadent Gas Limited's land and rights would not result in serious detriment to the carrying on of the undertaking and that it included protective provisions in the dDCO, bespoke to Cadent Gas, to ensure that Cadent Gas's land and apparatus would be protected and access maintained during construction. The ExA agree with this conclusion.
 - acquisition Fulcrum Pipelines Limited's land and rights would not result in serious detriment to the carrying on of the undertaking and that it included protective provisions in the dDCO to ensure that Fulcrum Pipelines Limited's land and apparatus would be protected and access maintained during construction. The ExA agrees with this conclusion.
 - it is not proposing to extinguish any rights or remove any apparatus belonging to Openreach Limited and has included protective provisions for

the benefit of electronic communications in the dDCO. The Applicant considers that these provide adequate protection ensuring there would be no serious detriment to Openreach Limited's undertaking. The ExA agrees with this conclusion.

- it is not proposing to extinguish any rights or remove any apparatus belonging to Sky and has included protective provisions for the benefit of electronic communications in the dDCO. The Applicant considers that these provide adequate protection ensuring there would be no serious detriment to Sky's undertaking. The ExA agrees with this conclusion.
- it is not proposing to extinguish any rights or remove any apparatus belonging to Virgin Media and has included protective provisions for the benefit of electronic communications in the dDCO. The Applicant considers that these provide adequate protection ensuring there would be no serious detriment to Virgin Media's undertaking. The ExA agrees with this conclusion.
- it is not proposing to extinguish any rights or remove any apparatus belonging to Vodafone Limited and has included protective provisions for the benefit of electronic communications in the dDCO. The Applicant considers that these provide adequate protection ensuring there would be no serious detriment to Vodafone Limited undertaking. The ExA agrees with this conclusion.

6.14.9. The dDCO, in Art. 34 and Art. 35 of the dDCO [REP7-033] includes provision to authorise necessary interference by the Applicant with the apparatus of SUs within the Order limits, but this is subject to the PPs included in Schedule 11. Furthermore, Art. 36 provides for the recovery of costs of new connections where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (Statutory Undertakers) to any person who is the owner or occupier of premises to which a supply was given from that apparatus.

6.14.10. Protective provisions in the dDCO [REP7-033] ensure that, if necessary, no rights would be extinguished without the agreement of the SU and no apparatus removed until alternative apparatus can be constructed. The ExA are satisfied that the PPs provide adequate protection for SUs assets and that the SUs would not suffer serious detriment to the carrying on of their undertaking. The ExA therefore concludes that the tests set out in subsections 127(3) and/or 127(6) (as appropriate) can be met.

6.14.11. Various SUs and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order land and are included in the BoR [REP7-030]. The dDCO [REP7-033] includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to SUs.

6.14.12. The exercise of such powers will be carried out in accordance with the PPs contained in Schedule 11 to the dDCO [REP7-033]. The PPs will be agreed with the relevant SUs and electronic communications apparatus owners and will accordingly set out constraints on the exercise of the powers in the DCO, with a view to safeguarding the SUs and electronic communications apparatus owners' interests, whilst enabling the Proposed Development to proceed.

- 6.14.13. In accordance with s138(4) the ExA are satisfied that the extinguishment of the SU rights, and removal of the SU apparatus is necessary for the purpose of carrying out the development to which the Order relates.

Human Rights Act 1998 and Equality Act 2010 Considerations

- 6.14.14. The Human Rights Act 1998 places the European Convention on Human Rights (ECHR) into UK statute. The ECHR is subscribed to by member states of the Council of Europe. ECHR rights are enforceable in the domestic courts but with final recourse to the European Court of Human Rights. The ECHR, the Council of Europe and the European Court of Human Rights are not EU institutions and are unaffected by the decision to leave the EU.
- 6.14.15. Relevant provisions of the ECHR that are normally engaged by CA and/or TP proposals include:
- Article 6 – the right to due process in civil proceedings, including a public hearing before an independent and impartial tribunal;
 - Article 8 – the right to respect for private and family life and the home is relevant where property that is a home is affected;
 - Protocol 1, Article 1 – the right to the peaceful enjoyment of property and not to be deprived of this other than in the public interest.
- 6.14.16. Chapter 9 of the SoR [REP7-008] deals with Human Rights, including compliance with the relevant provisions of the ECHR and fair compensation.
- 6.14.17. The Applicant does state that it has sought to minimise the potential to infringe the rights of individuals who hold interests in land within the Order limits so far as is practicable. In relation to access improvements, the Applicant has sought to acquire the minimum amount of land necessary to carry out the road widening works on New Bridge Lane and the relocated site access works on the unadopted section of Alorges Way.
- 6.14.18. The Applicant goes on to state that it considers that the acquisition of land owned by Fenland District Council for the EfW CHP Facility Site is reasonable and proportionate and the Applicant considers that Fenland District Council can be adequately compensated.
- 6.14.19. The Applicant also states that it has considered the impacts of the Proposed Development on the owner and occupier of 10 New Bridge Lane as part of the Environmental Impact Assessment both in respect of individual environment topics and in-combination. The Applicant considers that the CA of rights to install an acoustic fence at 10 New Bridge Lane in order to mitigate noise effects, is proportionate and necessary.
- 6.14.20. It is also worth noting that 9 New Bridge Lane has already been acquired by the Applicant to ensure compliance with Schedule 2 Requirement 19 of the dDCO [REP7-033], that mandates that this property must not be in residential use during the construction, operation or decommissioning of the authorised development.
- 6.14.21. The Applicant concludes that any infringement of the Convention rights of those whose interests are affected by the inclusion in the dDCO [REP7-033] of powers of CA, is proportionate and legitimate and is in accordance with national and European law. For the reasons set out in Chapter 9 of the SoR [REP7-008], the Applicant

considers that there is a compelling case in the public interest for the exercise of such powers of CA. The Applicant considers that it would, therefore, be appropriate and proportionate for the Secretary of State to make the dDCO, including the grant of CA powers.

- 6.14.22. The ExA considers that appropriate consultation took place before and during the process and that there has been an opportunity to make representations. The CAHs provided an opportunity for all APs to be heard had they wished to do so. Furthermore, should the Order be made, there are further opportunities for APs to challenge the Order in the High Court. The ExA considers this sufficient to meet the obligations set out in Article 6.
- 6.14.23. The ExA has found above that there is a compelling case in the public interest for all of the land identified to be acquired compulsorily. Furthermore, the ExA considers that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. The ExA therefore concludes that the CA and TP sought is compatible with the Human Rights Act 1998 and the ECHR.
- 6.14.24. The ExA concludes that the CA and TP sought is compatible with the Human Rights Act and the ECHR.
- 6.14.25. The Equality Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the Examination and in its consideration of the issues raised in this report.
- 6.14.26. Overall, the ExA finds that the Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, the ExA has found no breach of the Public Sector Equality Duty.

6.15. CONCLUSIONS

- 6.15.1. Having considered all of the material submitted to the Examination, the ExA has reached the following conclusions:
- The Application site has been appropriately selected.
 - All reasonable alternatives to CA have been explored.
 - The Applicant would have access to the necessary funds and the dDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
 - There is a clear need for all the land included in the BoR to be subject to CA or TP.
 - There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe, and the Proposed Development represents a significant public benefit to weigh in the balance.
 - That in all cases relating to individual objections and issues that CA and TP is justified to enable implementation of the Proposed Development.

- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
- The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.

6.15.2. Considering all of the above, the ExA finds there is a compelling case in the public interest for the CA and TP powers sought and the ExA recommends acceptance of the CA and TP powers proposed in the dDCO.

7. THE DEVELOPMENT CONSENT ORDER AND OTHER CONSENTS

7.1. INTRODUCTION

7.1.1. This section of the report describes the Draft Development Consent Order (dDCO) as applied for and the changes made to it during the Examination. It also describes matters that remained in dispute at the end of the Examination, the ExA's recommendations on those matters and the changes to the dDCO that would be necessary to give effect to these..

7.1.2. This section is organised as follows:

- The Examination of the DCO
- Parameters of the Order and the consent envelope
- The DCO as applied for
- Changes during the Examination
- Discussion of outstanding matters
- Conclusion

7.2. THE EXAMINATION OF THE DCO

7.2.1. The Applicant submitted a dDCO with the application [APP-013]. An EM to the dDCO was also submitted [APP-014].

7.2.2. The Applicant subsequently submitted six iterations of the dDCO. These sought to respond to matters raised in the written and oral questions from the ExA and in written and oral submissions from other parties. Versions of the dDCO were submitted as follows:

- Deadline 1 [REP1-007]
- Deadline 3 [REP3-007]
- Deadline 5 [REP5-006]
- Deadline 6 [REP6-004]
- Deadline 7 [REP7-033]
- Deadline 8 [REP8-004]

7.2.3. At each stage the Applicant provided a tracked changes version against the previous version. A schedule of changes has also been provided, including changes to the dDCO, the most up to date version being at DL08 [REP8-013]. The EM was also updated once during the Examination, the final version being submitted at DL07 [REP7-007].

7.2.4. The ExA asked questions about the content of the dDCO and the justification for the various provisions within it at the following ISHs:

- ISH1 on 22 February 2023 [EV-006];
- ISH2 on 12 April 2023 [EV-023; EV-025; EV-027];

7.2.5. The ExA also sought information about the dDCO at three stages through WQs:

- First Written Questions (ExQ1) [PD-008]

- Written Questions (ExQ2) [PD-013]
- Third Written Questions (ExQ3) [PD-017]

7.2.6. On 05 June 2023 the ExA issued a schedule of suggested changes to the dDCO [PD-014]. Comments on the schedule were invited by DL5. Further comments on the dDCO, following from responses received at D5 were then invited at DL6.

7.2.7. Throughout the Examination written submissions were received which included comments on the dDCO. In addition, several of the final SoCG recorded agreements and disagreements over the content of the dDCO. The final position of the different IPs in relation to the dDCO is then reflected in the Statement of Commonality (SoC) [REP8-012]. The ExA have taken account of all these submissions, together with the information gained in the ways set out above, in reaching the ExA's recommendations on the DCO.

7.3. PARAMETERS OF THE ORDER AND THE CONSENT ENVELOPE

7.3.1. The relevant parameters secured via Requirement 3 and Schedule 14 set maximum (and where applicable, minimum) parameters for relevant elements of the authorised development, including all those which are relied on for the assessment of effects in the ES. These parameters are based on application of the Rochdale Envelope principle, such that maximum building dimensions have been presented and assessed in the ES, recognising that the final building massing may differ from (but would never be materially larger than) these maxima depending on the technology provider selected.

7.4. THE DCO AS APPLIED FOR

7.4.1. The dDCO as applied for [APP-013] included a number of provisions to enable the construction, operation, maintenance and decommissioning of the Proposed Development. It is based upon the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the model provisions). Where variations have been made, the Applicant has identified other made DCOs where a similar approach has been approved by the SoS in the Explanatory Memorandum [REP7-007]. Its general structure is set out below:

- Part 1 (Preliminary): Articles 1 and 2 set out how the DCO may be cited, when it would come into force and the meaning of various terms used in the Order;
- Part 2 (Principal Powers): Articles 3 to 5 provide development consent for the Proposed Development and allow it to be carried out and maintained. Article 6 provides the disapplication of legislative provisions. Articles 7 and 8 set out who has the benefit of the Order and how and when the benefit of the Order can be transferred. Article 9 sets out provisions for the undertaker to provide securities for the payment of compensation for compulsory acquisition and temporary possession;
- Part 3 (Streets): Articles 10 to 17 provide powers in relation to street works. These include the ability for the undertaker to be able to carry out works to and within streets, power to create new or alter means of access, powers for temporary restriction of use of streets and public rights of way and temporary

use of private roads, get into agreements with the street authorities and undertake traffic regulation measures;

- Part 4 (Supplementary Powers): Articles 18 to 21 relate to discharge of water, authority to survey and investigate land, carry out protective work to buildings and the felling or lopping of trees. Article 22 relates to the removal of human remains;
- Part 5 (Powers of Acquisition and Possession of Land): Articles 23 to 36 provide powers in relation to the CA and TP of land, along with powers in relation to SUs;
- Part 6 (Miscellaneous and General): Articles 37 to 47 relate to electronic communications, the application of landlord and tenant law, operational land under the Town and Country Planning Act 1990, defence to proceedings in respect of statutory nuisance, protection of interests, document certification, the serving of notices, arbitration and the incorporation of the minerals code.

7.4.2. There are fifteen Schedules to the dDCO, providing for:

- the description of the authorised development (Schedule 1);
- the Requirements applying to it (Schedule 2);
- streets subject to street works (Schedule 3);
- streets subject to permanent alteration of layout (Schedule 4);
- streets subject to temporary alteration of layout (Schedule 5);
- streets where parts of accesses would be maintained, by whom, and works to restore temporary accesses maintained by the street authority (Schedule 6);
- temporary prohibition or restriction of the use of streets or public rights of way (Schedule 7);
- land in which only new rights may be acquired and the nature of the rights (Schedule 8);
- modification of compensation and compulsory purchase enactments for creation of new rights (Schedule 9);
- land of which TP may be taken (Schedule 10);
- Protective Provisions (Schedule 11);
- procedure for the discharge of Requirements (Schedule 12);
- document and plans to be certified (Schedule 13);
- maximum and minimum design parameters (Schedule 14);
- Arbitration Rules (Schedule 15).

7.4.3. Although there were numerous changes made to the dDCO during the Examination, as described below, its broad structure did not change.

7.5. CHANGES DURING THE EXAMINATION

7.5.1. This section sets out the most significant ways in which the dDCO changed during the Examination. There were also numerous minor changes, corrections and drafting improvements. These are recorded in the Applicant's schedule of changes [REP8-013] and can be seen in the various track changes versions of the dDCO. In this section the ExA does not report on revisions that the ExA feels are not controversial and the ExA does not repeat here all queries that the ExA considers have been adequately justified by the Applicant, thereby not necessitating change to the dDCO. The ExA does, however, comment on those changes that the ExA

considers to be significant because of their effect or because they gave rise to several submissions or questions.

7.5.2. Table 1 sets out the most significant changes made during the course of the Examination, as reflected in the Applicant's dDCO [REP8-004]. The changes in Table 1 generally flowed from discussions at Hearings, responses to the ExA's questions and submissions from IPs.

7.5.3. The ExA are satisfied that the majority of these changes are justified by the evidence before us and can be recommended for inclusion in the DCO if the SoS concludes that development consent should be granted. The ExA are not suggesting any changes to the dDCO as it was submitted in [REP8-004]. Therefore, the dDCO [REP8-004] is the ExA's recommended DCO (rDCO).

Table 1: Main changes made by the Applicant during the Examination

Provision	What has changed	Why the change is necessary
Article 2 Interpretation	Deadline 1 New definitions of "carbon capture and export readiness reserve space" and "carbon capture and export readiness reserve space plan"	To define terms used in Requirements 22 and 23
Article 2 Interpretation	Deadline 5 New definitions of "carbon capture and export readiness reserve space" and "combined heat and power embedded design measures"	To define terms used in Requirements 22 and 25
Article 2 Interpretation	Deadline 3 New definition of "outline biodiversity net gain strategy"	To define terms used in Requirement 6
Article 2 Interpretation	Deadline 3 New definition of "outline decommissioning plan"	To define terms used in Requirement 28
Article 2 Interpretation	Deadline 1 New definition of "outline local air quality monitoring strategy"	To define terms used in Requirement 27

Provision	What has changed	Why the change is necessary
Article 2 Interpretation	Deadline 1 New definition of “outline Walsoken Substation flood emergency management plan”	To define terms used in Requirement 13
Article 2 Interpretation	Deadline 7 New definition added for “outline landscape and ecology management plan” included in Schedule 13	To define terms used in Schedule 13
Article 2 Interpretation	Deadline 8 New definition added for “section 106 agreement”	To define terms used in Article 48
Article 13 Temporary prohibition or restriction of use of streets and public rights of way	Deadline 5 Addition of sub-paragraph (7)	As per request of ExA to ensure that any street or ProW used by the undertaker as a working site is restored to the reasonable satisfaction of the street authority.
Article 17 – Traffic regulation measures	Deadline 3 Addition of sub-paragraph (1)(f)	Included at the request of the ExA to ensure appropriate levels of speed along New Bridge Lane, following from discussions with CCC
Article 17 – Traffic regulation measures	Deadline 5 Addition of sub-paragraph (1)(g).	Included at the request of the ExA to ensure that traffic signs and signals can be placed sufficiently in advance of the works to the highway that traffic may be safely managed.
Article 20 – Protective work to buildings	Deadline 5 Amendment of text in Article	Included at the request of the ExA for further clarity

Provision	What has changed	Why the change is necessary
Article 22 – Removal of human remains	Deadline 1 New Article governing the removal of any human remains found within the Order limits.	Assists in the event that any human remains are found while carrying out any works as set within the Order.
Article 48 – Modification of Section 106 agreement relating to land	Deadline 8 Addition of Article 48	Included following from discussions with Cambridgeshire County Council regarding the use of section 228 of the Highways Act 1980 and understands that Cambridgeshire County Council wishes to ensure that the service of such a notice would not affect the terms of or the ability to continue enforce the Tesco S106 Agreement in respect of land outside of the Order limits
Schedule 2 – Requirements – Paragraph 6(2)	Deadline 3 and 5 Amendments to the BNG Requirement	Included at the request of CCC to include that a minimum of 10% BNG is provided by the Proposed Development, a specific calculation metric that is agreed between parties, and that the BNG may be delivered onsite and offsite. Please also Section 3.9 of this report.
Schedule 2 – Requirements – Paragraph 13(3)	Deadline 1 and Deadline 8 New Requirements for a flood emergency management plan to be submitted in relation to Walsoken Substation. Subsequently, this provision was removed and superseded by the updated flood emergency management plan.	The amendments in D1 specified the works for which a flood emergency management plan must be submitted and secures compliance with outline Walsoken Substation flood emergency management plan. Subsequently, at D8 and in light of the updated flood emergency

Provision	What has changed	Why the change is necessary
		management plan, a separate flood emergency management plan was no longer required only for the Walsoken Substation and sub-paragraph (3) was removed.
Schedule 2- Requirements Paragraph 22	Deadline 1 New requirement securing the carbon capture and export readiness reserve space	Secures the design and construction of Works No. 1 is carried out in accordance with the carbon capture and export embedded design measures and do not endanger the future viability of the carbon capture and export component.
Schedule 2 – Requirements Paragraph 27	Deadline 1 New Requirement	Secures a local air quality monitoring strategy prior to the date of final commissioning.
Schedule 2 – Requirements Paragraph 7	Deadline 3 Amendments made to sub-paragraph (7)	Secures approval of highway works particularly in relation to Work No. 4A and 4B at the request of CCC as the Highway Authority.
Schedule 2 – Requirements Paragraph 8	Deadline 3 Provisions added for the EA to be consulted	Secures that the EA is consulted in relation to drainage strategy, construction environmental management plans, flood emergency management plans, odour management plans and the waste hierarchy scheme.

Provision	What has changed	Why the change is necessary
<p>Schedule 2 – Requirements</p> <p>Paragraph 14</p>	<p>Deadline 5</p> <p>Additional details in relation to waste hierarchy scheme, as agreed with CCC, in order to address waste hierarchy issues, including monitoring of the diversion of waste higher up the hierarchy.</p>	<p>Secures that arrangements are in place for the maintenance of the waste hierarchy which aims to minimise recyclable and reusable waste received at the Proposed Development with clear mechanisms in relation to the recording and quantification of any waste identified and rejected as suitable for recycling, re-use or both, how processes would be reviewed and monitored. This Requirement also responds to the emerging policy included in paragraph 3.7.104 to 3.7.106 of the dNPS EN-3.</p>
<p>Schedule 2 – Requirements – Paragraphs 22 and 25</p>	<p>Deadline 5</p> <p>New provision added</p>	<p>Secures that the design and construction of Works No. 1 is carried out in accordance with the carbon capture and export embedded design measures and do not endanger the future viability of the carbon capture and export component.</p>
<p>Schedule 2 – Requirements – Paragraph 29</p>	<p>Deadline 5</p> <p>Provisions to secure the proximity principle</p>	<p>To address concerns in relation to the proximity principle, new Requirement added that ensures that 17.5% of the total waste to fuel the facility would originate from within a 75km radius from the Proposed Development and that 80% of the total waste fuel originates from the</p>

Provision	What has changed	Why the change is necessary
		Study Area in the WFAA. It also ensures that no more than 50% of the anticipated total capacity of the facility is from a single waste planning authority.
Schedule 2 – Requirements Paragraph 28	Deadline 3 Amendment made to secure the submission and implementation of the decommissioning plan	Change to secure decommissioning plan which would be submitted for approval and then implemented and would be substantially in accordance with the outline decommissioning plans
Schedule 6 – Access – Table 4	Deadline 1 Removal of provisions associated with the adoption of Algores Way by the local highways authority.	Secures that the unadopted section of Algores Way would be located outside the public highway
Schedule 6 – Access – Table 5	Deadline 1 Additional provisions included as a consequence of removal of Algores Way from Table 4 of Sch.6.	Clarifies that the unadopted section of Algores Way will be maintained by the Street Authority.
Schedule 6 – Access – Table 4	Deadline 5 Amendments made to distinguish between the parts of an access that is within the public highway and the part that is located outside of the public highway.	Clarifies the relevant part of access
Schedule 8 – Land in which only new rights	Deadline 1 Amendments to the plots included in Table 8 as a consequence of Cambs CC	Clarifies the Applicant's position in relation to Algores Way and New Bridge Lane and the rights that the Applicant

Provision	What has changed	Why the change is necessary
etc. may be acquired	confirming the extent of the public highway on New Bridge Lane and confirmation that it does not intend to adopt the whole extension of Algores Way. Schedule 8 now confirms that the Applicant is only seeking a right of access and associated rights over Algores Way and not the acquisition of the freehold of the Algores Way.	is seeking over the Order land.
Schedule 8 – Land in which only new rights etc. may be acquired	Deadline 3 Amendments to the plots included in Table 8 as a consequence of Cambs CC confirming the extent of their interest along Weasenham Lane.	Ensures that the plots identified table 8 of Schedule 8 correspond to the numbers and references included in the Land Plans and in the BoR as submitted at D3.
Schedule 11 – Protective Provisions	Deadline 1 Changes to protective provisions as agreed with Cadent Gas Limited, National Highways, King’s Lynn IDB and Anglian Water.	Reflects agreements and discussions with SUs.
Schedule 11 – Protective Provisions	Deadline 3 Amendments to protective provision to reflect engagement with IDBs.	Reflects agreements and discussions with IDBs.
Schedule 11 – Protective Provisions	Deadline 5 New protective provision for the protection of Cambridgeshire County Council as Highways Authority.	Reflects discussions with Cambs CC.
Schedule 11 – Protective Provisions	Deadline 6 and 7 Further amendments as requested by IDBs and CCC.	Amendments to protective provisions in relation to IDBs and in

Provision	What has changed	Why the change is necessary
		relation to CCC as Highways Authority
Schedule 11 – Protective Provisions	Deadline 7 Further amendments to protective provisions in relation to National Highways.	Reflects request from National Highways to include standard Protective Provisions.
Schedule 12 – Procedure for the discharge of Requirements	Deadline 3 Amendments to timescales for relevant planning authority to give notice of their decision on an application and also in relation to consultation.	Reflects discussions and issues raised at ISH2.
Schedule 13 – Documents and plans to be certified	Deadline 1 Amendments carried out as a result of new definitions in Article 2 and need to update table accordingly in relation to revision number and date.	Secures date and revision number in relation to several documents as well as securing the certification of a carbon capture and export readiness reserve space plan and an outline local air quality monitoring strategy.
Schedule 13 - Documents and plans to be certified	Deadline 3 Amendments carried out as a result of new definitions in Article 2 and need to update table accordingly in relation to revision number and date.	Secures date and revision number in relation to several documents as well as securing the certification of the outline biodiversity net gain strategy and the outline decommissioning plan.
Schedule 13 - Documents and plans to be certified	Deadline 5 Amendments carried out as a result of amendments to Requirements 22 and 23 and new Requirement 29.	Secures date and revision number in relation to several documents as well as securing the certification of the Carbon capture and export embedded design measures document, the combined

Provision	What has changed	Why the change is necessary
		heat and power embedded design measures document and the waste area 2 plan.
Schedule 13 - Documents and plans to be certified	Deadline 6 Updates to reflect the latest revisions to documents	Ensures accuracy of the dDCO.
Schedule 13 - Documents and plans to be certified	Deadline 7 Updates to reflect the latest revisions to documents	Ensures accuracy of the dDCO.

7.6. DISCUSSION OF MATTERS OF CONTENTION

7.6.1. This section of the Report addresses those matters which have not been agreed between the IP and the Applicant by the end of the Examination and certain matters which have been the subject of ExA's WQs and/or discussion at ISH1 and ISH2 about potential changes to the dDCO.

Arts. 23, 25, 26, 27 and 28

- 7.6.2. At ISH1 the ExA asked the Applicant to explain the different powers of acquisition and possession of land included in the draft DCO, namely the article mentioned above.
- 7.6.3. The Applicant stated that Art. 23 – Compulsory acquisition of land (then Art. 22, see [APP-013]) related to the compulsory acquisition of land and would provide the Applicant with the power to acquire so much of the Order Land as is required for the Proposed Development, or such land as is required because it facilitates or is incidental to that development.
- 7.6.4. The Applicant went on to state that Art. 26 – Acquisition of subsoil only (then Art. 25, see [APP-013]) permits the Applicant's to acquire only the subsoil under any land over which it has powers of compulsory acquisition.
- 7.6.5. In relation to Art. 25 – Compulsory acquisition of rights and imposition of restrictive covenants (then Art, 24 see [APP-013]) it permits the Applicant to create and acquire new rights over land which would be exercisable on a permanent and/or long term basis.
- 7.6.6. The ExA questioned further the applicability of these articles, particularly in relation to plots 13/4c, 13/4d and 14/1a [APP-006] which were marked as subject to CA of land and refer to the unadopted section of Algores Way. The Applicant explained that their intention, following the acquisition of those specific plots, would be to bring the land up to standard and to dedicate the land so it could be adopted by Cambs

CC as the Highway Authority. However, subsequent to the submission of the application, Cambs CC confirmed [REP1-067] that they did not wish to adopt that specific section of Algores Way as a public highway therefore leading the Applicant to revise its position in relation to the proposed CA of this section of Algores Way, changing it from CA of land to the CA of new rights.

- 7.6.7. Consequently, the Applicant amended Schedule 6 and Schedule 8 of the dDCO [REP1-006] and the Land Plan [REP1-004] in order to reflect that it now would seek the lesser power of access, rather than freehold acquisition.
- 7.6.8. The ExA are also mindful that there were several objections from owners of business [REP2-069], [REP3-048], [REP3-049] [REP5-048], [REP5-050], [REP6-040], [REP6-041], [REP6-045], [REP6-057], [REP6-058], [REP6-063], [REP6-069] which rely on Algores Way for access have expressed concerns regarding access. These are identified in the Compulsory Acquisition Schedule [REP7-039], in Table 1.2 as those Affected Persons (APs) who have interests listed in the Book of Reference [REP7-030] but where the Applicant does not consider it necessary to enter into a voluntary agreement as the AP is not a landowner or a tenant nor do they have the benefit of restrictions on the use of the Order land that would be extinguished, suspended or interfered with by the Proposed Development.
- 7.6.9. Nevertheless, Art. 13(3) of the dDCO [REP8-004] does include provisions to safeguard access for non-motorised users (including pedestrians) and vehicles going to and from premises abutting a street or public right of way affected by the temporary alteration, diversion, prohibition or restriction of a street or public right of way under this article if there would otherwise be no such access. Furthermore, Art. 13(6) states that any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- 7.6.10. Art 27(2) (private rights) of the dDCO [REP8-004], provides that private rights are only extinguished if and to the extent that they would be inconsistent with the exercise of the right exercised (or any restriction imposed) by the Applicant. The Applicant is seeking an access right, that will be held in common with and is not inconsistent with the access rights held by the other businesses on Algores Way.
- 7.6.11. It is also worth noting that the Outline Construction Traffic Management Plan (CTMP) [REP7-010] does state, in paragraph 7.4.34, that the Applicant will maintain vehicle and pedestrian access to businesses during construction of the Proposed Development. Schedule 2 (11) CTMP of the dDCO [REP8-004] does state that plans must be prepared in accordance with the outline corresponding plan and that no works can be carried out without them being approved by the relevant planning authority.
- 7.6.12. The ExA are of the view that, considering the Highway Authority's position of not wishing to adopt the whole length of Algores Way (including plots 13/5a, 13/4c(ii) and 14/1a as in Land Plan [REP7-002]), the present dDCO does provide the mechanisms to ensure that access to the Proposed Development is secured for the Applicant without endangering access for other nearby businesses that also rely on Algores Way.
- 7.6.13. Our position in relation to these concerns is also set in Chapter 9 of this report insofar as these relate to CA and those Affected Persons (APs) as identified in

Table 1.1 of the Compulsory Acquisition Schedule [REP7-039]. Our position in relation to wider Traffic and Transport issues is set in Section 3.10 of this report.

Art. 25 – Compulsory acquisition of rights and imposition of restrictive covenants

- 7.6.14. In response to ExQ1 DCO.1.15 [REP2-019], which the ExA asked in relation to then Art.24, now Art. 25 – Compulsory acquisition of rights and imposition of restrictive covenants. The Applicant stated that Schedule 7 to the dDCO (Volume 3.1) [REP1-007] specifies the areas of land (shown coloured blue on the Land Plan (Volume 2.2) [REP1-004]) in which only new rights may be acquired and restrictions imposed by the Applicant and the nature of the rights that may be acquired. Schedule 7 relates to Article 25(2) (previously Article 24). The Applicant also confirmed in its response that Article 23 (previously Article 22) provides for the compulsory acquisition of the freehold of land required for, or to facilitate or is incidental to, the authorised development. The powers in Article 23 are subject to the restrictions in Article 25 to ensure that, where relevant, the Applicant can only acquire new rights over certain plots, and cannot acquire the freehold interest in that land. However, Article 25(1) enables rights to be acquired over land subject to Article 23 (i.e. the land shown coloured pink land on the Land Plan [REP1-004]). This enables the Applicant to acquire a “lesser” interest if appropriate to do so.
- 7.6.15. At ISH2 the ExA explored this issue further and asked a series of questions in relation to Art. 25, particularly the power to impose new restrictive covenants. The ExA intention was to explore the Applicant’s intent in relation to this Art. and how the Applicant anticipates it will be used. The Applicant confirmed that Art. 25 entitles the undertaker to acquire existing rights, or to create new rights or impose restrictions on any of the Order land. The Applicant also explained that this would allow, where appropriate, to reduce the area of outright acquisition and rely on the creation and acquisition of rights/restrictive covenants instead, thus minimising the degree of interference with property rights. The structure of the compulsory acquisition provisions sets out a series of options which are intended to provide alternatives to compulsory acquisition.
- 7.6.16. The Applicant also stated that, where it is possible to achieve the purposes of the scheme by only acquiring rights, then reliance would be placed on Art. 25, instead of compulsorily acquiring the freehold of the land under Article 23, in order to minimise the interference with property rights.
- 7.6.17. The EM [REP7-007] confirms that this article is based on a model provision and entitles the undertaker to acquire rights over land which may be compulsorily acquired, including rights already in existence, or to create new rights or impose restrictions.
- 7.6.18. The ExA are of the view that the current wording of Art. 25 is appropriate and provides the Applicant with the powers that are necessary to carry out the Proposed Development.

Art. 28 – Power to override easements and other rights

- 7.6.19. At ISH2 the ExA asked for clarification in relation to the proposed Art. 28 as per the dDCO . In response, the Applicant confirmed that Art. 28 provides the power to override easements and other rights and that this power is supplementary to other acquisition rights and should therefore be read in conjunction with these other

Articles, including Article 27 that deals with private rights. The Applicant then confirmed that Art. 28 sets out the ways in which the undertaker could potentially interfere with an existing right, divided into three separate categories of activities. All of this is limited by the works, powers and uses that are authorised within the dDCO itself. The ExA then issued concerns in relation to the potential use of Art. 27 and Art. 28 to interfere with someone's rights to use Algores Way for access, particularly considering that Algores Way is the only viable access to several premises located in close proximity to the Proposed Development.

- 7.6.20. The Applicant stated that although Articles 27 and 28 would give the Applicant the ability to interfere with an individual's access, the powers should be considered in light of the restrictions that are placed in the Requirements and that additional text has been added to the Outline CTMP [REP1-010], secured by Requirement 11, which ensures that access is retained for those premises that rely on the unadopted section of Algores Way for access to and egress from their property.
- 7.6.21. The Applicant also added that its position was that the Outline CTMP was therefore the preferred mechanism to put restrictions on, for example, the use of Algores Way, rather than restrict the compulsory acquisition power itself.
- 7.6.22. It is also worth noting, as previously stated, that Art. 13(3) of the dDCO [REP8-004] does include provisions to safeguard access for non-motorised users (including pedestrians) and vehicles going to and from premises abutting a street or public right of way affected by the temporary alteration, diversion, prohibition or restriction of a street or public right of way under this article if there would otherwise be no such access.
- 7.6.23. Art 27(2) (private rights) of the dDCO [REP8-004], provides that private rights are only extinguished if and to the extent that they would be inconsistent with the exercise of the right exercised (or any restriction imposed) by the Applicant. The Applicant is seeking an access right, that will be held in common with and is not inconsistent with the access rights held by the other businesses on Algores Way.
- 7.6.24. On balance, with the provisions included in the Outline CTMP [REP7-010] and considering both Art. 27 and Art. 28 in conjunction, the ExA feel that the proposed wording of Art. 28 is justified and that the dDCO includes sufficient provisions in order to that the Applicant does not unduly restrict access for other businesses located along Algores Way.

Art. 32 – Temporary use of land for the construction of the authorised development

- 7.6.25. The ExA raised concerns with the proposed wording of Art.32, particularly in relation to the broad powers requested and why powers under this Art. did not appear to be confined, in all cases, to the plots and for the purposes listed in Schedule 10.
- 7.6.26. The Applicant confirmed that Art. 32 seeks to allow the Applicant to enter and take temporary possession of any of the other land within the Order limits, which may later become subject to compulsory acquisition of the freehold or acquisition of rights as part of the permanent development. The Applicant justified this approach as needed to facilitate construction activities through the use of temporary powers, therefore minimising need for the CA of land and permanent rights over land in due course.

- 7.6.27. The Applicant also explained that the remainder of the Article does include protections for landowners, including the payment of compensation for temporary use of land and for any loss or damage caused by such use. The Article includes a requirement to restore the land after the temporary use has ceased.
- 7.6.28. The ExA raised further queries about whether article 32 enabled the Applicant to temporarily enter and land without notice, including the removal of buildings. The Applicant confirmed that there is a requirement to serve notice under sub-paragraph (2) before utilising the power to temporarily possess land. The reference to land where “no notice” has been served within Article 32(1)(a)(ii) is in relation to the mechanisms to acquire rights on a permanent basis.
- 7.6.29. In relation to the removal of buildings, The Applicant stated that there aren’t any buildings or land owned by individuals, other than in respect of the Water Connection, that could be affected by this power. Therefore, although the power is broad, because of the nature of the Order land, it would not disproportionality affect any landowners, but it is nonetheless required in order to deliver the Proposed Development.
- 7.6.30. The EM [REP7-007] confirms that Art. 32 allows the land specified in Schedule 10 to be temporarily used for the construction of the Proposed Development. There are limits on the length of time that the undertaker can use land in this way and provisions around giving no less than 14 days' notice and restoration of the land following the temporary works. Paragraph (1)(a)(ii) in order to allow article 32 to be applicable in the context of land which may be the subject of compulsory acquisition, prior to any such compulsory purchase taking place. New wording has also been added to paragraphs (3) and (4) to take into account that the undertaker may, pursuant to article 32(1)(a)(ii) temporarily use land that it may, eventually, compulsorily acquire.
- 7.6.31. The Applicant has also confirmed that there is precedent for this Art in the Riverside Energy Park Order 2020 and the Longfield Solar Farm Order 2023.
- 7.6.32. On balance and considering that the intention of the Art. is to minimise CA of land while still securing the delivery of the Proposed Development, the ExA find that the Art is necessary and appropriately drafted.

Schedule 2 Requirement 22 “carbon capture and export readiness reserve space” and Requirement 23 “carbon capture readiness monitoring report”

- 7.6.33. The ExA asked a series of questions, at ISH2 [EV-023] in relation to the Requirement 22 and Requirement 23 and also questioned the level of commitment from the Applicant in relation to carbon capture. The ExA highlighted that in their current form, Requirement 22 and Requirement 23 fall short of committing the Applicant to installing and operating carbon capture and storage (or export) equipment.
- 7.6.34. The current wording only commits the Applicant to reserve land to facilitate future deployment of carbon capture and export apparatus and to investigate biannually the feasibility of carbon capture technology. The Applicant responded that drafting of Requirement 22 and Requirement 23 shows the Applicant’s general commitment to carbon reduction, secures that the facility can potentially be retrofitted in the future and that the drafting is deliberate due to the remaining uncertainties around carbon capture storage technology and export.

- 7.6.35. NPS EN-1 defines requirements for Carbon Capture and Storage (CCS) and Carbon Capture Readiness (CCR) at paragraph 4.7. The ExA are of the view that Requirements 22 and 23, as drafted, provide clarity in the relation to the Applicant's commitment to explore carbon capture and to reserve an appropriate amount of land within the confines of the Order, based on current assumptions and requirements, for the fitting of carbon capture technology. This is, nevertheless, not a guarantee that such technology is, in fact, delivered. As such, although the ExA find that the present requirement does not guarantee the delivery of CCS, the ExA also find that Requirements 22 and 23 is necessary in order to secure that delivery of carbon capture will be investigated and assessed throughout the life of the development in accordance with the NPS

Schedule 8 – land in which only new rights etc. may be required

- 7.6.36. The ExA raised concerns, at ISH2, in relation to the wording under Table 8 Column 2, which the ExA felt was too broad and could potentially provide powers to the Applicant that were broader than those needed or intended. The ExA concerns were mainly linked to the “rights to construct, use, maintain and improve a permanent means of access” which would be applicable to a broad number of plots as identified in the Land Plan [REP1-004] and “any other works as necessary”.
- 7.6.37. The Applicant stated that the provisions referred to the acquisition of a new right of access to use existing private access ways. This included the existing access to the Walsoken Substation (currently a private access owned by Eastern Power Networks) and the unadopted section of Algores Way (owned by Fenland District Council). The Applicant also explained that it would not have the ability to access and egress the EfW CHP Facility Site using Algores Way unless a new right of access was acquired.
- 7.6.38. The Applicant referred the ExA to the Statement of Reasons [APP-017] and explained that these rights can only be used to facilitate or if incidental to the Proposed Development, therefore providing an overarching restriction on the use of CA powers. The Applicant therefore considers that the rights are proportionate and reasonable and required to facilitate the Proposed Development.
- 7.6.39. In relation to the ExA's concerns with “any other works as necessary”, the Applicant responded that this wording is required in order to avoid listing everything that may be required to construct the works listed in Schedule 1 of the dDCO. Furthermore the Applicant also confirmed that only works that are required to facilitate or are incidental to the authorised development would be included within the dDCO and that rights could not be compulsorily acquired for any other purposes. The Applicant also added that, whilst it recognises that the current wording is a fairly broad power, it is required to ensure the deliverability of an NSIP.
- 7.6.40. In [PD-014] Schedule of changes to the dDCO the ExA proposed a series of changes to the dDCO [REP3-007] which were considered by the Applicant, including the proposed deletion, in Schedule 8 – Land in which only new rights etc. may be required – Table 8, of reference to “and any other works as necessary”. In [REP5-033] the Applicant responded to the Schedule of Changes to the dDCO [PD-014]. The Applicant referred to its response to ExQ2 DCO2.7 [REP5-032].
- 7.6.41. The Applicant's response to ExQ2 DCO2.7 [REP5-032] states that purposes for which new rights may be acquired relate to what is necessary to access, construct, operate and maintain, and decommission the Proposed Development. The inclusion

of “any other works” is limited to works that are “necessary” and these words are required to include proportionate flexibility and ensure deliverability as the detailed design of the Proposed Development has not been finalised at this stage (as is typical for all nationally significant infrastructure projects). The Applicant notes that the approach taken is consistent with Schedule 7 of the Riverside Energy Park Order 2020 which refers to “any other necessary works” (as well as numerous other energy DCOs including the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 and Drax Power (Generating Stations) Order 2019).

7.6.42. The ExA finds that the Schedule 8, which refers to Art. 25, is appropriately drafted and that it is required in order to secure the which rights may be acquired in relation to specific plots of land.

7.6.43. Schedule 12 – Procedure for the discharge of requirements

7.6.44. Norfolk CC in response to the ExA’s Further Written Questions [REP7-049] has confirmed that whilst it welcomes the Applicant’s agreement to the 12 week determination period and the offer to enter into an agreement to cover costs, that it still considers that the 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.

7.6.45. Having reviewed all of the information, including the information provided in the Explanatory Memorandum [REP7-007], the ExA are of the view that the bespoke process as drafted and included in Schedule 12 is required in order to ensure that requirements are dealt with efficiently so that the commencement and commissioning of the authorised development is not delayed. Furthermore, Schedule 12 (2)(3) does allow for where an application has been made to the relevant authority for any consent, agreement or approval and is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects or the relevant planning authority determines within the period set that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement, then the application is taken to have been refused.

7.6.46. In addition to this, Schedule 12(3) sets out clear requirements for further information and consultation, including timescales and provisions in relation to the submission of further information and how it should be treated. These are deemed to be required to ensure the delivery of a Proposed Development is dealt with efficiently so that the commencement and commissioning of the authorised development is not delayed while taking into consideration any material changes as set in Schedule 12.

7.7. EXA’s PROPOSED CHANGES

7.7.1. In light of the ExA’s conclusions in Section 7.6 above, the ExA does not consider any further substantive amendments to revision 7.0 [REP8-004] of the dDCO are necessary to address the issues that have come to light during the Examination. This constitutes the recommended DCO (rDCO).

7.8. STATUTORY NUISANCE

- 7.8.1. The application is accompanied by a Statement of Statutory Nuisance (SSN) [APP-024] in accordance with regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009).
- 7.8.2. Having reviewed the SSN, the ExA are content that the Applicant has appropriately identified the scope of potential nuisance sources from the construction, operation and maintenance of the Proposed Development. It states that, with the proposed mitigation set out in the Outline CEMP and in the ES, it is not expected to be a breach of Section 79(1) of the 1990 Act. The ExA agrees with this conclusion.
- 7.8.3. Taking a precautionary approach to do this, Art. 40 of the dDCO contains a defence to proceedings in respect of statutory nuisance of a type that is commonly provided for in NSIPs. The drafting is based on other made DCOs. The ExA agrees that the necessary steps to reduce the risk of nuisance events have been taken and that this provision is an appropriate provision against circumstances where unforeseen but unavoidable nuisance occurs.

7.9. CONCLUSIONS

- 7.9.1. Taking into consideration Section 120 of the Planning Act, the ExA have considered all versions of the dDCO as set out in Section 7.4 above and considered the degree to which the final dDCO (version 7.0) [REP8-004] has addressed outstanding matters.
- 7.9.2. The ExA are satisfied that the Requirements set out in version 7.0 of the dDCO provide mitigation for potential adverse effects identified in the ES and sufficiently address the issues raised during the course of the Examination. The recommended DCO at Appendix C is identical to version 7.0 of the dDCO.
- 7.9.3. Requirement 29 – Origin of Waste was drafted by the Applicant in order to address concerns raised during the Examination in relation to compliance of the Proposed Development with the proximity principle, as covered within Table 1 Main changes made by the Applicant during the Examination. It is the ExA's recommendation that Requirement 29 is included within the DCO in order to provide clarity to all parts in relation to Origin of Waste.
- 7.9.4. Taking all matters raised in this chapter and all matters relevant to the DCO raised in the remainder of this Report fully into account, if the SoSESNZ is minded to make the Order, the ExA recommend it should be made in the form set out in Appendix C.
- 7.9.5. The ExA considers that the rDCO includes Requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in line with the NPS EN1 (Paragraph 4.1.7).

8. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

8.1. INTRODUCTION

- 8.1.1. This chapter summarises the ExA's conclusions arising from the report as a whole and sets out the ExA's recommendation to the Secretary of State for Energy Security and Net Zero.

8.2. SUMMARY AND CONCLUSIONS

- 8.2.1. As the ExA have noted in Chapter 5 above, the urgent need for low carbon energy is established through the National Policy Statements (NPS) and is carried forward into the draft NPSs (dNPS) (March 2023). In relation to section (s) 104 of the Planning Act 2008 (PA2008), the ExA conclude that making the recommended Development Consent Order (rDCO) would be in accordance with NPS EN-1 and NPS EN-3.
- 8.2.2. In reaching the above conclusions, the ExA have also had regard to the Local Impact Report (LIR) produced jointly by Cambridgeshire County Council and Fenland District Council and the joint LIR produced by Norfolk County Council and the Borough Council of King's Lynn and West Norfolk and to all matters that the ExA consider to be both important and relevant in reaching the ExA's conclusions. The ExA have considered relevant legislation.
- 8.2.3. Whilst the Secretary of State (SoS) for Energy Security and Net Zero (ESNZ) is the competent authority under the Conservation of Habitats and Species Regulations 2017, and will make the definitive assessment, the ExA conclude that subject to mitigation secured in the rDCO, it is in agreement with the Applicant's conclusions with regard to the European sites assessed and their qualifying features.
- 8.2.4. No other evidence or comment against this was submitted by any other party, and therefore the ExA decided that a Report on the Implications for European Sites (RIES) compiling HRA-relevant information would not be required.
- 8.2.5. With regard to designated heritage assets and in consideration of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 (Decisions Regulations), the ExA have found the Proposed Development would result in less than substantial harm to designated heritage assets. However, those harms are outweighed by the very great public benefit from the provision of low carbon energy to meet the need identified in NPS EN-1, dNPS EN-1 (March 2023) and by the other benefits of the Application as summarised in Chapter 5.
- 8.2.6. In terms of biodiversity and bearing in mind Regulation 7 of the Decisions Regulations, the ExA are satisfied that biodiversity, ecological and nature conservation issues have been adequately assessed and that the requirements of both NPS EN-1 and dNPS EN-1 (March 2023) are met. Furthermore, the ExA considers the Biodiversity Net Gain arising from the Proposed Development would enhance biodiversity, as well as assist in enhancing ecological and nature conservation effects.
- 8.2.7. In relation to the application for Compulsory Acquisition (CA) and Temporary Possession (TP) powers, the ExA concludes as follows:

- The Application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The Applicant would have access to the necessary funds and the dDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
- There is a clear need for all the land included in the BoR to be subject to CA or TP.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe, and the Proposed Development represents a significant public benefit to weigh in the balance.
- That in all cases relating to individual objections and issues that CA and TP is justified to enable implementation of the Proposed Development.
- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
- The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.

8.2.8. With regard to all other matters and representations received, the ExA have found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.

8.2.9. The ExA have had regard to the Public Sector Equality Duty (PSED). The ExA finds no harm to the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. The ExA have found no breach of the PSED.

8.2.10. In relation to s104(7) of the PA2008, and with the mitigation proposed through the rDCO in Appendix D to this report, the ExA considers that there are no adverse impacts arising from the Proposed Development that would outweigh its benefits. Furthermore, there is nothing to indicate that the application should be decided other than in accordance with the relevant NPSs.

8.3. MATTERS WHICH THE SoS MAY WISH TO CONSIDER IN RELATION TO THE DRAFT NPSs

8.3.1. In reaching a conclusion on the rDCO in relation to the currently designated NPSs the ExA has included Requirement 29 – Origin of Waste – as this was already identified by all parties as assisting compliance with the proximity principle. In relation to the dNPS EN-3 (March 2023 version) para 3.7.106. The ExA considers that the inclusion of Requirement 29 also addresses the question of compliance with the waste hierarchy and identifies that the inclusion of an appropriate requirement may be justified and hence the rDCO is also in compliance with the dNPS EN-3.

8.3.2. The SoS may wish to consider, in light of the dNPS EN-3, in relation to the Applicant's analysis of future national need of EfW facilities, how the Applicant's approach takes into consideration the targets set out in the EIP 2023. The dNPS EN-3 (March 2023) states, in paragraph 3.3.7 that the SoS should have regard to the aims, goals and targets of the government's Environmental Improvement Plan. The ExA considers that, on the basis of the balance of probabilities, the range of future waste scenarios allows for the waste availability still to comply with the EIP.

- 8.3.3. For the dNPS EN-1 paragraph 4.7.17, the SoS must be satisfied that the Applicant has fully explored and evidenced the opportunity for CHP with potential heat customers and local bodies, for example, Homes England, Local Enterprise Partnerships and appropriate Local Authorities (as per dNPS EN-1 para 4.6.11). The ExA does not consider that the Applicant has currently evidenced this exploration and so the Proposed Development is not in accordance with the dNPSs. The SoS may consider this to be important and relevant.

8.4. RECOMMENDATION

- 8.4.1. The ExA considers that the Proposed Development meets the tests in s104 of the Planning Act 2008 for the currently designated NPS and in line with the SoS WMS on the continuing status of the July 2011 NPS suite for applications made before any new energy NPSs are designated. On that basis, the ExA recommend that the SoS for ESNZ makes the Medworth Development Consent Order in the form attached at Appendix D to this report.

APPENDICES

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APPENDIX A: ABBREVIATIONS

APPENDIX A – ABBREVIATIONS

Abbreviation or usage	Reference
AA	Appropriate Assessment
AEP	Annual Event Probability
ALC	Agricultural Land Classification
ANCB	Appropriate Nature Conservation Body
AP	Affected Person
APFP	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
AQMA(s)	Air Quality Monitoring Area(s)
AQS	Air Quality Standards
ALC	Agricultural Land Classification
Art(s)	Article
ASI	Accompanied Site Inspection
BAEF	Boston Alternative Energy Facility
BoR	Book of Reference
BCKLWN	Borough Council of King's Lynn and West Norfolk
BNG	Biodiversity Net Gain
BMV	Best and Most Versatile
BS	British Standards
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CC	County Council
Cambs CC	Cambridgeshire County Council
CCR	Carbon Capture Ready
CCS	Carbon Capture and Storage
CPLRF	Cambridge and Peterborough Local Resilience Forum
CEMP	Construction Environmental Management Plan
CHP	Combined Heat and Power
CHPQA	Combined Heat and Power Quality Assurance
CTMP	Construction Traffic Management Plan
DAS	Design and Access Statement
DC	District Council
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
dDCO	draft Development Consent Order
rDCO	Recommended Development Consent Order
DEFRA	Department for the Environment, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DL	Deadline
DLUHC	Department of Levelling Up, Housing and Communities
DMRB LA 111	Design manual for Roads and Bridges LA 111 (2020)
dNPS	Draft National Policy Statement
EA	Environment Agency

ECHR	European Convention on Human Rights
EEA	European Economic Area
EfW	Energy from Waste
EIA	Environment Impact Assessment
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)
EIP 2023	Environmental Improvement Plan 2023 first revision of the 25 Year Improvement Plan
EL	Examination Library
ELV	Emission Limit Values
EM	Explanatory Memorandum
EMF	Electric and Magnetic Field
EPC	Engineering Procurement and Construction
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
ES	Environmental Statement
EWC	European Waste Catalogue
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
Fenland DC	Fenland District Council
FFL	Finished Floor Level
FLL	Functionally linked land
FRA	Flood Risk Assessment
FTE	Full-time Equivalent
FWQ	First Written Questions
GHG	Greenhouse Gas
ha	hectare
HCA	Homes and Communities Agency
HE	Highways England/ Historic England
HGV	Heavy Goods Vehicle
HIC	Household, Industrial and Commercial waste
HLAs	Host Local Authorities (Cambs CC, Fenland DC, BCKLWN, Norfolk CC)
HRA	Habitats Regulation Assessment
HSE	Health and Safety Executive
HWIDB	Hundred of Wisbech Internal Drainage Board
IAPI	Initial Assessment of Principal Issues
IDB	Internal Drainage Board
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
ISH	Issue Specific Hearing
km	kilometre
KLIDB	King's Lynn Internal Drainage Board
ktCO2e	Kilotons of CO2 Equivalent
kV	kilovolts
LCA	Landscape Character Area
LHA	Local Highways Authority

APPENDIX A: ABBREVIATIONS

MEDWORTH ENERGY FROM WASTE COMBINED HEAT AND POWER FACILITY - EN010110
REPORT TO THE SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO
SUBMITTED ON 21 NOVEMBER 2023

LHA	Local Host Authority
LEMP	Landscape and Ecology Management Plan
LEP	Local Enterprise Partnership
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LOAEL	Lowest Observable Adverse Effect Level
LoD	limits of deviation
LoW	List of Wastes
LPA	Local planning authority
LSE	likely significant effects
LVIA	Landscape and Visual Impacts Assessment
m	metres
MDD	Maximum Daily Demand
MoC	Magnitude of Change
MoD	Ministry of Defence
MW	Megawatts
MWth	Megawatt thermal
NE	Natural England
NERC	The Natural Environment and Rural Communities Act 2006
NMU	Non-Motorised User
NOEL	No Observed Effect Level
Norfolk CC	Norfolk County Council
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPPW	National Planning Policy for Waste
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NPS EN-1	Overarching National Policy Statement for Energy (EN-1)
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure (EN-3)
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure (EN-5)
NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
OCEMP	Outline Construction Environmental Management Plan
ODP	Outline Decommissioning Plan
OFH	Open Floor Hearing
OOTP	Outline Operational Travel Plan
OTMP	Operational Traffic Management Plan
PA2008	Planning Act 2008
para(s).	Paragraph
PEIR	Preliminary Environmental Information Report
PES	Primary Energy Savings
PINS	Planning Inspectorate
PM	Preliminary Meeting
PP	Protective Provision
PRoW	Public Right Of Way

APPENDIX A: ABBREVIATIONS

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PSED	Public Sector Equality Duty
QI	Quality Index
rDCO	Recommended Draft Consent Order
RDF	Refused Derived Fuel
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RVAA	Residential Visual Amenity Assessment
RVAT	Residential Visual Amenity Threshold
S	Section
s106	Section 106 of the Town and Country Planning Act 1990 agreement
SAC	Special Area of Conservation
SOAEL	Significant Observed Adverse Effect Level
SoC	Statement of Commonality
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoSBEIS	Secretary of State for Business, Energy and Industrial Strategy
SoSESNZ	Secretary of State for Energy Security and Net Zero
SoSLUHC	Secretary of State for Levelling Up, Housing and Communities
SPA	Special Protection Area
SU	Statutory Undertaker
SuDs	Sustainable Drainage Systems
SWQ	Second Written Questions
TCA	Townscape Character Area
TCC	Temporary Construction Compound
UK	United Kingdom
UKWIN	United Kingdom Without Incineration Network
USI	Unaccompanied Site Inspection
VP	Viewpoint
WAS	Wisbech Access Strategy
WCA	Wisbech Conservation Area
WFAA	Waste Fuel Availability Assessment
WFD	Water Framework Directive
WMA	Waste Management Area
WPA	Waste Planning Authority
WR	Written Representation
WSI	Written Scheme of Investigation
WTS	Waste Transfer Station
ZTV	Zone of Theoretical Visibility

APPENDIX B: LEGISLATION AND POLICY

APPENDIX B: LEGISLATION AND POLICY

Legislation and policy relevant to the Proposed Development includes the following:

National Legislation

The Planning Act 2008

(PA2008)

- The PA2008 is the primary legislation that established the legal framework for applying for, examining and determining applications for Nationally Significant Infrastructure Projects (NSIPs); taking into account the National Policy Statements (NPSs).
- The PA2008 provides the consenting regime for granting planning and other consents for NSIPs. These are large scale developments, both onshore and offshore, such as new harbours, roads, railways, power stations and electricity transmission lines. The PA2008 sets out the thresholds above which certain types of infrastructure development are nationally significant and in relation to which developers must seek development consent. The Secretary of State (SoS) may also issue a direction, the effect of which is to bring a project into the remit of the PA2008.
- The Planning Inspectorate is responsible for the NSIP planning process and will examine the application for the Proposed Development and make a recommendation to the SoS to grant or refuse consent. On receipt of the Recommendation Report from the Planning Inspectorate, the SoS will then make the final decision on whether to grant the Medworth Energy from Waste (EfW) Combined Heat and Power (CHP) Facility Development Consent Order (DCO).

The Infrastructure Planning (Applications Prescribed Forms and Procedure) Regulations 2009

(APFP Regulations 2009)

- The APFP Regulations 2009 prescribe the procedural requirements for making a DCO application. Amongst other provisions, the APFP Regulations 2009 set out the procedural requirements for publicising a proposed application and detail the information that must be submitted with DCO applications.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

(The EIA Regulations 2017)

- Regulation 5(2)(a) of the APFP Regulations 2009 sets out that, where required, DCO applications should be accompanied by an Environmental Statement (ES) prepared in accordance with the EIA Regulations 2017. The EIA Regulations 2017 require that an EIA is carried out for any development listed in Schedule 1 and development listed in Schedule 2 if it is likely to have significant effects. Paragraph 10 of Schedule 1 of the EIA Regulations 2017 identifies: "Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day" as being development for the purposes of the EIA Regulations 2017. The Proposed Development is a waste disposal installation and would have a capacity in excess of 100 tonnes per day such that it is EIA

development. Accordingly, an EIA has been undertaken and is reported in the ES submitted with the DCO application in accordance with the APFP Regulations 2009.

Equality Act 2010

- The Equality Act 2010 established the public sector equality duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the Examining Authority (ExA) in the conduct of this Examination and reporting and to the SoS in decision-making.

Human Rights Act 1998

- The Human Rights Act 1998 places the European Convention on Human Rights into UK statute and sets out the fundamental rights and freedoms that everyone in the UK is entitled to. The Compulsory Acquisition (CA) of land can engage various relevant Articles under the Human Rights Act 1998, which the ExA have considered within the report.

The Waste (England and Wales) Regulations 2011

- The Waste Regulations 2011 implement the revised EU Waste Framework Directive 2008/98 which established the overarching framework for the management of waste across the EU. The Waste Framework Directive introduced a five-point waste hierarchy based on the priority order of: Prevention (preferred option); Preparing for re-use; Recycling; Other recovery (e.g. energy recovery); and Disposal. The emphasis of the hierarchy is a preference for waste prevention.
- The Waste Regulations 2011 require that the waste hierarchy is applied by the appropriate authority as a 'priority order' in waste prevention and management policy.

Climate Change Act 2008 (as amended)

- The Climate Change Act 2008 (as amended) commits the UK to reduce its net greenhouse gas (GHG) emissions by at least 100% below 1990 levels by 2050 (the 'UK carbon target', often referred to as 'net zero') and requires the Government to establish five-year carbon budgets. The Act also established an independent expert body, the Climate Change Committee, to advise the Government on the level of emissions targets and report on progress made to reduce emissions.
- The Act sets out reporting requirements in the form of the UK Climate Change Risk Assessment as a mechanism for gathering and presenting evidence to help understand climate change risks to the UK. The Third Climate Change Risk Assessment was published by the UK Government in January 2022 and draws from the latest evidence prepared by the Adaptation Committee presented in the Independent Assessment of UK Climate Risk 2021.

The Environment Act 2021

- The Environment Act 2021 presents the new environmental programme. It aims to improve air and water quality, tackle waste, increase recycling, halt the decline of species and improve the natural environment. The Act establishes a legally binding duty to the Government to bring two new targets in Secondary legislation in

October 2022. These include reducing the annual mean levels of fine particles (PM2.5) and reducing public exposure to PM2.5.

The Conservation of Habitats and Species Regulations 2017

(The Habitats Regulations 2017)

- The Conservation of Habitats and Species Regulations (the Habitats Regulations) 2017 translates into UK legislation, The Habitats Directive 92/43/EEC and the Wild Birds Directive 2009/147/EC and includes a strict system of protection for European Sites and European Protected Species.

Wildlife and Countryside Act 1981 (as amended)

- The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSI's). In England, these sites are identified for their flora, fauna, geological or physiographical interest by Natural England (NE). This Act contains measures for the protection and management of SSSIs.
- The Wildlife and Countryside Act 1981 is divided into four parts: Part I relating to the protection of wildlife, Part II relating to designation of SSSIs and other designations, Part III on public rights of way and Part IV containing miscellaneous provisions. If a species protected under Part I is likely to be affected by development, a protected species licence will be required from NE.

The Natural Environment and Rural Communities Act 2006 (as amended)

- The Natural Environment and Rural Communities Act 2006 makes provisions for bodies concerned with the natural environment and rural communities, in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the conservation of biodiversity (the biodiversity duty).

Environmental Permitting (England and Wales) Regulations 2016 (as amended)

- Some facilities have the potential to cause harm to the environment or human health. The Environmental Permitting Regulations 2016 aim to streamline the legislative system which provides supervision by regulators of activities that could harm the environment. These Regulations identify those activities that require an environmental permit.
- The aim of the regime is to:
 - protect the environment so that statutory and government policy environmental targets and outcomes are achieved;
 - deliver permitting, and compliance with permits and certain environmental targets, effectively and efficiently, in a way that provides increased clarity and minimises the administrative burden on both the regulator and operators;
 - encourage regulators to promote best practice in the operation of facilities; and
 - continue to implement European legislation fully.

Air Quality Standards (England) Regulations 2010

- The Air Quality Standards Regulations 2010 aims to reduce harmful air pollutants and protect public health and the environment. Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe sets limits, or target levels, for selected pollutants that are to be achieved by specific dates.
- The Air Quality Standards Regulations implemented the requirements of Directive 2008/50/EC and report limit values at differing averaging periods for certain pollutants.

Air Quality (England) Regulations 2000

- The Air Quality Regulations 2000 are designed to protect public health and the environment through reducing air pollution in England. These regulations set target limits on concentrations of certain air pollutants and set out procedures for monitoring and reporting air quality.

Flood and Water Management Act 2010

- The Flood and Water Management Act 2010 provides for a better, more comprehensive management of flood risk for people, homes and businesses. It aims to help safeguard community groups from unaffordable rises in surface water drainage charges, and protects water supplies to the consumer.

European Union (Withdrawal) Act 2018

- The UK left the European Union (EU) as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 gave effect to the transition arrangements until the 31 December 2020. This provided for EU law to be retained as UK law and to bring into effect obligations which may come into force during the transition period.

Applicable EU Directives given effect in UK domestic legislation:

- On 31 December 2020, the UK exited the EU following the expiry of the 'transition period', as provided for by the European Union (Withdrawal) Act 2018. Sections 2-3 of the Act 2018, as amended, provide that direct EU legislation, and EU derived domestic legislation, continue to have effect in UK domestic law after that date. In summary, the interpretation of any retained EU law is to be the same as it was before that date, insofar as the retained EU law remains unmodified in UK law and regulations have not been made providing otherwise.
- The following Directives, as they have been given effect in UK domestic legislation, are relevant to the Proposed Development:
 - Environmental Impact Assessment (EIA) Directive (2011/92/EU) (as amended by EIA Directive 2014/52/EU)
 - Habitats Directive (92/43/EEC)
 - Landfill Directive (1999/31/EC)
 - Waste Framework Directive (2008/98/EC)
 - The Industrial Emissions Directive (2010/75/EU)
 - The Waste Incineration Directive (2000/76/EC)
 - Energy Efficiency Directive (2012/27/EU)
 - Air Quality Directive (2008/50/EC)
 - Industrial Emissions Directive (2010/75/EU)
 - Birds Directive (2009/147/EC)

- Medium Combustion Plant Directive (2015/2193/EU)
- Environmental Liability Directive (2004/35/EC)

National Policy Statements

Overarching National Policy Statement for Energy (NPS EN-1) 2011

- NPS EN-1 (July 2011) sets out general principles and generic impacts to be taken into account in considering applications for energy Nationally Significant Infrastructure Projects (NSIP). All other energy NPSs sit under the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are used together with this NPS.

National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) 2011

- NPS EN-3 (July 2011) details assessment criteria specific to different types of renewable energy infrastructure including Energy from Waste (EfW) and Combined Heat and Power (CHP) proposals. The assessment criteria for EfW proposals include impacts relating to air quality and emissions; landscape and visual; noise and vibration; odour, insect and vermin infestation; waste management; residue management; and water quality and resources.

National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) 2011

- NPS EN-5 (July 2011) sets out assessment and technology-specific information relating to electricity networks infrastructure. The assessment criteria for electricity network proposals includes impacts on biodiversity and geological conservation; landscape and visual; noise and vibration; and electric and magnetic fields.

Draft National Policy Statements

- The UK Government announced a review of the energy NPSs within the Energy White Paper: Powering out Net Zero Future (2020). In September 2021, the Department for Business, Energy and Industrial Strategy consulted upon a review of energy NPSs with consultation closing on 29 November 2021. The energy NPSs were reviewed to reflect the policies and broader strategic approach set out in the Energy White Paper and ensure that a planning framework is in place to support the infrastructure requirement for the transition to net zero. The consultation sought views on the following draft NPSs which are relevant to the Proposed Development:
 - Draft Overarching National Policy Statement for Energy 2021
 - Draft National Policy Statement for Renewable Energy Infrastructure 2021
 - Draft National Policy Statement for Electricity Networks Infrastructure 2021

National Policy

National Planning Policy Framework 2021 and Planning Practice Guidance 2021 (The NPPF and PPG)

- The NPPF and its accompanying PPG set out the Government's planning policies for England and how these are expected to be applied. Paragraph 5 of the NPPF

makes it clear that it does not contain specific policies for NSIP decision-making as these are determined in accordance with the decision-making framework in the PA2008 as well as relevant NPSs and any other matters which are relevant, which may include the NPPF.

National Planning Policy for Waste 2014

(NPPW)

- The NPPW was published in October 2014 and sets out the Government's ambition to develop a more sustainable and efficient approach to resource use and management. It should be read in conjunction with the NPPF.
- The NPPW provides the planning framework to enable local authorities to put forward strategies that identify sites and areas suitable for new or enhanced facilities to meet the waste management needs of their areas. At paragraph 1, NPPW states that 'positive planning plays a pivotal role in delivering this country's waste ambitions' through:
 - delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;
 - providing a framework in which communities and businesses are engaged with, and take more responsibility for, their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the 'proximity principle';
 - ensuring that waste management is considered alongside other spatial planning concerns;
 - helping to secure the re-use, recovery, and disposal of waste; and
 - ensuring the design and layout of new development and other infrastructure complements sustainable waste management.

Energy White Paper: Powering our Net Zero Future 2020

- The Energy White Paper provides further clarity on the measures set out in The Ten Point Plan for a Green Industrial Revolution 2020 and National Infrastructure Strategy 2020. It puts in place a strategy for the wider energy system that aims to transform energy, supports a green recovery and creates a fair deal for consumers.

The Waste Management Plan for England 2021

- The Waste Management Plan for England is a high-level, non-site-specific document. It provides an analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of The Waste (England and Wales) Regulations 2011.
- The Plan is supplemented by a Waste Prevention Programme for England which sets out the Government's plans for preventing products and materials from becoming waste, including by greater reuse, repair and remanufacture supported by action to ensure better design to enable this to be done more easily.

A Green Future: Our 25 Year Plan to Improve the Environment 2018

- The 25 Year Environment Plan sets out the Government's comprehensive and long-term approach to protecting and enhancing the natural environment in

<p>England for the next generation. It includes commitments use resources more widely, reduce waste we generate and reduce GHG emissions.</p>
<p>Our Waste, Our Resources: Strategy for England 2018</p> <ul style="list-style-type: none"> • This document recognises the impact of waste on the environment. It sets out a strategy to move to a more circular economy which keeps resources in use for longer. It seeks to minimise the damage caused to our natural environment by reducing and managing waste safely and carefully, and by tackling waste crime. It also seeks to drive greater efficiency from EfW plants.
<p>National Infrastructure Strategy 2020</p> <ul style="list-style-type: none"> • The National Infrastructure Strategy emphasises the role of infrastructure in supporting economic growth. It sets out a strategy that seeks to boost growth and productivity across the UK, meet the net zero emissions target by 2050, support private investment and accelerate and improve delivery.
<p>Net Zero Strategy: Build Back Greener 2021</p> <ul style="list-style-type: none"> • This sets out a long-term strategy for reducing the UK’s contribution to climate change to allow carbon budget targets to be met. It sets out policies and targets for reducing greenhouse gas emissions across a number of economic sectors.
<p>Build Back Better: Our Plan for Growth 2021</p> <ul style="list-style-type: none"> • This plan sets out a vision to deliver economic recovery following the challenges faced during the Covid-19 pandemic. The Plan is built on three core pillars of growth: infrastructure, skills and innovation.
<p>British Energy Security Strategy 2022</p> <ul style="list-style-type: none"> • This document sets out the Government’s strategy for reducing the importation of oil and gas and increasing domestic renewable energy generation. It aims to build a British energy system that is more self-sufficient.
<p>Clean Air Strategy 2019</p> <ul style="list-style-type: none"> • This policy paper sets out the Government’s plans for dealing with all sources of air pollution, making our air healthier to breathe, protecting nature and boosting the economy. It indicates how the devolved administrations intend to make their share of emissions reductions.
<p>Environmental Improvement Plan 2023: First revision of the 25 Year Environment Plan (2023)</p> <ul style="list-style-type: none"> • This document represents the first review of the 25 Year Environment Plan (25YEP), which was first published five years before. Where the 25YEP set out the framework and vision, this document sets out the plan to deliver. The Government sets out measures to halt the decline in biodiversity in order to achieve their apex goal of thriving plants and wildlife.

Local Planning Policy Context

- NPS EN-1 states that Development Plan documents and other documents in the Local Development Framework may be important and relevant to the SoS in their decision-making. The SoS may also take emerging local policy into consideration. However, in the event of a conflict between these documents and an NPS, the NPS prevails for the purpose of SoS decision-making given the national significance of the infrastructure.

Cambridgeshire and Peterborough Minerals and Waste Local Plan 2036 (adopted 2021)

- This document sets the framework for all minerals and waste developments in the plan area until 2036. It sets out policies to guide mineral and waste management development. Policy 10 designates Waste Management Areas (WMAs). WMAs identify existing or committed waste management facilities that make a significant contribution to managing any waste stream. The EfW CHP Facility Site is designated as a WMA.

Cambridgeshire and Peterborough Minerals and Waste Development Plan: Site Specific Proposals Development Plan Document (adopted 2012)

- This document sets out the site-specific allocations for minerals and waste development. It identified allocated sites and the geographic extent of supporting policy boundaries defined by the Minerals and Waste Planning Authorities for: Mineral Working; Minerals Consultation Areas; Waste Management Uses; Areas of Search for Waste Management Uses; Waste Water Treatment Works and Safeguarding; Waste Consultation Areas; and Transport Zones and Safeguarding.

The Cambridgeshire Flood and Water Supplementary Planning Document (SPD) (adopted 2016)

- This SPD provides guidance on the implementation of flood and water related policies in each Cambridgeshire authority's respective Local Plan. It includes advice and guidance on how to address flood risk in the planning process.

The Fenland Local Plan (adopted 2014)

- The EfW CHP Facility Site, CHP Connection, Access Improvements, Water Connections, TCC and part of the Grid Connection are located within the Fenland District Council area. The current adopted development plan relevant to this area is the Fenland Local Plan.
- The Fenland Local Plan includes a number of policies that are relevant to the Proposed Development in respect of topics relating to health and wellbeing, climate change, transport, design and the historic and natural environments.

Delivering and Protecting High Quality Environments in Fenland SPD (adopted 2014)

- The Delivering and Protecting High Quality Environments in Fenland SPD expands upon adopted Local Plan policies by providing additional guidance on how development can secure good design. Local Plan policies expanded upon include those concerned with biodiversity, landscaping, local distinctiveness and character.

Wisbech Access Strategy 2018

- The Wisbech Access Strategy is a package of individual transport schemes that will support future housing and job growth, as set out in the Fenland Local Plan.
- Transport schemes within the Wisbech Access Strategy that are relevant to the Proposed Development include:
 - A47 Cromwell Road;
 - A47 Elm High Road;
 - A47 Broadend Road; and
 - Southern Access Road (including New Bridge Lane).

Norfolk Minerals and Waste Development Framework

- The Grid Connection would be partially located within the boundary of Norfolk County Council. The Norfolk Minerals and Waste Development Framework includes the following documents:
 - Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010 – 2026 (adopted 2011);
 - Minerals Site Specific Allocations Development Plan Document (adopted 2013, amendments adopted 2017)
 - Waste Site Specific Allocations Development Plan Document (adopted 2013); and
 - Revised PDF policies map and the revised interactive policies map.

King's Lynn and West Norfolk Borough Council Local Development Framework

- The Grid Connection would be partially located within the boundary of King's Lynn and West Norfolk Borough Council. The current adopted Local Plan for this area comprises of:
 - The Core Strategy (adopted 2011); and
 - The Site Allocations and Development Management Policies Plan (adopted 2016)

APPENDIX C: FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

APPENDIX C: FINDINGS AND CONCLUSIONS IN RELATION TO THE HABITATS REGULATIONS ASSESSMENT

C.1 INTRODUCTION

- C.1.1 This Annex sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- C.1.2 This Annex is structured as follows:
- Section 1.2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites;
 - Section 1.3: HRA conclusions.
- C.1.3 In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)¹ and no reasonable scientific doubt remains².
- C.1.4 Policy considerations and the legal obligations under the Habitats Regulations are described in Annex B of this Report.
- C.1.5 We have been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions.
- C.1.6 The Applicant set out its assessment in the HRA Report [AS-007]. NE's submission at D1 [REP1-043] stated agreement with the Applicant's conclusions with regard to the European sites assessed and their qualifying features. Furthermore, the SoCG between the Applicant and NE [REP1-043 and REP4-011] confirmed that NE was satisfied that the Applicant had identified the correct European sites and qualifying features on which LSE could occur as a result of the Proposed Development.
- C.1.7 No other evidence or comment against this was submitted by any other party, and therefore the ExA decided that a Report on the Implications for European Sites (RIES) compiling HRA-relevant information would not be required.

¹ The term 'European sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above.

² CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij.

Proposed Development Description and HRA Implications

- C.1.8 The Proposed Development is described in Chapter 1 of this Report.
- C.1.9 The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 11.2: Statutory and non-statutory designated sites for nature conservation identified within areas of search [APP-063].
- C.1.10 The Proposed Development is not directly connected with, or necessary to, the management of a European site, as stated in paragraph 1.3.8 of [AS-007]. Therefore, the SoS must make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- C.1.11 The Applicant's assessment of effects is presented in the following application document:
- ES Volume 5.3: Habitats Regulations Assessment No Significant Effects Report (NSER) hereafter referred to as 'the Applicant's HRA Report' [AS-007].
- C.1.12 Other documents which are relevant to the HRA are:
- ES Volume 5.3: Habitats Regulations Assessment No Significant Effects Report (NSER) hereafter referred to as 'the Applicant's HRA Report' [AS-007].
- C.1.13 As part of the original suite of application documents, the Applicant provided an HRA Report dated June 2022 [APP-025]. However, this document was updated in August 2022 [AS-007] to address comments relating to HRA raised in the S51 advice provided in August 2022 [PD-003]. The updates were:
- Volume 6.2 ES Chapter 8: Air Quality [APP-035];
 - Volume 6.2 ES Chapter 11: Biodiversity [APP-038];
 - Volume 6.3 ES Chapter 11: Biodiversity Figures [APP-063];
 - Volume 6.2 ES Chapter 12: Hydrology [APP-039];
 - Volume 6.2 ES Chapter 12: Hydrology: Appendix 12B: Stakeholder engagement and consultation in relation to Hydrology) [APP-085]; and
 - Volume 6.2 ES Chapter 18: Cumulative Effects Assessment [APP-045]
- C.1.14 To avoid confusion, this Annex refers to the content of the updated document [AS-007]. No further documents or updated documents were provided regarding the HRA
- C.1.15 During the Examination, the Applicant submitted a change request as described in Chapter 1 of this Report. These changes were accepted by the ExA. The change request did not affect the HRA and not updates to the HRA were required.
- C.1.16 The Applicant did not identify any likely significant effects (LSE) on non-UK European sites in European Economic Area (EEA) States in its HRA Report [AS-007]. Only UK European sites are addressed in this Report. No such impacts were raised for discussion by any IPs during the Examination.

C.2 FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE) ON THE UK NATIONAL SITE NETWORK AND OTHER EUROPEAN SITES

C.2.1 Under Regulation 63 of the Habitats Regulations the Competent Authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.

C.2.2 The European sites and qualifying features that were considered in the Applicant's assessment of LSE are presented in Table 3.2 of the HRA Report [AS-007] and are set out below.

European sites identified in the Applicants Assessment [AS-007].

European Site Name	Qualifying Features
Nene Washes SPA 7.2km southwest.	<ul style="list-style-type: none"> ▪ Bewick's swan, wigeon, gadwall, teal, pintail, shoveler, garganey and black-tailed godwit.
Nene Washes Ramsar site 7.2km southwest.	<ul style="list-style-type: none"> ▪ Ramsar Criterion 2 ▪ Ramsar Criterion 6
Nene Washes SAC 7.2km southwest.	<ul style="list-style-type: none"> ▪ Spined loach
The Ouse Washes SPA 12.5km southwest.	<ul style="list-style-type: none"> ▪ Bewicks swan, whooper swan, wigeon, teal, pintail, shoveler, hen harrier, gadwall, mallard, garganey, ruff and black-tailed godwit.
The Ouse Washes Ramsar site 12.5km southwest.	<ul style="list-style-type: none"> ▪ Ramsar Criterion 1 ▪ Ramsar Criterion 2 ▪ Ramsar Criterion 5 ▪ Ramsar Criterion 6
The Ouse Washes SAC 12.5km southwest.	<ul style="list-style-type: none"> ▪ Spined loach
The Wash SPA 17.3km north.	<ul style="list-style-type: none"> ▪ Bewicks swan, pink footed goose, brent goose, dark bellied, shelduck, wigeon, gadwall, pintail, common scoter, goldeneye, oystercatcher, grey plover, knot, sanderling, dunlin, black-tailed godwit, bar-tailed godwit, curlew, redshank, turnstone, little tern and common tern.

<p>The Wash Ramsar site 17.3km north.</p>	<ul style="list-style-type: none"> ▪ Ramsar Criterion 1 ▪ Ramsar Criterion 3 ▪ Ramsar Criterion 5 ▪ Ramsar Criterion 6
<p>The Wash and North Norfolk Coast SAC 17.3km north.</p>	<ul style="list-style-type: none"> ▪ Sandbanks which are slightly covered by seawater all the time; subtidal sandbanks ▪ Mudflats and sandflats not covered by seawater at low tide; intertidal mudflats and sandflats ▪ Coastal lagoons ▪ Large shallow inlets and bays ▪ Reefs ▪ Salicornia and other annuals colonising mud and sand; glasswort and other annual colonising mud and sand ▪ Atlantic salt meadows ▪ Mediterranean and thermos-Atlantic halophilous scrubs; Mediterranean saltmarsh scrub ▪ Otter ▪ Common seal.

C.2.3 The Applicant’s HRA Report sets out the methodology applied to determining what would constitute a ‘significant effect’ within its HRA Report [AS-007]. The HRA Report sets out that an LSE is one which cannot be excluded on the basis of objective information, either individually or in-combination with other pans or projects.

C.2.4 The SoCG between the Applicant and NE [REP1-043 and REP4-011] confirmed that NE was satisfied that the Applicant had identified the correct European sites and qualifying features on which LSE could occur as a result of the Proposed Development.

LSE from the Proposed Development Alone

C.2.5 Table 3.3 of the Applicants HRA Report explains that the Wash and North Norfolk Coast SAC is located outside of the 15km Zone of Influence, as set out in EA guidance, and therefore was not taken forward for further assessment. Air pollution effects from the Proposed Development alone on the Wash SPA and the Wash Ramsar were also not considered further due to these sites being located over 15km from the Proposed Development.

C.2.6 The impacts considered by the Applicant to have the potential to result in LSE are:

Construction/Decommissioning

- Disturbance (and resulting displacement) from operatives and their machinery on Functionally Linked Land (FLL) associated with the Wash SPA and Ramsar

site, Nene Washes SPA and Ramsar site and the Ouse Washes SPA and Ramsar Site.

- The effects of pollution on potential FLL via use of chemicals (eg fuels, solvents etc) and the liberation of fine material (eg through excavation).

Operation

- The effects of disturbance/displacement from operatives and their machinery on potential FLL associated with the Wash SPA and Ramsar, Nene Washes SPA and Ramsar site and the Ouse Washes SPA and Ramsar site.
- The effects of displacement from potential FLL associated with the Wash SPA and Ramsar, Nene Washes SPA and Ramsar site and the Ouse Washes SPA and Ramsar site.
- The effects of air pollution (from the Energy from Waste Combined Heat and Power Facility and vehicles) on qualifying species features and supporting habitats of the Nene Washes SAC/SPA and Ramsar site and Ouse Washes SAC, SPA and Ramsar site. The Applicant's HRA Report concluded no LSE from the Proposed Development alone on any of the qualifying features of all European sites assessed.

C.2.7 NE stated agreement with the conclusions of the HRA Report in the SoCG [REP1-043 and REP4-011].

LSE from the Proposed Development In Combination

C.2.8 The Applicant addressed potential in-combination effects arising from the Proposed Development within Section of 4 of [AS-007] which sets out the methodology applied. The other plans and projects included within the in-combination assessment for traffic emissions are set out in Table 18.9 of ES Chapter 18: Cumulative Effects Assessment [APP- 045].

C.2.9 The in-combination assessment also considered the Boston Alternative Energy Facility (BAEF); a scheme involving combustion emissions. Although BAEF is located outside of the 15km search area set out in EA guidance, it is located approximately 6km to the north of the Wash SPA/SAC and Ramsar site; 40km north of Nene Washes SPA/SAC and Ramsar site and 48km north from the Ouse Washes SPA/SAC and Ramsar site.

C.2.10 No in-combination LSE have been identified for the sites and qualifying features where LSE were excluded from the Proposed Development alone. In-combination effects have been excluded because the assessment considered effects as the long term Process Contribution is less than 1%. The HRA Report concluded that in-combination effects from the Proposed Development and BAEF would be negligible.

LSE Assessment Outcomes

C.2.11 The sites for which the Applicant concluded no LSE would occur from either the project alone or in combination with other projects and plans are presented in Table 3.2 of [AS-007].

C.2.12 The submitted SoCG between the Applicant and NE [REP1-043 and REP4-011] records agreement on the conclusions of the screening assessment. The Applicant's conclusions of potential LSE on the European sites and their qualifying features considered were not disputed by any IPs during the Examination.

C.2.13 We are satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and are satisfied with the approach to the assessment of alone and in-combination likely significant effects.

C.3 HRA CONCLUSIONS

C.3.1 The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.

C.3.2 Nine European Sites and their qualifying features were considered in the Applicant's assessment of LSE:

- Nene Washes SPA
- Nene Washes Ramsar
- Nene Washes SAC
- The Ouse Washes SPA
- The Ouse Washes Ramsar
- The Ouse Washes SAC
- The Wash SPA
- The Wash Ramsar
- The Wash and North Norfolk Coast SAC

C.3.3 No LSE were identified for all sites as shown in Tables 3.3 and 4.6 of the HRA Report both from the Proposed Development alone and in-combination with other plans or projects.

C.3.4 We are satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified. We also note that NE agreed that LSE could be excluded.

C.3.5 Our findings are that LSE on European sites as a result of the Proposed Development alone and in combination with other plans and projects can be excluded.

APPENDIX D: THE RECOMMENDED DCO

202[] No.

INFRASTRUCTURE PLANNING

**Medworth Energy from Waste Combined Heat and Power
Facility Order 202[]**

Made - - - - ***

Coming into force - - ***

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An application under section 37 of the Planning Act 2008(a) (the “2008 Act”) has been made to the Secretary of State for an order granting development consent in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b).

The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c). The Examining Authority has submitted a report and recommendation to the Secretary of State under section 74(d) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(e) and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

In accordance with section 127 of the 2008 Act(f), the Secretary of State has applied the relevant tests and is satisfied that they have been met.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115, 120, 122, 123 and 140 of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Medworth Energy from Waste Combined Heat and Power Facility Order 202* and comes into force on [***] 202*.

Interpretation

2.—(1) In this Order, unless otherwise stated—

“the 1961 Act” means the Land Compensation Act 1961(g);

“the 1965 Act” means the Compulsory Purchase Act 1965(h);

“the 1980 Act” means the Highways Act 1980(i);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(j);

-
- (a) 2008 c.29. The relevant provisions of the 2008 Act are amended by section 137(5) of, and schedule 13 to, the Localism Act 2011 (c. 20).
- (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378 and S.I. 2019/734
- (c) S.I. 2010/103, amended by S.I. 2012/635.
- (d) 2008 c.29. Section 74 was amended by the Localism Act 2011 (c.20) Schedule 13(1) and Schedule 25(20).
- (e) S.I. 2017/572.
- (f) 2008 c.29. Section 127 was amended by sections 23(2)(a), 23(2)(b) and 23(2)(c) of the Growth and Infrastructure Act 2013 (c.27) and by paragraph 64(2) of Schedule 13(1) to the Localism Act 2011 (c.20).
- (g) 1961 c.33.
- (h) 1965 c.56.
- (i) 1980 c.66.
- (j) 1981 c.66.

“the 1984 Act” means the Road Traffic Regulation Act 1984(a);

“the 1990 Act” means the Town and Country Planning Act 1990(b);

“the 1991 Act” means the New Roads and Street Works Act 1991(c);

“the 2003 Act” means the Communications Act 2003(d);

“the 2008 Act” means the Planning Act 2008(e);

“access and public rights of way plans” means the plans of that name identified in Table 10 of Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the access and public rights of way plans for the purposes of this Order under article 42 (certification of plans etc.);

“Anglian Water” means Anglian Water Services Limited (company number 02366656);

“AOD” means above ordnance datum;

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act save that “apparatus” further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks; electricity cables; telecommunications equipment and electricity cabinets;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“book of reference” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the book of reference for the purposes of this Order under article 42;

“brown roof” means a roof which has a layer of material typically derived from on-site sources including crushed building materials and provides a growing medium for native pioneer plants and an ecological habitat;

“building” includes any structure or erection or any part of a building, structure or erection;

“carbon capture and export embedded design measures” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the carbon capture and export embedded design measures for the purposes of this Order under article 42;

“carbon capture and export readiness reserve space” means the area identified on the carbon capture and export readiness reserve space plan for future installation and operation of any carbon capture and export equipment;

“carbon capture and export readiness reserve space plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the carbon capture and export readiness reserve space plan for the purposes of this Order under article 42;

“carriageway” has the same meaning as in the 1980 Act;

“combined heat and power embedded design measures” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the combined heat and power embedded design measures for the purposes of this Order under article 42;

“combined heat and power statement” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the combined heat and power statement for the purposes of this Order under article 42;

“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (which explains when development begins), comprised in or carried out for the

(a) 1984 c.27.
(b) 1990 c.8.
(c) 1991 c.22.
(d) 2003 c.21.
(e) 2008 c.29.

purposes of the authorised development other than the enabling activities and the words “commencement” and “commenced” are to be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development or part of the authorised development (which are installed or installation is near to completion) are tested to verify that they function and are operable in accordance with design objectives, specifications and operational requirements of the undertaker;

“date of final commissioning” means the date on which the commissioning of the authorised development (or any part of the authorised development as the context requires) is completed as notified as such by the undertaker to the relevant planning authority pursuant to requirement 20 of Schedule 2 (requirements);

“design and access statement” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the design and access statement for the purposes of this Order under article 42;

“EPN” means Eastern Power Networks plc (company number 02366906);

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means provided it is in an electronic form;

“enabling activities” means operations consisting of site clearance, site mobilisation, pre-planting of landscaping works, ecological mitigation works, archaeological investigations, intrusive environmental surveys, environmental monitoring, investigations for the purpose of assessing ground conditions (including the making of trial boreholes), receipt and erection of construction plant and equipment, erection of construction welfare facilities, erection of any temporary means of enclosure, creation of site accesses, the temporary display of site notices or advertisements;

“environmental statement” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the environmental statement for the purposes of this Order under article 42;

“flood risk assessment” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the flood risk assessment for the purposes of this Order under article 42;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“green wall” means a vertical structure against which vegetation is grown;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“land plans” means the plans of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the land plans for the purposes of this Order under article 42;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part, but not the whole of, the authorised development, but only insofar as such activities are unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“this Order” means the Medworth Energy from Waste Combined Heat and Power Facility Order 202*;

“Order land” means the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown on the land plans;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

“outline biodiversity net gain strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline biodiversity net gain strategy for the purposes of this Order under article 42;

“outline construction environmental management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order under article 42;

“outline construction traffic management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order under article 42;

“outline decommissioning plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline decommissioning plan for the purposes of this Order under article 42;

“outline drainage strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline drainage strategy for the purposes of this order under article 42;

“outline employment and skills strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline employment and skills strategy for the purposes of this Order under article 42;

“outline fire prevention plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline fire prevention plan for the purposes of this Order under article 42;

“outline flood emergency management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline flood emergency management plan for the purposes of this Order under article 42;

“outline landscape and ecology management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline landscape and ecology management plan for the purposes of this Order under article 42;

“outline landscape and ecology strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline landscape plans and ecology strategy for the purposes of this Order under article 42;

“outline lighting strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline lighting strategy for the purposes of this Order under article 42;

“outline local air quality monitoring strategy” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline local air quality monitoring strategy for the purposes of this Order under article 42;

“outline odour management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline odour management plan for the purposes of this Order under article 42;

“outline operational noise management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline operational noise management plan for the purposes of this Order under article 42;

“outline operational traffic management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline operational traffic management plan for the purposes of this Order under article 42;

“outline operational travel plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline operational travel plan for the purposes of this Order under article 42;

“outline Walsoken Substation flood emergency management plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the outline Walsoken Substation flood emergency management plan for the purposes of this Order under article 42;

“owner” in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“relevant planning authority” means the waste planning authority for the area in which the land to which the provisions of this Order apply is situated;

“requirements” means those matters set out in Schedule 2;

“section 106 agreement” means the agreement made under section 106 of the 1990 Act and section 278 of the 1980 Act dated 11 December 2013 between (1) Cambridgeshire County Council and (2) Tesco Stores Limited;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and includes a public communications provider defined by section 151(1) of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and “street” includes any part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic authority” has the same meaning as in section 121A of the 1984 Act;

“undertaker” means Medworth CHP Limited (company number 13130012) or any other person who for the time being has the benefit of this Order in accordance with article 7 (benefit of this Order);

“waste area plan” means the document of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the waste area plan for the purposes of this Order under article 42;

“watercourse” includes all rivers, streams, creeks, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“working day” means any day other than a Saturday, Sunday or English bank or other public holiday; and

“works plans” means the plans of that name identified in Table 10 of Schedule 13 and which is certified by the Secretary of State as the works plans for the purposes of this Order under article 42.

(2) References in this Order to rights over land include references to rights to do or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) All distances, directions, volumes, heights, widths and lengths referred to in this Order are approximate and distances between points on a numbered work comprised in the authorised development and shown on the works plans and access and public rights of way plans are taken to be measured along that work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1.

(6) References to “Schedule” are, unless otherwise stated, references to Schedules to this Order.

(7) The expression “includes” is to be construed without limitation.

(8) References to any statutory body include any body’s successor in respect of functions which are relevant to this Order.

(a) 1981. c.67. The definition of “owner” was amended by paragraph 9 of Schedule 15(I) to the Planning and Compensation Act 1991 (c.34). There are other amendments to section 7 which are not relevant to this Order.

PART 2

PRINCIPAL POWERS

Development consent granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans.

Maintenance of authorised development

4.—(1) The undertaker may at any time maintain the authorised development except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

Operation of the authorised development

5.—(1) The undertaker is authorised to operate the generating station comprised in the authorised development.

(2) Other than as set out in this Order, this article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of an electricity generating station.

Disapplication of legislative provisions

6. The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction, operation or maintenance of any part of the authorised development—

- (a) section 24 (restrictions on abstraction) of the Water Resources Act 1991^(a);
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991;
- (c) section 23 of the Land Drainage Act 1991 (prohibition of obstructions etc. in watercourses);
- (d) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (powers to make byelaws); and
- (e) the provisions of the Neighbourhood Planning Act 2017^(b) insofar as they relate to temporary possession of land under articles 32 (temporary use of land for the construction of the authorised development) and 33 (temporary use of land for maintaining the authorised development) of this Order.

Benefit of this Order

7.—(1) Subject to paragraph (2), paragraph (3) and article 8 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to Work No. 6A and 6B in respect of which the provisions of this Order have effect for the benefit of the undertaker and Anglian Water.

(3) Paragraph (1) does not apply to Work No. 9 in respect of which the provisions of this Order have effect for the benefit of the undertaker and EPN.

(a) 1991 c. 57.
(b) 2017 c.20.

Consent to transfer benefit of the Order

8.—(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) all or any part of the benefit of the provisions of this Order (including any of the numbered works or any part of the numbered works) and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”), for a period agreed between the undertaker and the lessee, all or any part of the benefit of the provisions of this Order (including any of the numbered works or any part of the numbered works) and such related statutory rights as may be agreed between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1)(a) or (1)(b) references in this Order to the undertaker, except paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

- (a) the transferee or lessee holds a licence under section 6 of the Electricity Act 1989(a);
- (b) in relation to a transfer or lease of utility or other infrastructure connection works, the transferee or lessee is the relevant statutory undertaker or licence holder;
- (c) in relation to a transfer or lease of any works within a highway, the transferee or lessee is a highway authority responsible for the relevant highway; or
- (d) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made;
 - (ii) any such claims that have been made have all been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of any claims made;
 - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.

(5) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State in writing before transferring or granting all or any part of the benefit of the provisions of this Order and such related statutory rights referred to in paragraph (1).

(6) The notification referred to in paragraph (5) must state—

- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
- (b) subject to paragraph (7), the date on which the transfer will take effect;
- (c) the powers to be transferred or granted;
- (d) pursuant to paragraph (3), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(a) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), sections 89(3), 136(1), 136(2), 145(5), 145(6), and 145(7), and paragraph 5 of Schedule 19 and paragraph 1 of Schedule 23(1) to the Energy Act 2004 (c.20), articles 6(2)(a), 6(2)(b), 6(3), 6(4) of the Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400, regulation 19 of the Electricity and Gas (Internal Markets) Regulations 2011/2704, and by paragraph 2 of Schedule 8 to the Climate Change Act 2008 (c.27).

(7) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.

(8) The notice given under paragraph (5) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

Security in respect of payment of compensation

9.—(1) The undertaker must not begin to exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any part of the Order land unless it has first put in place, following approval by the Secretary of State, either—

- (a) a guarantee in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land; or
- (b) an alternative form of security in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land.

(2) The provisions are—

- (a) article 23 (compulsory acquisition of land);
- (b) article 25 (compulsory acquisition of rights and imposition of restrictive covenants);
- (c) article 26 (acquisition of subsoil only);
- (d) article 27 (private rights);
- (e) article 28 (power to override easements and other rights);
- (f) article 31 (rights under or over streets);
- (g) article 32 (temporary use of land for the construction of the authorised development);
- (h) article 33 (temporary use of land for maintaining the authorised development); and
- (i) article 34 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

PART 3 STREETS

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any streets specified in Schedule 3 (streets subject to street works) and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus in the street;
- (d) maintain apparatus in the street, change its position or remove it; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) or (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Power to alter layout, etc., of streets

11.—(1) The undertaker may for the purposes of the authorised development alter the layout of or construct any works in the street in the case of permanent works as specified in column (2) of Schedule 4 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (3) of that Schedule and in the case of temporary works as specified in column (2) of Schedule 5 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the powers conferred by paragraph (1) in respect of specific streets, but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating or maintaining the authorised development alter the layout of any street within the Order limits and, without limiting the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, footpath, cycle track or verge; and
- (b) make and maintain passing places.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Construction and maintenance of new or altered means of access

12.—(1) Those parts of each means of access specified in Part 1 of Schedule 6 (access) to be constructed or altered under this Order must be completed to the reasonable satisfaction of the highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 6 (access) to be constructed or altered under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(3) Those restoration works carried out pursuant to article 11(3) (power to alter layout, etc., of streets) identified in Part 3 of Schedule 6 (access) which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the street authority.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), a court must in particular have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;

- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction of use of streets and public rights of way

13.—(1) The undertaker may, during and for the purposes of constructing the authorised development, temporarily alter, divert, prohibit or restrict the use of any street or public right of way within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for non-motorised users (including pedestrians) and vehicles going to or from premises abutting a street or public right of way affected by the temporary alteration, diversion, prohibition or restriction of a street or public right of way under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily alter, divert, prohibit or restrict the use of the streets or public rights of way specified in columns (1) and (2) of Schedule 7 (temporary prohibition or restriction of the use of streets or public rights of way) to the extent specified in column (3) of that Schedule.

(5) The undertaker must not temporarily alter, divert, prohibit or restrict the use of—

- (a) any street specified in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any such consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If the undertaker uses any street or public right of way as a temporary working site under this article the undertaker must restore the street or public right of way to the reasonable satisfaction of the street authority.

Use of private roads

14.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction, maintenance, operation or decommissioning of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

15. The undertaker may, for the purposes of the authorised development—

- (a) form and layout the permanent means of access, or improve existing means of access in the location specified in Schedule 4 (streets subject to permanent alteration of layout);
- (b) form and layout the temporary means of access in the locations specified in Schedule 5 (streets subject to temporary alteration of layout); and
- (c) with the approval of the relevant planning authorities after consultation with the highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

16.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street, whether or not over or under any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of any street or structure of any bridge or tunnel carrying a street over or under the authorised development;
- (d) any alteration, diversion, prohibition or restriction in the use of a street authorised by this Order;
- (e) the construction in the street of any of the authorised development; or
- (f) any such works as the parties may agree.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

17.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with, or in consequence of, the construction, maintenance and operation of the authorised development—

- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (b) make provision as to the direction or priority of vehicular traffic on any road;
- (c) permit, prohibit or restrict the use of any road;
- (d) permit, prohibit or restrict vehicular access to any road;

- (e) revoke, amend or suspend in whole or in part any order made, or having effect as if made under the 1984 Act;
- (f) determine that no person is to drive any motor vehicle at a speed exceeding 30 miles per hour along the length of road known as New Bridge Lane and shown coloured blue on the access and public rights of way plans; and
- (g) temporarily place traffic signs and signals in the extents of the road specified in column 3 of Part of Schedule 7 (temporary prohibition or restriction of the use of streets or public rights of way), and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(a),

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must not exercise the powers under paragraph (1) of this article unless it has—

- (a) given not less than four weeks' notice in writing of its intention so to do to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).

(3) Any prohibition, restriction or other provision made by the undertaker under article 13 (temporary prohibition or restriction of use of streets and public rights of way) or paragraph (1) of this article has effect as if duly made by, as the case may be—

- (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
- (b) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act,

and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)(b).

(4) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011 when used in accordance with regulation 3(5) of those regulations.

(5) In this article—

- (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
- (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

PART 4

SUPPLEMENTARY POWERS

Discharge of water

18.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(a) S.I. 2016/362.

(b) 2004 c.18. There are amendments to this Act not relevant to this Order.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs, whose consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs but approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(c), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(d) have the same meaning as in that Act.

Authority to survey and investigate the land

19.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or enter on any land which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation to the generality of sub-paragraph (a), make trial holes or bore holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and groundwater samples;
- (c) without limitation to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, bore holes or trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes, bore holes or trenches.

(4) No trial holes, bore holes or trenches are to be made under this article—

(a) 1991 c.56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (3), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the Water Act 2003 (c.37) and Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(b) S.I. 2016/1154.

(c) 1964 c.40.

(d) 1991 c.57.

- (a) in land located within the highway boundary without the consent of the highway authority;
or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) The undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land once it has ceased to use the land for the purposes authorised by this article.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Protective works to buildings

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building or structure lying within the Order land as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the construction of any part of the authorised development in the vicinity of the building or structure; or
- (b) after the completion of that part of the authorised development in the vicinity of the building or structure at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the powers under this article are to be exercised the undertaker may enter and survey any building or structure falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building or structure the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building or structure and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building or structure but outside its curtilage, enter the adjacent land (but not any building erected on it) within the Order land.

(5) Before exercising—

- (a) a power under paragraph (1) to carry out protective works under this article to a building or structure;
- (b) a power under paragraph (3) to enter a building or structure and land within its curtilage;
- (c) a power under paragraph (4)(a) to enter a building or structure and land within its curtilage;
or
- (d) a power under paragraph (4)(b) to enter and take possession of land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building, structure or land not less than 14 days' notice of its intention to exercise that power and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5), the owner or occupier of the building, structure or land concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to

carry out the protective works or to enter the building, structure or land to be referred to arbitration under article 46 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building, structure or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) protective works are carried out to a building or structure under this article; and
- (b) within five years, beginning with the date of final commissioning for that part of the authorised development in the vicinity of the building or structure, it appears that the protective works are inadequate to protect the building or structure against damage caused by the construction, operation or maintenance of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building or structure for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building or structure by the construction, operation or maintenance of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, operation or maintenance of the authorised development.

Felling or lopping of trees

21.—(1) Subject to paragraph (2), the undertaker may fell or lop any tree or shrub within or overhanging the Order land, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development;
- (b) from constituting a danger to persons using the authorised development; or
- (c) from obstructing or interfering with the passage of construction vehicles to the extent necessary for the purposes of construction of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) In carrying out any activity authorised by paragraph (1) the duty contained in section 206(1) of the 1990 Act(a) does not apply.

(a) 1990 c.8. Section 206 was amended by paragraph 11 of Schedule 8 to the Planning Act 2008

Removal of human remains

22.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains within the Order limits it must remove those human remains from the Order limits, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order limits the undertaker must give notice of the intended removal, describing the Order limits and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place within or near the Order limits.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant burial authority for the land from which the relevant human remains are to be removed.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred within the Order limits may give notice in writing to the undertaker of that person's intention to undertake removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains within the Order limits; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (9) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that the person may make in relation to the removal and re-interment or cremation of the remains.

- (10) On the re-interment or cremation of any remains under this article—
- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
 - (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the local authority mentioned in paragraph (3).
- (11) No notice is required under paragraph (2) before the removal of any human remains where the undertaker is satisfied—
- (a) that the remains were interred more than 100 years ago; and
 - (b) that no relative or personal representative of the deceased is likely to object to the remains being moved in accordance with this article.
- (12) In this article references to a relative of the deceased are to a person who—
- (a) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased;
 - (b) is, or is a child of, a brother, sister, uncle or aunt of the deceased;
 - (c) is the lawful executor of the estate of the deceased; or
 - (d) is the lawful administrator of the estate of the deceased.
- (13) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.
- (14) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.
- (15) Section 25 of the Burial Act 1857^(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) is not to apply to a removal carried out in accordance with this article.
- (16) The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950^(b) do not apply to the authorised development.

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Compulsory acquisition of land

23.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate it, or as is incidental to it.

(2) This article is subject to article 24 (time limit for exercise of authority to acquire land compulsorily), article 25 (compulsory acquisition of rights and imposition of restrictive covenants), article 26 (acquisition of subsoil only), article 32 (temporary use of land for the construction of the authorised development) and schedule 11 (protective provisions).

Time limit for exercise of authority to acquire land compulsorily

24.—(1) After the end of the period of five years beginning on the day on which this Order is made—

- (a) no notice to treat may be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and
- (b) no declaration may be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 29 (application of the 1981 Act).

(a) 1857 c. 81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014, section 2 (January 1, 2015; substitution has effect subject to transitional and saving provisions specified in S.I. 2014/2077, paragraphs 1 and 2).

(b) S.I. 1950/792.

(2) The authority conferred by article 32 (temporary use of land for the construction of the authorised development) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and imposition of restrictive covenants

25.—(1) Subject to paragraph (2) the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 23 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of the table in Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights and the benefit of restrictive covenants over that land and the creation and acquisition of such new rights and the imposition of such new restrictive covenants for the purpose specified in column (2) of the table in that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act and Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act (as substituted by paragraph 5 of Schedule 9 to this Order) and section 12 (divided land) of the 1981 Act, where the undertaker creates or acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) or (2) is required for the purposes of diverting, replacing or protecting the apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to create and acquire such rights or impose such restrictive covenants to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Subject to the modifications set out in Schedule 9 the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restrictive covenant as they apply to the compulsory purchase of land and interests in land.

Acquisition of subsoil only

26.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 23 (compulsory acquisition of land) and paragraph (1) of article 25 (compulsory acquisition of rights and imposition of restrictive covenants) as may be required for any purpose for which that land or rights over land may be created or acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not to be required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A) (reference to objection to Upper Tribunal: general) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch, or other construction forming part of a house, building or manufactory.

Private rights

27.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under article 23 are extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are suspended and unenforceable or, where the owner of such rights or the person having the benefit of such restrictive covenants is notified by the undertaker, extinguished, in so far as the continuance of the right or the burden of the restrictive covenant would be inconsistent with the exercise of the right or burden of the restrictive covenant by the undertaker—

- (a) as from the date of acquisition of the right by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or
- (b) on the date of entry onto the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or the imposition of a restrictive covenant under this Order is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right or apparatus to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 34 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition or creation of rights over land or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right or restriction in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights and restrictions over land includes any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support, and include restrictions as to the use of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

28.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractor, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land within the Order limits (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person is deriving title under the undertaker or any contractors, servants or agents of the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

Application of the 1981 Act

29.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of the Act) for subsection (2) substitute—

“This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 5(2) (earliest date for execution of declaration), omit the words from “, and this subsection” to the end.

(5) Omit section 5A (time limit for general vesting declaration).

(6) In section 5B (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*”.

(7) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In section 7 (constructive notice to treat), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“(2) But see article 26 (acquisition of subsoil only) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*, which excludes the acquisition of subsoil only from this Schedule”.

(10) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 30) to the compulsory acquisition of land under this Order.

Modification of Part 1 of the Compulsory Purchase Act 1965

30.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*”.

(3) In section 11A (powers of entry: further notices of entry)—

(a) in subsection (1)(a) after “land” insert “under that provision”; and

(b) in subsection (2) after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land compulsorily) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 26(3) (acquisition of subsoil only) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202*, which excludes the acquisition of subsoil only from this Schedule.”.

(b) after paragraph 29 insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 32 (temporary use of land for the construction of the authorised development) or article 33 (temporary use of land for maintaining the authorised

development) or article 20 (protective works to buildings) of the Medworth Energy from Waste Combined Heat and Power Order 202*”.”.

Rights under or over streets

31.—(1) The undertaker may enter upon, appropriate and use so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) is not to apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is to be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for the construction of the authorised development

32.—(1) The undertaker may, in connection with the construction of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in columns (1) and (2) of Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule;
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, fences, drainage, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), security fencing, bridges, services, signage, structures and buildings on that land;
- (d) construct any works (including mitigation works), or use the land, for the purposes specified in Schedule 10 (land of which temporary possession may be taken) in relation to that land;
- (e) construct any works on that land as are mentioned in Schedule 1 (authorised development); and
- (f) carry out any mitigation works required pursuant to the requirements in Schedule 2 (requirements).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of final commissioning of the authorised development; or
- (b) in the case of land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of final commissioning of the authorised development unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession, the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not to be required to—

- (a) replace a building, structure, drain or any debris removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to street works), Schedule 4 (streets subject to permanent alteration of layout), Schedule 5 (streets subject to temporary alteration of layout), or land that is subject to an agreement with the local highway authority for it to be dedicated as highway;
- (d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or
- (e) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 10(2) (further provisions as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(9) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights over any part of the Order land identified in Schedule 8 under article 25 (compulsory acquisition of rights and imposition of restrictive covenants); or
- (b) acquiring any right in the subsoil of any part of the Order land under article 26 (acquisition of subsoil only) or article 31 (rights under or over streets).

(10) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 10.

Temporary use of land for maintaining the authorised development

33.—(1) Subject to paragraph (2), at any time during the maintenance period (as defined in paragraph (11)) relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) Act (further provisions as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period” means the period of five years beginning with the date of final commissioning unless a different maintenance period is stated in the landscape and ecology management plan approved under requirement 5 in Schedule 2 (requirements).

Statutory undertakers

34. Subject to the provisions of Schedule 11 (protective provisions), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any land belonging to statutory undertakers within the Order land;
- (b) extinguish or suspend the rights of or restrictive covenants for the benefit of, and remove or reposition the apparatus belonging to, statutory undertakers on, under, over or within the Order land.

Apparatus and rights of statutory undertakers in altered or closed streets

35. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 10 (street works), article 11 (power to alter layout, etc., of streets), article 12 (construction and maintenance of new or altered means of access) or article 13 (temporary prohibition or restriction of use of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 11 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

36.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 (statutory undertakers) any person who is—

- (a) the owner or occupier of premises the drains of which communicated with the sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is to be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 35 (apparatus and rights of statutory undertakers in altered or closed streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(a); and

“public utility undertaker” has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Electronic communications

37.—(1) In this Order, subject to article 42 (certification of plans etc.)—

- (a) references to documents, plans, drawings, certificates, or to copies, include references to them in electronic form; and
- (b) references to a form of communication being “in writing” include references to an electronic communication that satisfies the conditions in paragraph (3) and references to “written” and cognate expressions are to be construed accordingly.

(2) If an electronic communication is received outside the recipient’s business hours, it is to be taken to have been received on the next working day.

(3) The conditions are that the communication is—

- (a) capable of being accessed by the recipient;

(a) 2003 c. 21. Section 151(1) was amended by paragraphs 90(a)(i), (ii), (iii), 90(b), 90(c) and 90(d) of Schedule 1 to the Electronic Communications and Wireless Telegraphy Regulations (2011/1210).

- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(4) For the purposes of paragraph (3)(b), a communication is legible in all material respects if the information contained in it is available to the recipient to no lesser extent than it would be if transmitted by means of a document in printed form.

(5) In this article “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(a).

Application of landlord and tenant law

38.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for the purposes of the 1990 Act

39. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

Defence to proceedings in respect of statutory nuisance

40.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(b) in relation to a nuisance falling within sub-paragraph (g) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance or decommissioning of the authorised development and that the nuisance is attributable to the construction of the authorised development in accordance with a notice served under section 60 (control of noise on construction

(a) 2000 c.7. As amended by paragraph 158 of Schedule 17 to the Communications Act 2003 c.7.

(b) 1990 c.43. Section 82 was amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16); Section 79 was amended by sections 101 and 102 of the same Act. There are other amendments not relevant to this Order.

sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(a); or

- (ii) is a consequence of the construction or maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in compliance with requirement 19 of Schedule 2 (requirements); or
 - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance or decommissioning of the authorised development.

Protective provisions

41. Schedule 11 (protective provisions) has effect.

Certification of plans etc.

42.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in Table 10 of Schedule 13 (documents and plans to be certified) to this Order for certification that they are true copies of those documents.

(2) A plan or document so certified is to be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in this Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in this Order as made.

Service of notices

43.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(a) 1974 c.40. Sections 61(9) was amended by paragraph 1 of Schedule 24 to the Environment Act 1995 and by section 162(1) and paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals etc.

44.—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a traffic authority, a street authority, or the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Part 1 or Part 2 of Schedule 11 (protective provisions) for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Save for applications made pursuant to Schedule 12 (procedure for the discharge of requirements), if, within eight weeks after the application or request has been submitted to an authority, beneficiary of protective provisions or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed with the undertaker in writing) it has not notified the

(a) 1978 c.30.

undertaker of its decision (and if it a disapproval the grounds of the disapproval), it is deemed to have approved the application or request.

(3) Schedule 12 is to have effect in relation to all consents, agreements or approvals required from the relevant planning authority in respect of discharge of requirements listed in Schedule 2.

No double recovery

45. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law.

Arbitration

46. Any difference or dispute arising under any provision of this Order shall, unless otherwise agreed in writing between the undertaker and the party in question, be referred to and settled in arbitration in accordance with the rules at Schedule 15 of this Order, by a single arbitrator to be agreed upon by the parties within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

Incorporation of the mineral code

47. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) is incorporated in this order subject to the following modifications—

- (a) for “the acquiring authority” substitute “the undertaker”; and
- (b) for the “undertaking” substitute “authorised development”.

Modification of the section 106 agreement relating to land

48.—(1) The section 106 agreement is modified so that the section 106 agreement no longer applies to and can no longer be enforced in respect of any land within the Order limits.

(2) The modification set out in sub-section (1) will only have effect if:

- (a) Work No. 4A has commenced;
- (b) the highway authority serves a notice pursuant to section 228(1) of the 1980 Act in respect of any land within the Order limits that is bound by the section 106 agreement; and
- (c) the period of one month from the day on which the notice was first displayed pursuant to section 228(1) of the 1980 Act has expired.

(3) This article does not affect the terms of, any rights or liabilities under or the ability of any person to enforce the section 106 agreement in respect of any other land bound by the section 106 agreement that is outside of the Order limits.

Secretary of State for Energy Security and Net Zero
Address
Date

Title
Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

Authorised Development

1. In the County of Cambridgeshire and the County of Norfolk a nationally significant infrastructure project as defined in section 14(1)(a) (nationally significant infrastructure projects: general) and section 15 (generating stations) of the 2008 Act and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising all or part of—

In the County of Cambridgeshire

Work No. 1 – an electricity generating station with a gross installed generating capacity of up to 60 MW and capacity to process up to 625,600 tonnes of residual waste per annum, including—

- (a) fuel reception and storage facilities consisting of tipping hall, tipping bays, tipping bunker, main waste bunker, shredder, waste chutes, cranes, cabin and handling and maintenance equipment;
- (b) a combustion system including boiler house, air cooled moving grates, boilers and water tanks;
- (c) air pollution control plant and monitoring systems including silos, reactors, filter houses, fans, cabins and loading and storage areas;
- (d) a steam turbine and generator including turbine hall and cooling system;
- (e) a bottom ash handling system, including ash storage bunker, conveyors, collection bays, cranes and handling and maintenance equipment;
- (f) air cooled condenser;
- (g) compressed air system;
- (h) tank(s) for the storage of urea;
- (i) switch gear building;
- (j) control room; and
- (k) water treatment and storage plant.

Work No. 1A – two chimneys and associated continuous emissions monitoring systems and platform.

Work No. 1B – administration building, including—

- (a) roof-mounted photovoltaic solar panels to supplement energy use within the administration building, generating approximately 50kW (0.05MW) of electricity;
- (b) brown roof and green walls;
- (c) natural cooling apparatus including brise soleil to eastern elevation;
- (d) bat and bird boxes; and
- (e) rainwater harvesting apparatus.

Work No. 2 – in connection with and in addition to Work Nos 1, 1A and 1B—

Work No. 2A

- (a) fire water tank and fire water pump cabin;
- (b) diesel generator and diesel storage tanks;

- (c) 132kV switching compound, transformers, switch gear, cabling, kiosk and associated telemetry;
- (d) workshop and stores; and
- (e) gatehouse and weighbridges; and

Work No. 2B

- (a) vehicle layby and queuing areas;
- (b) laydown and maintenance areas;
- (c) internal access roads and pedestrian walkways;
- (d) parking areas and electrical vehicle charging points;
- (e) pipes, cables, telecommunications and other services and associated infrastructure;
- (f) site drainage, including works to drains and culverts, potable and wastewater services and associated infrastructure;
- (g) hard and soft landscaping; and
- (h) biodiversity enhancement measures and environmental mitigation measures.

Work No. 3 – associated development comprising combined heat and power equipment including heat exchangers, pipework, valving, pumps, pressurisation, water treatment systems and associated instrumentation and telemetry.

Work No. 3A – associated development comprising combined heat and power equipment including steam and condensate pipes, pipe racks, supports, pipe runs, valving, electrical supply cables and associated instrumentation and telemetry, vertical expansion loops and pipe bridges.

Work No. 3B – associated development comprising combined heat and power equipment including steam and condensate pipes, pipe racks, supports, pipe runs, valving, electrical supply cables and associated instrumentation and telemetry, bellows expansion connections, vertical expansion loops and pipe bridges.

Work No. 4A – associated development comprising a new site access and access improvements on New Bridge Lane including carriageway and footway widening, highway alteration works, junction improvements including signalisation, culverts, drains, street lighting, services and utilities connections and compact substation.

Work No. 4B – associated development comprising a new site access and access improvements on Algores Way including carriageway and footway widening, highway alteration work, culverts, drains, services and utilities connections and street lighting.

Work No. 5 – associated development being a temporary construction compound and laydown area including—

- (a) hard standings;
- (b) materials storage and laydown areas;
- (c) construction fabrication areas;
- (d) generators;
- (e) vehicle parking areas;
- (f) wheel washing facilities;
- (g) accommodation, office and welfare buildings;
- (h) new or alteration to accesses;
- (i) internal haul roads; and
- (j) temporary pedestrian bridges.

Work No. 6A – comprising associated development for the potable water connection—

- (a) water pipe(s) and associated instrumentation and telemetry;

- (b) cable trenches, ducting, protection plates and jointing bays; and
- (c) horizontal directional drilling compound.

Work No. 6B – comprising associated development for the foul water connection—

- (a) water pipe(s) and associated instrumentation and telemetry; and
- (b) cable trenches, ducting, protection plates and jointing bays.

Work No. 7 – comprising associated development—

- (a) 132kV electrical underground cables and associated instrumentation and telemetry;
- (b) cable trenches, ducting, protection plates and jointing bays; and
- (c) temporary storage compounds in laybys on the A47.

In the County of Norfolk

Work No. 8 – comprising associated development—

- (a) 132kV electrical underground cables and associated instrumentation and telemetry;
- (b) cable trenches, ducting, protection plates and jointing bays; and
- (c) temporary storage compounds in laybys on the A47.

Work No. 9 – comprising associated development—

- (a) electrical substation and compound including clean air switchgear, control room kiosks and monitoring kiosk;
- (b) cables and associated instrumentation and telemetry;
- (c) cable trenches, ducting, protection plates and jointing bays; and
- (d) new or alteration to accesses, internal pedestrian and vehicular access road and parking area.

In the County of Cambridgeshire

Work No. 10 – comprising associated development, being an acoustic fence.

In connection with and in addition to Work Nos 1, 1A, 1B, 2A, 2B, 3, 3A, 3B, 4A, 4B, 5, 6A, 6B, 7, 8, 9 and 10 and, to the extent that it does not otherwise form part of those Work Nos, further associated development within the Order limits including—

- (a) external lighting infrastructure, including lighting columns;
- (b) fencing, boundary treatment and other means of enclosure;
- (c) demolition of existing buildings and structures;
- (d) signage;
- (e) CCTV and other security measures;
- (f) surface and foul water drainage facilities;
- (g) potable water supply;
- (h) new telecommunications and utilities apparatus and connections;
- (i) hard and soft landscaping;
- (j) biodiversity enhancement measures and environmental mitigation measures;
- (k) works permanently to alter the position of existing telecommunications and utilities apparatus and connections;
- (l) works for the protection of buildings and land;
- (m) establishment of temporary construction compounds, vehicle parking areas, hard standing, materials storage and laydown areas, construction fabrication areas, construction related buildings, accommodation buildings, temporary offices, structures, plant and machinery, lighting and fencing, internal haul routes and wheel wash facilities; and

- (n) site establishment and preparation works, including site clearance (including temporary fencing and vegetation removal), earthworks (including soil stripping and storage and site levelling) and excavations, the creation of temporary construction access points and the temporary alteration of the position of services and utilities apparatus and connections,

and such other buildings, structures, works or operations and modifications to, or demolition of, any existing buildings, structures or works as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the works in this Schedule, but only within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2 REQUIREMENTS

Article 3

Time limits

1. The authorised development must not commence after the expiry of five years from the date on which this Order is made.

Detailed design approval

2.—(1) No part of Work Nos. 1, 1A, 1B or 9 may commence until details of the layout, scale and external appearance for that Work No. have been submitted to and approved by the relevant planning authority.

(2) The details submitted for approval under sub-paragraph (1) must be substantially in accordance with the design principles set out in Appendix A of the design and access statement.

(3) Where a requirement requires the authorised development to be constructed in accordance with details approved by the relevant planning authority, the approved details are taken to include any amendments subsequently approved by the relevant planning authority.

(4) The authorised development must be carried out in accordance with the approved details.

Parameters of authorised development

3. The elements of the authorised development listed in column (1) of Table 11 in Schedule 14 (maximum and minimum design parameters) must not exceed the maximum and minimum dimensions and levels set out in relation to that element in columns (3) to (6) of that table.

Biodiversity and landscape mitigation

4.—(1) No part of the authorised development may commence until a written landscape and ecology strategy for that part has been submitted to and approved by the relevant planning authority. The landscape and ecology strategy must be substantially in accordance with the outline landscape and ecology strategy.

(2) The landscape and ecology strategy must be implemented as approved under sub-paragraph (1).

Landscape and ecology management plan

5.—(1) Prior to the date of final commissioning a landscape and ecology management plan for Work No. 1, 1A, 1B, 2A, 2B and 9 must be submitted to and approved by the relevant planning authority for the operation of that part of the authorised development. The landscape and ecology management plan must be substantially in accordance with the outline landscape and ecology management plan.

(2) The landscape and ecology management plan must be implemented as approved under sub-paragraph (1).

Biodiversity net gain

6.—(1) No part of the authorised development may commence until a biodiversity net gain strategy has been submitted to and approved by the relevant planning authority, in consultation with the relevant statutory nature conservation body.

(2) The biodiversity net gain strategy must include details of how the strategy will secure a minimum of 10% biodiversity net gain, calculated using the biodiversity metric 3.0 published by Natural England in July 2021 or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body, during the operation

of the authorised development including onsite and offsite measures and be substantially in accordance with the outline biodiversity net gain strategy.

(3) The biodiversity net gain strategy must be implemented as approved under sub-paragraph (1).

Highway works

7.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration of an existing means of access to a highway, or other works to alter the layout of a highway, must not commence until a plan for that access or other work has been submitted to and approved by the relevant highway authority.

(2) No part of Work No. 4A may commence until written details for that Work No. have been submitted to and approved by the relevant highway authority.

(3) No part of Work No. 4B may commence until written details for that Work No. have been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority.

(4) Any new permanent or temporary means of access to a highway, or alteration of an existing means of access to a highway, or other works to alter the layout of a highway must be constructed or altered in accordance with the details approved pursuant to sub-paragraph (1).

(5) Work No. 4A must be constructed in accordance with the details approved pursuant to sub-paragraph (2).

(6) Work No. 4B must be constructed in accordance with the details approved pursuant to sub-paragraph(3).

Drainage strategy

8.—(1) No part of Work No. 1, 1A, 1B, 2A, 2B, 4A, 4B, 6A, 6B and 9 may commence until written details of the drainage strategy for that Work No. has been submitted to and approved by the relevant planning authority.

(2) The written details submitted for approval must be substantially in accordance with the outline drainage strategy.

(3) The relevant planning authority must consult with Anglian Water in respect of any discharge to a public sewer before approving any drainage strategy submitted under sub-paragraph (1).

(4) The relevant planning authority must consult with the Environment Agency before approving any drainage strategy submitted under sub-paragraph (1).

(5) The drainage strategy must be implemented as approved under sub-paragraph (1).

Contamination and groundwater

9.—(1) No part of the authorised development may commence until a scheme (which may be included in the construction environmental management plan to be submitted under requirement 10) to deal with the contamination of any land (including groundwater) for that part which is likely to cause significant harm to persons or significant pollution of controlled waters or the environment has been submitted to and approved in writing by the relevant planning authority.

(2) The scheme must include an investigation and assessment report, prepared by a specialist consultant, to identify the extent of any contamination and any remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) The relevant planning authority must consult with the Environment Agency before approving a scheme under sub-paragraph (1).

(4) Any remedial measures must be carried out in accordance with the approved scheme.

Construction environmental management plan

10.—(1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The construction environmental management plan submitted for approval must be substantially in accordance with the outline construction environmental management plan.

(3) The relevant planning authority must consult with the Environment Agency before approving the construction environmental management plan.

(4) All construction works associated with the authorised development must be undertaken in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.

Construction traffic management plan

11.—(1) No stage of the authorised development may commence until a construction traffic management plan for that stage has been submitted to and approved by the relevant planning authority in consultation with the highway authority. The construction traffic management plan must be substantially in accordance with the outline construction traffic management plan.

(2) The construction traffic management plan must be implemented as approved throughout the construction of the authorised development unless otherwise agreed by the relevant planning authority.

Operational traffic management plan

12.—(1) Prior to the date of final commissioning, an operational traffic management plan must be submitted to the relevant planning authority for approval in consultation with the highway authority. The operational traffic management plan must be substantially in accordance with the outline operational traffic management plan.

(2) The operational traffic management plan must be implemented as approved throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

Flood emergency management plan

13.—(1) Prior to the date of final commissioning, a flood emergency management plan for Work Nos. 1, 1A, 1B, 2A, 2B and 9 must be submitted to the relevant planning authority for approval.

(2) The flood emergency management plan submitted for approval must be substantially in accordance with the outline flood emergency management plan.

(3) The relevant planning authority must consult with the Environment Agency before approving any flood emergency management plan submitted under sub-paragraph (1).

(4) The flood emergency management plan submitted and approved under sub-paragraph (1) must be implemented as approved and remain in place throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

Waste hierarchy scheme

14.—(1) Prior to the date of final commissioning, the undertaker must submit to the relevant planning authority for approval a scheme, which sets out arrangements for maintenance of the waste hierarchy and which aims to minimise recyclable and reusable waste received at the authorised development during the commissioning and operational period of the authorised development (the “waste hierarchy scheme”).

(2) The waste hierarchy scheme must include details of—

- (a) operational procedures that seek to ensure that waste suitable for recycling and reuse is not received at the authorised development. These procedures are to be annually reviewed and, where practicable, improved;
- (b) a record of the tonnages of any waste identified by the undertaker prior to tipping at the authorised development and rejected as it was identified as being suitable for recycling, reuse or both;
- (c) a record of tonnages of waste considered suitable for recycling, reuse or both that has been diverted further up the waste hierarchy by persons who also send waste to be processed at the authorised development, as far as practicable;
- (d) a record to be kept of how these procedures have been regularly reviewed (on an annual basis at a minimum), what changes were made, and how these have reduced the amount of waste potentially suitable for recycling and reuse being processed at the authorised development;
- (e) how waste transfer notes and weighbridge data detailing the sources of the residual waste will be collected and retained;
- (f) the types of waste and permitted EWC codes to be accepted at the authorised development as specified by the environmental permit;
- (g) how waste delivered to the authorised development will be checked to ensure compliance with the permitted EWC codes;
- (h) arrangements for ensuring that commercial suppliers deliver only those EWC codes which are permitted; and
- (i) records are to be kept for the purposes of demonstrating compliance with the waste hierarchy scheme and for allowing inspection of such records by the relevant planning authority.

(3) The relevant planning authority must consult with the Environment Agency before approving any scheme submitted under sub-paragraph (1).

(4) The waste hierarchy scheme must be implemented as approved under sub-paragraph (1).

Operational travel plan

15.—(1) Prior to the date of final commissioning, an operational travel plan must be submitted to and approved by the relevant planning authority. The operational travel plan must set out measures to encourage staff working at Work No. 1, 1A, 1B, 2A and 2B to use sustainable modes of transport and must be substantially in accordance with the outline operational travel plan.

(2) The operational travel plan must be implemented as approved under sub-paragraph (1).

Odour management plan

16.—(1) Prior to commissioning of any part of Work No. 1, an odour management plan must be submitted to the relevant planning authority for approval. The odour management plan submitted for approval must be substantially in accordance with the outline odour management plan.

(2) The relevant planning authority must consult with the Environment Agency before approving the odour management plan.

(3) The odour management plan must be implemented as approved under sub-paragraph (1).

Fire prevention plan

17.—(1) Prior to the date of final commissioning of any part of Work No. 1, a fire prevention plan must be submitted to and approved by the relevant planning authority. The fire prevention plan submitted for approval must be substantially in accordance with the outline fire prevention plan.

(2) The fire prevention plan must be implemented as approved under sub-paragraph (1).

Lighting strategy

18.—(1) Prior to the installation of any permanent lighting for the authorised development, a written scheme for the management and mitigation of artificial light emissions for that part of the authorised development must be submitted to and approved by the relevant planning authority. The lighting strategy submitted for approval must be substantially in accordance with the outline lighting strategy.

(2) The written scheme for the management and mitigation of artificial light emissions must be implemented as approved under sub-paragraph (1).

Noise management

19.—(1) No part of Work No. 4A may commence until the residential use at plot numbers 11/4a and 11/4b shown on the land plans and described in the book of reference has ceased unless otherwise agreed by the relevant planning authority.

(2) Plot numbers 11/4a and 11/4b shown on the land plans and described in the book of reference must not be used for residential purposes until the authorised development has been decommissioned in accordance with requirement 28 unless otherwise agreed by the relevant planning authority.

(3) No part of Work No. 4A may commence until Work No. 10 has been constructed. Work No. 10 must be maintained until the authorised development has been decommissioned in accordance with requirement 28 unless otherwise agreed by the relevant planning authority.

(4) Prior to the date of final commissioning of any part of Work No. 1, 1A, 2A, 2B and 9(a), an operational noise management plan for that part must be submitted to and approved by the relevant planning authority.

(5) The operational noise management plan submitted for approval must be substantially in accordance with the outline operational noise management plan.

(6) The relevant planning authority must consult with the Environment Agency before approving the operational noise management plan.

(7) The operational noise management plan must be implemented as approved under sub-paragraph (4).

Notice of start of commissioning and notice of date of final commissioning

20.—(1) Notice of the commencement of commissioning of Work No. 1 must be given to the relevant planning authority within 7 days of the date on which commissioning is commenced.

(2) Notice of the completion of commissioning of Work No. 1 must be given to the relevant planning authority within 7 days of the date on which commissioning is completed.

Employment and skills strategy

21.—(1) No part of the authorised development may commence until an employment and skills strategy has been submitted to the relevant planning authority for approval. The employment and skills strategy submitted for approval must be substantially in accordance with the outline employment and skills strategy.

(2) The employment and skills strategy must be implemented as approved under sub-paragraph (1).

Carbon capture and export readiness reserve space

22.—(1) Prior to the date of final commissioning, the undertaker must demonstrate to the relevant planning authority that it has constructed Work No. 1 in accordance with the carbon capture and export embedded design measures.

(2) Following commencement of the authorised development and until such time as the authorised development is decommissioned, the undertaker must not, without the consent of the Secretary of State—

- (a) dispose of any interest in the carbon capture and export readiness reserve space; or
- (b) do anything, or allow anything to be done or to occur which may reasonably be expected to diminish the undertaker's ability to prepare the carbon capture and export readiness reserve space for the installation and operation of carbon capture and export equipment within two years of such action or occurrence, should it be deemed feasible to do so.

(3) In this paragraph “export” means the removal of carbon from the authorised development and transporting it to a place of usage or sequestration to avoid its release to the atmosphere.

Carbon capture readiness monitoring report

23.—(1) The undertaker must make a report (“carbon capture and export readiness monitoring report”) to the Secretary of State—

- (a) on or before the date which is three months after the date of full commissioning of Work No. 1A; and
- (b) within one month of the second anniversary, and each subsequent even-numbered anniversary, of that date.

(2) Each carbon capture and export readiness monitoring report must provide evidence that the undertaker has complied with Requirement 22—

- (a) in the case of the first carbon capture and export readiness monitoring report, since commencement of the authorised development; and
- (b) in the case of any subsequent report, since the making of the previous carbon capture and export readiness monitoring report,

and explain how the undertaker expects to continue to comply with Requirement 22 over the next two years.

(3) Each carbon capture and export readiness monitoring report must state whether the undertaker considers the retrofit of carbon capture and export technology is feasible explaining the reasons for any such conclusion and whether any impediments could be overcome.

(4) Each carbon capture and export readiness monitoring report must state, with reasons, whether the undertaker has decided to seek any additional regulatory clearances, or to modify any existing regulatory clearances, in respect of any carbon capture and export readiness proposals.

(5) In this paragraph “export” means the removal of carbon from the authorised development and transporting it to a place of usage or sequestration to avoid its release to the atmosphere.

Community liaison manager

24. Prior to the date of final commissioning, the undertaker must notify the relevant planning authority of the name of the community liaison manager appointed and thereafter must keep the relevant planning authority up to date on any changes.

Combined heat and power

25.—(1) Prior to the date of final commissioning, the undertaker must demonstrate to the relevant planning authority that it has constructed Work No. 1 in accordance with the combined heat and power embedded design measures.

(2) No later than the date that is 18 months after the date of final commissioning, the undertaker must submit to the relevant planning authority for its approval a report (“the CHP review”) updating the combined heat and power statement.

(3) The CHP review submitted must—

- (a) consider the opportunities that reasonably exist for the export of heat from Work No. 3, 3A and 3B at the time of submission of the CHP review; and
- (b) include a list of actions (if any) that the undertaker is reasonably and practicably able to take (without material additional cost to the undertaker) to increase the potential for the export of heat from Work No. 3, 3A and 3B.

(4) The undertaker must take such actions as are included, within the timescales specified, in the approved CHP review.

(5) The relevant planning authority must consult with the Environment Agency before approving any CHP review.

(6) On each date (or the first date thereafter which is a working day) during the operation of Work No. 1 that is five years after the date on which it last submitted the CHP review or a revised CHP review to the relevant planning authority, the undertaker must submit to the relevant planning authority for its approval a revised CHP review.

(7) Sub-paragraphs (3) to (5) apply in relation to a revised CHP review submitted under sub-paragraph (6) in the same way as they apply in relation to the CHP review submitted under sub-paragraph (7).

Air safety

26.—(1) The information specified in sub-paragraph (2), that is required by the Defence Geographic Centre of the Ministry of Defence to chart the authorised development for aviation purposes, must be submitted to the relevant planning authority and the Ministry of Defence before any part of the authorised development is commenced.

(2) The information submitted to and approved under sub-paragraph (1) must include—

- (a) location of the authorised development;
- (b) date of commencement of construction;
- (c) anticipated date of completion of construction of tall structures including the chimneys;
- (d) height above ground level of tall structures including the chimneys;
- (e) maximum extension height of any construction equipment; and
- (f) details of aviation warning lighting to be fitted to the tall structures, which must include fitting the chimneys with an infra-red light fitted at the highest practicable point of the structure.

(3) The aviation warning lighting details submitted under sub-paragraph (2)(f) must be implemented in full before the construction of the chimneys is complete unless otherwise agreed by the relevant planning authority.

(4) At the earliest opportunity prior to the date of completion of the construction of the chimneys, the anticipated date of construction completion must be submitted to the relevant planning authority and provided in copy to the Ministry of Defence.

(5) All details submitted to and approved under this requirement must be implemented as approved and maintained throughout (to the extent relevant) the construction of the authorised development and the operation of the authorised development unless otherwise agreed by the relevant planning authority in consultation with the Ministry of Defence.

Local air quality monitoring strategy

27.—(1) Prior to the commencement of the authorised development, a local air quality monitoring strategy must be submitted to the relevant planning authority for approval. The local air quality monitoring strategy submitted for approval must be substantially in accordance with the outline local air quality monitoring strategy.

(2) The local air quality monitoring strategy must be implemented as approved under sub-paragraph (1).

Decommissioning

28.—(1) Within 24 months of the permanent cessation of the commercial operation of the authorised development, the undertaker must submit to the relevant planning authority for its approval a decommissioning plan for Work Nos. 1, 1A, 1B, 2A, 2B and 9, including a timetable for its implementation.

(2) The decommissioning plan submitted for approval must be substantially in accordance with the outline decommissioning plan.

(3) The plan submitted to and approved under sub-paragraph (1) must be implemented as approved unless otherwise agreed with the relevant planning authority.

Origin of waste

29.—(1) Not less than 17.5% of the waste processed at the authorised development per operational year must originate from within Waste Area 1 unless otherwise agreed by the relevant planning authority. 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.

(2) Not less than 80% of the waste processed at the authorised development per operational year must originate from Waste Area 1 and Waste Area 2 unless otherwise agreed by the relevant planning authority. 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.

(3) No more than 20% of the waste processed at the authorised development per operational year must originate from outside of Waste Area 1 and Waste Area 2 unless otherwise agreed by the relevant planning authority. Waste sent direct to the authorised development from a location that is not located in either Waste Area 1 or Waste Area 2 will be deemed to originate from outside of Waste Area 2.

(4) The maximum tonnage of waste received from any one waste planning authority's administrative area within Waste Area 2 must not exceed 312,800 tonnes in any operational year unless otherwise agreed by the relevant planning authority.

(5) From the date of final commissioning of the authorised development until the authorised development has been decommissioned in accordance with requirement 28 (unless otherwise agreed by the relevant planning authority), the undertaker must maintain a written record, retained at the authorised development, of the quantities and origin of the waste treated by the authorised development for each operational year.

(6) From the date of final commissioning until the authorised development has been decommissioned in accordance with requirement 28 (unless otherwise agreed by the relevant planning authority), on or prior to 1 February each year, the undertaker must provide to the relevant planning authority a report for the preceding operational year (the "Waste Catchment Report"). The Waste Catchment Report must identify—

- (a) the waste throughput of the authorised development including the total tonnage of waste processed at the authorised development for the operational year;
- (b) waste catchment including as far as it is reasonably practicable to audit, the waste area for each waste loading point for waste processed at the authorised development for the operational year, separately totalling tonnages received from waste area 1, waste area 2 and outside of waste area 2; and
- (c) the total annual tonnage processed at the authorised development from each waste planning authority for the operational year.

(7) The relevant planning authority can request an interim Waste Catchment Report at any time for the preceding 12 month period. The undertaker must submit an interim Waste Catchment Report to the relevant planning authority within 6 weeks of receiving the request. The interim Waste Catchment Report must cover the 12 month period ending on the last day of the month the written request was made by the relevant planning authority to the undertaker unless otherwise agreed by the relevant planning authority.

(8) In this paragraph—

“operational year” means the period from 1 January to 31 December, inclusive;

“throughput” means the tonnage of waste received at the authorised development;

“waste area 1” means a 75 kilometre radius from the point that has grid reference N307892.6931 and E545496.9373 and shown on the waste area plan;

“waste area 2” means the area shown on the waste area plan; and

“waste loading point” means the location where the waste is loaded onto a vehicle prior to being sent directly to the authorised development.

(9) In sub-paragraph (6)(b) “waste area” means the areas or locations for each waste loading point, disaggregated to the smallest administrative area practicable, including but not limited to county, unitary, district, borough or postcode area.

Amendments to approved details

30.—(1) With respect to the documents certified under article 42 (certification of plans etc.) the parameters specified in Table 11 of Schedule 14 (maximum and minimum design parameters) and any other plans, details or schemes which require approval by the relevant planning authority pursuant to any requirement (together “Approved Documents, Plans, Parameters, Details or Schemes”), the undertaker may submit to the relevant planning authority for approval any amendments to the Approved Documents, Plans, Parameters, Details or Schemes and following any such approval by the relevant planning authority the Approved Documents, Plans, Parameters, Details or Schemes are to be taken to include the amendments approved by the relevant planning authority pursuant to this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to Approved Documents, Plans, Parameters, Details or Schemes must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 3

Article 10

STREETS SUBJECT TO STREET WORKS

Table 1

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to street works</i>	<i>(3)</i> <i>Description of the street works</i>
In the County of Cambridgeshire and the County of Norfolk	A47 (public highway)	Street works to the extent of the A47 coloured light purple on the access and public rights of way plan
In the County of Cambridgeshire	Algores Way (private street)	Street works to the extent of Algores Way coloured yellow on the access and public rights of way plan
In the County of Norfolk	Broadend Road (public highway)	Street works to the extent of Broadend Road coloured light green on the access and public rights of way plan
In the County of Cambridgeshire	Cromwell Road (public highway)	Street works to the extent of Cromwell Road coloured pink on the access and public rights of way plan
In the County of Cambridgeshire	Cromwell Road (private street)	Street works to the extent of Cromwell Road coloured pink on the access and public rights of way plan.
In the County of Norfolk	Elm High Road (public highway)	Street works to the extent of Elm High Road coloured turquoise on the access and public rights of way plan
In the County of Cambridgeshire	New Drove (public highway)	Street works to the extent of New Drove coloured dark green on the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (public highway)	Street works to the extent of New Bridge Lane coloured blue on the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (private street)	Street works to the extent of New Bridge Lane coloured blue on the access and public rights of way plan
In the County of Cambridgeshire	Salters Way (public highway)	Street works to the extent of Salters Way coloured dark purple on the access and public rights of way plan
In the County of Cambridgeshire	Weasenham Lane (public highway)	Street works to the extent of Weasenham Lane coloured red on the access and public rights of way plan

SCHEDULE 4

Article 11

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

Table 2

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the County of Cambridgeshire	Algores Way (private street)	Permanent alteration of layout to the extent of Algores Way shown as Work No. 4B on the works plan and located within that area coloured yellow on the access and public rights of way plan including carriageway and footway widening and highway alteration works
In the County of Cambridgeshire	Cromwell Road (public highway)	Permanent alteration of layout to the extent of Cromwell Road coloured pink on the access and public rights of way plan including carriageway and footway widening and highway alteration works
In the County of Cambridgeshire	Cromwell Road (private street)	Permanent alteration of layout to the extent of Cromwell Road coloured pink on the access and public rights of way plan including carriageway and footway widening and highway alteration works
In the County of Cambridgeshire	New Bridge Lane (public highway)	Permanent alteration of layout to the extent of New Bridge Lane coloured blue on the access and public rights of way plan including carriageway and footway widening and highway alteration works
In the County of Cambridgeshire	New Bridge Lane (private street)	Permanent alteration of layout to the extent of New Bridge Lane coloured blue on the access and public rights of way plan including carriageway and footway widening and highway alteration works
In the County of Cambridgeshire	Salters Way (public highway)	Permanent alteration of layout to the extent of Salters Way coloured dark purple on the access and public rights of way plan including carriageway and footway

		widening and highway alteration works
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SCHEDULE 5

Article 11

STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

Table 3

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the County of Cambridgeshire and the County of Norfolk	A47 (public highway)	Temporary alteration of layout to the extent of the A47 coloured light purple on the access and public rights of way plan
In the County of Norfolk	Broadend Road (public highway)	Temporary alteration of layout to the extent of Broadend Road coloured light green on the access and public rights of way plan
In the County of Norfolk	Elm High Road (public highway)	Temporary alteration of layout to the extent of Elm High Road coloured turquoise on the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (public highway)	Temporary alteration of layout to the extent of New Bridge Lane coloured blue on the access and public rights of way plan
In the County of Cambridgeshire	New Drove (public highway)	Temporary alteration of layout to the extent of New Drove coloured dark green on the access and public rights of way plan
In the County of Cambridgeshire	Weasenham Lane (public highway)	Temporary alteration of the layout to the extent of Weasenham Lane coloured red on the access and public rights of way plan

SCHEDULE 6

Article 12

ACCESS

PART 1

THOSE PARTS OF THE ACCESS TO BE MAINTAINED AT THE PUBLIC EXPENSE

Table 4

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the County of Cambridgeshire	Weasenham Lane (public highway)	Access to the area shown coloured orange and marked A1 on sheet 2 of the access and public rights of way plan to the extent that such access is or will be located within the public highway
In the County of Cambridgeshire	Weasenham Lane (public highway)	Access to the area shown coloured orange and marked A2 on sheet 2 of the access and public rights of way plan to the extent that such access is or will be located within the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A8 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located within the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A6 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located within the public highway.
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A7 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located within the public highway
In the County of Cambridgeshire	New Drove (public highway)	Access to the area shown coloured orange and marked A10 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located within the public highway

In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A11 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located within the public highway
In the County of Cambridgeshire	Broadend Road (public highway)	Access to the area shown coloured orange and marked A12 on sheet 4 of the access and public rights of way plan to the extent that such access is or will be located within the public highway

PART 2

THOSE PARTS OF THE ACCESS TO BE MAINTAINED BY THE STREET AUTHORITY

Table 5

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the County of Cambridgeshire	Algores Way (private street)	Access to the area shown coloured yellow between the area shown coloured orange and marked A3 and the area shown coloured orange and marked A5 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside the public highway
In the County of Cambridgeshire	Algores Way (private street)	Access to the area shown coloured orange and marked A4 on sheet 1 of the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A6 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A7 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked

		A8 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
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PART 3

THOSE WORKS TO RESTORE THE TEMPORARY ACCESSES WHICH WILL BE MAINTAINED BY THE STREET AUTHORITY

Table 6

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the County of Cambridgeshire	Weasenham Lane (public highway)	Access to the area shown coloured orange and marked A1 on sheet 2 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	Weasenham Lane (public highway)	Access to the area shown coloured orange and marked A2 on sheet 2 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A9 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	New Drove (public highway)	Access to the area shown coloured orange and marked A10 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Cambridgeshire	New Bridge Lane (public highway)	Access to the area shown coloured orange and marked A11 on sheet 1 of the access and public rights of way plan to the extent that such access is or will be located outside of the public highway
In the County of Norfolk	Broadend Road (public highway)	Access to the area shown coloured orange and marked A12 on sheet 4 of the access and public rights of way plan to the extent that such access is

		or will be located outside of the public highway
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SCHEDULE 7

Article 13

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF
STREETS OR PUBLIC RIGHTS OF WAY

Table 7

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to temporary prohibition or restriction of use</i>	<i>(3)</i> <i>Extent of temporary prohibition or restriction of use of streets</i>
In the County of Cambridgeshire and the County of Norfolk	A47 (public highway)	Temporary stopping up of the extent of the A47 shown coloured light purple and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	Algores Way (private street)	Temporary stopping up of the extent of Algores Way shown coloured yellow and hatched blue on the access and public rights of way plan
In the County of Norfolk	Broadend Road (public highway)	Temporary stopping up of the extent of Broadend Road shown coloured light green and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	Cromwell Road (public highway)	Temporary stopping up of the extent of Cromwell Road shown coloured pink and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	Cromwell Road (private street)	Temporary stopping up of the extent of Cromwell Road shown coloured pink and hatched blue on the access and public rights of way plan
In the County of Norfolk	Elm High Road (public highway)	Temporary stopping up of the extent of Elm High Road shown coloured turquoise and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	New Drove (public highway)	Temporary stopping up of the extent of New Drove shown coloured dark green and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (public highway)	Temporary stopping up of the extent of New Bridge Lane shown coloured blue and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	New Bridge Lane (private street)	Temporary stopping up of the extent of New Bridge Lane shown coloured blue and hatched blue on the access and public rights of way plan

In the County of Cambridgeshire	Salters Way (public highway)	Temporary stopping up of the extent of Salters way shown coloured dark purple and hatched blue on the access and public rights of way plan
In the County of Cambridgeshire	Weasenham Lane (public highway)	Temporary stopping up of the extent of Weasenham Lane shown coloured red and hatched blue on the access and public rights of way plan

SCHEDULE 8

Article 25

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Table 8

<i>(1)</i> <i>Number of plot shown on the land plans</i>	<i>(2)</i> <i>Rights etc. which may be acquired</i>
<p>1/1a, 1/1b, 1/1c, 1/1d, 1/1e, 1/2a, 2/1a, 2/1b, 3/1a, 3/1b, 4/1a, 4/1b, 5/1a, 5/1b, 5/1c, 6/1a, 6/1b, 6/1c, 6/1d, 6/1e, 6/1f, 6/1g, 6/1h, 6/1i, 6/1j, 6/1k, 6/2a, 6/2b, 7/1a, 8/1a, 8/1b, 8/2a, 9/1a, 9/1b, 9/1c, 10/1a, 10/2e, 10/2f, 10/5a, 11/1a(i), 11/2a</p>	<p>Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve underground electricity cables, jointing bays, protection plates, ducting, telemetry and other ancillary apparatus (including but not limited to access chambers, manholes and marker posts) and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telemetry and other ancillary apparatus</p>
	<p>Rights to pass and repass on foot, with or without vehicles, plant and machinery (including any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development</p>
	<p>Rights to continuous vertical and lateral support for the authorised development</p>
	<p>Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts</p>
	<p>Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works</p>
	<p>Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary</p>
	<p>Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the</p>

	exercise of the rights or damage the authorised development
1/2a, 11/1a(i), 11/1a(ii), 11/1b(i), 11/1b(ii), 11/1b(iii), 11/2a, 12/1a, 12/1b, 12/1c, 12/1d, 12/1e, 12/1f, 12/1g, 12/1h, 12/1i, 12/1j, 12/1k, 12/1l, 12/2a, 12/4a, 12/5a, 13/4c(ii), 13/4d, 14/1a	Rights to construct, use, maintain and improve a permanent means of access including visibility splays, carriageway and footway widening, highway alteration works and lighting
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Rights to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve pipes, ducts, mains, wires, cables, conduits, flues, fibre optic cables and other conducting media of whatsoever nature
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development
10/1a, 10/1b, 10/1c, 10/2a, 10/2b, 10/2c, 10/2d, 10/2e, 10/2f, 10/2g, 10/3a, 10/4a, 10/5a, 11/1a(i), 11/2a	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve a potable water connection (including but not limited to pipes, trenches, ducting, protection plates, jointing bays, associated telemetry and other ancillary apparatus) and any other works as necessary

	together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said combined potable water connection and other ancillary apparatus
	Rights to pass and repass on foot, with or without vehicles, plant and machinery (including any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
	Rights to continuous vertical and lateral support for the authorised development
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights
13/5a	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve a foul water connection (including but not limited to pipes, trenches, ducting, protection plates, jointing bays, associated telemetry and other ancillary apparatus) and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said combined potable water connection and other ancillary apparatus
	Rights to pass and repass on foot, with or without vehicles, plant and machinery (including any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
	Right to continuous vertical and lateral support for the authorised development

	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights
11/2d, 11/2f, 11/7b, 13/4a	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts
	Rights to pass and repass on foot, with or without vehicles, plant and machinery (including any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works

	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights
11/8a	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve acoustic fencing and gates and any other ancillary apparatus or works as necessary
	Rights to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use, maintenance and decommissioning of the acoustic fencing and gates
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage acoustic fencing and gates
13/1a, 15/1a, 15/2a, 15/2b, 16/1a(i), 16/1a(ii), 16/1b(i), 16/1b(ii), 16/2a, 16/3a, 16/4a, 16/5a, 17/1a	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve combined heat and power equipment (including but not limited to steam and condensate pipes, pipe racks, supports, pipe runs, valving, electrical supply cables and associated telemetry, vertical expansion loops, pipe bridges and other ancillary apparatus) and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said combined heat and power equipment and other ancillary apparatus
	Rights to pass and repass on foot, with or without vehicles, plant and machinery (including any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works

	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development

**MODIFICATION OF COMPENSATION AND COMPULSORY
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS
AND IMPOSITION OF NEW RESTRICTIVE COVENANTS**

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1961 has effect subject to the modification set out in sub-paragraph 2(2).

(2) For section 5A (relevant valuation date) of the 1961 Act, after “if” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 9 to the Medworth Energy from Waste Combined Heat and Power Order 202*;
 - (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 9 to the Medworth Energy from Waste Combined Heat and Power Order 202*) to acquire an interest in the land; and
 - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

4.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 30 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right under article 25 (compulsory acquisition of rights and imposition of restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(1)(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) 1973 c.26

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
 - (b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.
- (3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title etc.);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applied to compulsory acquisition under article 23), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 27(3) (private rights) is also modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, or enforce the restriction imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 29 (application of the 1981 Act) of the

Medworth Energy from Waste Combined Heat and Power Facility Order 202* in respect of the land to which the notice to treat relates.

(2) But see article 26 (acquisition of subsoil only) of the Medworth Energy from Waste Combined Heat and Power Facility Order 202* which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of twenty-eight days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must

determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 10

Article 32

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Table 9

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Norfolk	4/1c, 4/1d	Temporary use (including access and compound) of a lay-by to facilitate construction for Work No. 7 and 8
Cambridgeshire	8/1c	Temporary use (including access and compound) to a lay-by to facilitate construction for Work No. 7 and 8
Cambridgeshire	11/2e, 11/2g, 11/2h, 11/2i, 11/2j, 11/2k, 11/2l, 11/2m, 11/2n, 11/2o, 13/4b	Temporary use (including access and compound) to facilitate construction for Work No. 1, 1A, 1B, 2A, 2B, 3, 3A, 3B, 4A, 4B, 5, 6A, 6B, 7, 8, 9 and 10
Cambridgeshire	11/3b, 12/4b, 12/5b	Temporary use (including access) to facilitate construction for Work No. 4A

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. The provisions of this Part have effect for the protection of statutory undertakers (save for EPN, Cadent Gas Limited and Anglian Water) unless otherwise agreed in writing between the undertaker and the statutory undertaker in question.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by the utility undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other water apparatus belonging to or maintained by the utility undertaker for the purposes of water supply; and
 - (ii) mains, pipes or other water apparatus that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(b); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act(c) or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(d);
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

(a) 1989 c.29.

(b) 1991 c.56.

(c) 1991 c.56. Section 102 was amended by sections 96(1)(a), 96(1)(b), 96(1)(c), 96(1)(d) and 96(1)(e) of the Water Act 2003 c.37 and paragraph 90 of Schedule 7 to the Water Act 2014 c.21.

(d) 1986 c.44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by Part 3 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 13 (temporary prohibition or restriction of use of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling

around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under sub-paragraph (5), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph (2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 8(2).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 8(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 8(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in paragraph 8(2) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

13. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system is construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

14. The exercise of the powers of article 34 (statutory undertakers) are subject to part 10 of Schedule 3A to the 2003 Act(c).

15.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must make reasonable compensation to that operator for loss sustained by it and indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 46 (arbitration).

(a) 2003 c.21.

(b) See section 106.

(c) 2003 c.21.

16. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

PART 3

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

17. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

18. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development;

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” and “commencement” has the same meaning as given in article 2(1) and for the purpose of this Part of this Schedule only includes any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” have effect as if Cadent’s existing apparatus was authorised development and as if the term maintain includes protect and use;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

“specified works” means any part of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise.

On street apparatus

19.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 20, 25, 26, 27 and 28; and
- (b) where sub-paragraph (2) applies, paragraphs 23 and 24.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) The protective provisions in this Part of this Schedule apply and take precedence over article 35 (apparatus and rights of statutory undertakers in altered or closed streets) of the Order which does not apply to Cadent.

Apparatus of Cadent in altered or closed streets

20. Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 11 (power to alter layout, etc., of streets), article 13 (temporary prohibition or restriction of use of streets and public rights of way) or article 17 (traffic regulation measures), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

21. The undertaker must exercise the powers conferred by article 20 (protective works to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed).

Acquisition of land

22.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the construction or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and the undertaker must use reasonable endeavours to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 25 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 23 do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register, include with its application to register title to the undertaker's interest in such acquired land at the Land Registry a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

23.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 22, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred

to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 24(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

24.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 31 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

25.—(1) Not less than 56 days (or such time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works the undertaker must submit

to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement which describes—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) In relation to any specified works to which sub-paragraph (1) applies, Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and
- (b) all conditions imposed under sub-paragraph (4)(a), and Cadent is entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(2) provided that such written notice must be given by Cadent to the undertaker within 42 days of submission of a plan pursuant to sub-paragraph (1).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days (unless otherwise agreed in writing by Cadent and the undertaker) before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 26.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

26.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 23(3) if it elects to do so; or
 - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works (including any protective works pursuant to article 20 (protective works to buildings), plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works if required;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and
- (g) any watching brief pursuant to paragraph 25(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 31 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-

paragraph would be payable to Cadent by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where the undertaker has paid to Cadent monies in respect of any reasonably anticipated charges, costs and expenses in accordance with sub-paragraph (1) and such charges, costs and expenses are subsequently not incurred by Cadent, Cadent must repay to the undertaker on demand the amount of such charges, costs and expenses.

Indemnity

27.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development (including works carried out under article 20 (protective works to buildings)) by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any negligence, omission or default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and Cadent.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect, omission or default of Cadent, its officers, servants, contractors or agents; and
- (b) any part of the authorised development carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 8 (consent to transfer benefit of the Order).

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering its representations.

(5) Cadent must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 27 applies. If requested to do so by the undertaker, Cadent must provide an explanation of how the claim has been minimised. The undertaker is only liable under this paragraph 27 for claims reasonably incurred by Cadent.

Enactments and agreements

28. Except where this Part of this Schedule provides otherwise, or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

29.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 23(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 25, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

Access

30. If in consequence of any agreement reached in accordance with paragraph 22(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

31. Any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 46 (arbitration).

Notices

32. Notwithstanding article 43 (service of notices) any plans submitted to Cadent by the undertaker pursuant to paragraph 25(1) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com copied by e-mail to toby.feirn@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

FOR THE PROTECTION OF EASTERN POWER NETWORKS

33. For the protection of EPN as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and EPN.

34. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable EPN to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by EPN;

“EPN” means Eastern Power Networks plc (company number 02366906) whose registered office is at Newington House, 237 Southwark Bridge Road, London SE1 6NP;

“functions” includes powers and duties; and

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

35. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and EPN are regulated by the provisions of Part 3 of the 1991 Act.

36. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 13 (temporary prohibition or restriction of use of streets and public rights of way), EPN is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

37. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

38.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that EPN’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of EPN to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of EPN in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to EPN written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order EPN reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to EPN the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, EPN must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed provided that this obligation shall not require EPN to exercise any power it may have to acquire any land or rights by compulsory purchase order.

(a) 1989 c.29.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between EPN and the undertaker or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) EPN must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46 (arbitration), and after the grant to EPN of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to EPN that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by EPN, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of EPN.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

39.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to EPN facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and EPN or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to EPN than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to EPN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

40.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 38(2), the undertaker must submit to EPN a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by EPN for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and EPN is entitled to watch and inspect the execution of those works.

(3) Any requirements made by EPN under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If EPN in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 38 to 39 apply as if the removal of the apparatus had been required by the undertaker under paragraph 38(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to EPN notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

41.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to EPN the reasonable expenses incurred by EPN in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 38(2).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to EPN by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 38(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to EPN in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on EPN any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

42.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 38(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of EPN, or there is any interruption in any service provided, or in the supply of any goods, by EPN, the undertaker must—

- (a) bear and pay the cost reasonably incurred by EPN in making good such damage or restoring the supply; and
- (b) indemnify EPN for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from EPN,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of EPN, its officers, servants, contractors or agents.

(3) EPN must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

43. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and EPN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 5

FOR THE PROTECTION OF NATIONAL HIGHWAYS

Application etc.

44.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 which shall continue to apply in respect of the exercise of all National Highways' statutory functions.

Interpretation

45.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);
- (c) product data sheets and technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for the works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) organisation and methods manuals for all products used;
- (h) as constructed programme;
- (i) test results and records as required by the detailed design information and during construction phase of the project;
- (j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;
- (k) the health and safety file; and
- (l) such other information as is required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time.

“the bond sum” means the sum equal to 200% of the cost of the carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;

“the cash surety” means the sum agreed between the undertaker and National Highways;

“commuted sum” means such sum calculated as provided for in paragraph 59 of this Part of this Schedule to be used to fund the future cost of maintaining the specified works;

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) regime of California Bearing Ratio testing;
- (k) electrical work for road lighting, traffic signs and signals;
- (l) motorway communications as required by DMRB;
- (m) highway structures and any required structural approval in principle;
- (n) landscaping;
- (o) proposed departures from DMRB standards;
- (p) walking, cycling and horse riding assessment and review report;
- (q) stage 1 and stage 2 road safety audits and exceptions agreed;
- (r) utilities diversions;
- (s) topographical survey;
- (t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (u) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (v) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“DBFO contract” means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“final certificate” means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 57;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“highway operations and maintenance contractor” means the contractor appointed by National Highways under the DBFO contract;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“provisional certificate” means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 50 when it considers the specified works are substantially complete and may be opened for traffic;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“specified works” means so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is undertaken on, in, under or over the strategic road network for which National Highways is the highway authority;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

General

46. In respect of any part of the strategic road network that is managed under a DBFO contract both National Highways and the highway operations and maintenance contractor shall have the benefit of this Part of Schedule 11 but for the purposes of any approvals required under this Part of Schedule 11 the undertaker shall liaise directly with National Highways.

47. Notwithstanding the provisions of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road network at a distance within 4 metres of the lowest point of the ground.

48. References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Works outside the Order limits

49. If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

Prior approvals and security

50.—(1) The specified works must not commence until—

- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
 - (i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under paragraph (a);
 - (ii) details of the proposed road space bookings;
 - (iii) the identity and suitability of the contractor and nominated persons;
 - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
 - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
- (d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
- (e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under paragraph (c)(v) above;
- (f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
- (g) the undertaker has agreed the estimate of the commuted sum with National Highways;
- (h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;
- (i) the undertaker has procured to National Highways collateral warranties in a form approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and
- (j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways.

(2) The undertaker must not exercise—

- (a) article 4 (maintenance of authorised development);
- (b) article 10 (street works);
- (c) article 13 (temporary prohibition or restriction of use of streets and public rights of way);
- (d) article 17 (traffic regulation measures);
- (e) article 18 (discharge of water);
- (f) article 20 (protective works to buildings);
- (g) article 19 (authority to survey and investigate the land);
- (h) article 23 (compulsory acquisition of land);
- (i) article 25 (compulsory acquisition of rights and imposition of restrictive covenants);
- (j) article 32 (temporary use of land for the construction of the authorised development);
- (k) article 33 (temporary use of land for maintaining the authorised development); or
- (l) article 21 (felling or lopping trees) of this Order,

over any part of the strategic road network without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1) or (2).

(4) Any approval of National Highways required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) must be given in writing;
- (c) shall be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and
- (d) may be subject to any conditions as National Highways considers necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request along with collateral warranties in a form agreed by National Highways.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with sub-paragraph (1) of this Part.

Construction of the specified works

51.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 50(1) above or as subsequently varied by agreement between the undertaker and National Highways;

- (b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of National Highways.

(4) The undertaker must ensure that (where possible) without entering the highway the highway is kept free from mud, soil and litter as a result of carrying out a Specified Work.

(5) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(6) If any part of the specified works is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways.

(7) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(8) If within 28 days on which a notice under sub-paragraph (6) or sub-paragraph (7) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(9) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(10) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the satisfaction of National Highways.

(11) During the construction of the specified works the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by National Highways pursuant to paragraph 50(1)(h) and the undertaker must carry out such maintenance at its own cost.

(12) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to paragraph 50(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

52.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 50(1);
- (b) the supervision of the specified works;
- (c) the checking and approval of the information required to determine approvals under this Order;
- (d) all costs in relation to the transfer of any land required for the specified works; and
- (e) all legal and administrative costs and disbursements incurred by National Highways in connection with the Order and paragraphs (a)-(d); and
- (f) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the NH costs”.

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the issue of the provisional certificate issued pursuant to paragraph 53(4).

(6) Within 28 days of the issue of the final account—

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional Certificate

53.—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the specified works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

- (a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;
- (b) the specified works incorporating the approved remedial works under paragraph (a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the satisfaction of National Highways;
 - (i) the as built information has been provided to National Highways; and
 - (ii) the undertaker has paid the commuted sum to National Highways,

National Highways must issue the provisional certificate.

(5) On the issue of the provisional certificate the bond sum shall be reduced to 20% of the total bond sum save insofar as any claim or claims have been made against the bond before that date in which case National Highways will retain a sufficient sum to ensure it does not have to meet any costs for or arising from the specified works.

(6) The undertaker must submit a stage 4 road safety audits as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

Opening

54. The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

55.—(1) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 53(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph (1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

Defects Period

56.—(1) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);
- (b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(2) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final Certificate

57.—(1) The undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate.

(2) Following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable—

- (a) inspect the strategic road network; and
- (b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph (2).

(4) When National Highways is satisfied that—

- (a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph (2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the satisfaction of National Highways; and
- (b) the NH costs have been paid to National Highways in full;

National Highways must issue the final certificate after which the bond shall be released in full.

(5) The undertaker must pay to National Highways within 28 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

Security

58. The specified works must not commence until—

- (a) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

- (b) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 52 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Commuted sums

59.—(1) National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the commencement of the specified works.

(2) The undertaker must pay to National Highways the commuted sum prior to the issue of the provisional certificate.

Insurance

60. Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

Indemnity

61. The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 14 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

Maintenance of the specified works

62.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 54 shall apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Land

63.—(1) Following the issue of the final certificate pursuant to paragraph 57(4) National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the specified works.

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

(3) The undertaker must not under the powers of this Order—

- (a) acquire or use land forming part of;

- (b) acquire new or existing rights over; or
- (c) seek to impose or extinguish any restrictive covenants over;

any of the strategic road network, or extinguish any existing rights of National Highways in respect of any third party property, except with the consent of National Highways by written request to legalserviceteam@nationalhighways.co.uk

(4) Where any land or interest is proposed to be acquired for the benefit of National Highways, the undertaker must, unless otherwise agreed by National Highways, exercise article 23 (compulsory acquisition of land) and article 25 (compulsory acquisition of rights and imposition of restrictive covenants) as applied by article 29 (application of the 1981 Act) of this Order to directly vest in National Highways any such land or interest.

Expert Determination

64.—(1) Article 46 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert’s appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 7 days of receipt of the submissions under paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 46 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

PART 6

FOR THE PROTECTION OF INTERNAL DRAINAGE BOARD

65. The provisions of this Part have effect for the protection of the Board unless otherwise agreed in writing between the undertaker and the Board.

66. In this Part—

“the Board” means Hundred of Wisbech Internal Drainage Board or King’s Lynn Internal Drainage Board (as applicable);

“construction” includes execution, placing, altering, replacing, relaying and removal; and “construct” and “constructed” must be construed accordingly;

“drainage work” means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“evidence” includes hydraulic modelling, infiltration test results and geotechnical evaluations;

“Internal Drainage District” has the meaning given in the Land Drainage Act 1991;

“ordinary watercourse” has the meaning given in section 72 (Interpretation) of the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work within the Board’s Internal Drainage District or is otherwise likely to—

- (a) affect any drainage work within the Board’s Internal Drainage District
- (b) affect the total volume or volumetric rate of flow of water in or flowing to or from any drainage work within the Board’s Internal Drainage District;
- (c) affect the flow of water in any drainage work within the Board’s Internal Drainage District; or
- (d) affect the conservation, distribution or use of water resources.

67.—(1) Before beginning to construct any specified work, the undertaker must submit to the Board plans of the specified work, evidence to support said plans and any such further particulars available to it as the Board may within 28 days of the submission of the plans (or such other time period as may be agreed between the Board and the undertaker) reasonably require (or submission of further particulars if required by the Board).

(2) Not Used.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Board or determined under paragraph 76.

(4) Any approval of the Board required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or the submission of further particulars if applicable) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements and conditions as the Board may consider appropriate.

(5) The Board must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (4)(b).

68. Without limiting paragraph 67, the requirements which the Board may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of strike plates, flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

69.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Board under paragraph 68, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the Board,

and an officer of the Board is entitled to give such notice as may be reasonably required in the circumstances to watch and inspect the construction of such works.

(2) The undertaker must give to the Board—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.

(3) If the Board reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the Board is constructed otherwise than in accordance with the requirements of this Part, the Board may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the Board in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Board reasonably requires.

(5) Subject to sub-paragraph (8), to the extent that a culvert is within a watercourse maintained by the Board and the Board intends to replace such a culvert, or in the event that the Board requires or gives its consent to a third party to replace a culvert, that is crossed by Work No. 7 or 8, and the replacement of the culvert will reasonably require the relocation of Work No. 7 or 8 either above or below the new culvert, the Board must provide the undertaker with 28 days written notice confirming its intention to replace the culvert or that a third party intends to replace the culvert and—

- (a) the undertaker must, within 28 days of receiving the notice (or such other time period as may be agreed between the Board and the undertaker), advise the Board of the timescale it requires to relocate Work No. 7 or 8 (such timescale not to exceed 12 months unless otherwise agreed with the Board) and the specifications for the relocated Work No. 7 or 8; and
- (b) the undertaker must take all reasonable steps to relocate Work No. 7 or 8 at its own cost including the installation of strike plates if Work No. 7 or 8 is relocated below the new culvert as soon as reasonably practicable and within the timescale advised to the Board.

(6) Subject to sub-paragraph (7), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Board may execute the works specified in the notice, and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.

(7) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Board must not except in an emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally resolved by agreement or determined under paragraph 76.

(8) If the undertaker does not comply with the requirements set out in sub-paragraph (5)(a) within 28 days or the timescale specified under sub-paragraph (5)(b), as applicable, the Board must not except in an emergency commence any works to replace the culvert within 6 metres of Work No. 7 or 8 before the matter has been determined under paragraph 76.

70. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Board and, if the undertaker fails to do so, the Board may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

71.—(1) The undertaker must compensate the Board in respect of all costs, charges and expenses that the Board may reasonably incur, have to pay or may sustain—

- (a) in the examination or approval of plans and evidence under this Part;
- (b) in inspecting the proposed site for and construction of any specified work or any protective works required by the Board under this Part; and
- (c) in carrying out of any surveys or tests by the Board that are reasonably required in connection with the construction of the specified work.

(2) Subject to sub-paragraphs (3) and (4), where the Board notifies the undertaker that it intends to replace a culvert that is within a watercourse maintained by the Board, or in the event that the Board requires or gives its consent to a third party to replace a culvert, that is crossed by Work No. 7 or 8, and the replacement of the culvert will not require the relocation of Work No. 7 or 8 under paragraph 69(5), the undertaker must—

- (a) compensate the Board in respect of all additional costs, charges and expenses reasonably incurred by the Board relating to the construction or maintenance of the new culvert that are directly caused by the presence of Work No. 7 or 8; or
- (b) compensate any third party required by the Board, or to whom the Board has given its consent, to replace a culvert in respect of all additional costs, charges and expenses reasonably incurred relating to the construction of the new culvert that are directly caused by the presence of Work No. 7 or 8 up to a maximum of 10% of the total costs of replacing the culvert or £250,000.00 (increased in accordance with the most recent published figure for the Construction Output Price Index or during any period when no such index exists the index which replaces it or is the nearest equivalent to it) whichever is the lower amount.

(3) The undertaker is not liable for any costs, charges and expenses under sub-paragraph (2) to the extent that they are attributable to the Board or a third party failing to carry out and execute works properly with due care and attention and in a skilful and workmanlike manner or are incurred as a result of damage to a culvert caused by a third party and could be recovered from such a third party.

(4) The Board or a third party must provide the undertaker with an estimate of any reasonable costs, charges and expenses to be paid by the undertaker under sub-paragraph (2) prior to such costs, charges and expenses being incurred.

72.—(1) Without limiting the other provisions of this Part, the undertaker must compensate the Board in respect of all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, reasonably recovered from or incurred by the Board by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such land

which is caused by, or results from, the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the specified work.

(2) The Board must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(3) The Board must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, costs, damages, expenses or loss to which this paragraph applies.

73. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Board, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

74. If in consequence of the powers granted under this Order the access to any drainage work is materially obstructed, the undertaker must provide such alternative rights and means of access to

such drainage work as will enable the Board to maintain or use the drainage work no less effectively than was possible before such obstruction.

75.—(1) The Board and the undertaker may enter into agreements with respect to the maintenance of any drainage work located within the boundary of Work No. 2B as shown on the works plans.

(2) Such an agreement may, without prejudice to the generality of sub-paragraph (1), contain such terms as to the nature and frequency of any maintenance works, payments and otherwise as the parties consider appropriate.

76. Any dispute between the undertaker and the Board under this Part, unless otherwise agreed, must be determined by arbitration under article 46 (arbitration), but must be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Energy Security and Net Zero acting jointly on a reference to them by the undertaker or the Board, after notice in writing by one to the other.

PART 7

FOR THE PROTECTION OF ANGLIAN WATER

77. For the protection of Anglian Water, the following provisions shall, unless otherwise agreed in writing between the undertaker and Anglian Water, have effect.

78. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in no less efficient a manner than previously;

“apparatus” means:

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991;
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act;
- (d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian water; and
- (e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain or works (within the meaning of section 219 of that Act) and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and in this definition, expressions and words used in this definition and defined in section 219 (general interpretation) of the Water Industry Act 1991 have the same meaning as in that Act;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

On street apparatus

79. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

80.—(1) Where any street is stopped up under article 11 (power to alter layout, etc., of streets), where Anglian Water has apparatus in the street or accessed by virtue of the street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Anglian Water legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 83 or the power of the undertaker to carry out works under paragraph 85.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 13 (temporary prohibition or restriction of use of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

81. The undertaker, in the case of the powers conferred by article 20 (protective works to buildings), must not exercise those powers so as to obstruct or render less convenient the access to any apparatus without the written consent of Anglian Water (such consent not to be unreasonably withheld or delayed).

Acquisition of land

82. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

83.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 84.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between

Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

84.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Retained apparatus

85.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker

under paragraph 83(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 83 to 84 and 86 to 88 apply as if the removal of the apparatus had been required by the undertaker under paragraph 83(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances, using its reasonable endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

- (a) 4 metres where the diameter of the pipe is less than 250 millimetres;
- (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and
- (c) a distance to be agreed on a case by case basis and before the submission of the plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

86.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this

Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

87.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 81 or 83(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

88. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 83(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 85, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

89. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

90. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

91. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 8

FOR THE PROTECTION OF RAILWAY INTERESTS

92. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 106 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

93. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under:

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property

and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (maintenance of authorised development) in respect of such works.

94.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

95.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent granted by the Order);
- (b) article 4 (maintenance of authorised development);
- (c) article 18 (discharge of water);
- (d) article 19 (authority to survey and investigate the land);
- (e) article 21 (felling or lopping of trees);
- (f) article 23 (compulsory acquisition of land);
- (g) article 25 (compulsory acquisition of rights and imposition of restrictive covenants);
- (h) article 26 (acquisition of subsoil only);
- (i) article 27 (private rights);
- (j) article 28 (power to override easements and other rights);
- (k) article 32 (temporary use of land for the construction of the authorised development);
- (l) article 33 (temporary use of land for maintaining the authorised development);
- (m) article 34 (statutory undertakers);
- (n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;
- (q) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 34 (statutory undertakers), article 28 (power to override easements and other rights) or article 27 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

96.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

97.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 96(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 96;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

98. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

99. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

100.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 96(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 101(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

101. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 96(3) or in constructing any protective works under the provisions of paragraph 96(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

102.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 96(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 96(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 96(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to

the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 97.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 106(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph 97 applies.

(10) For the purpose of paragraph 101(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 46 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

103. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

104. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

105. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

106.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 45 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

107. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 106) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

108. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action

taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

109. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

110. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

111. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 8 (consent to transfer benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

112. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 42 (certification of plans etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

113. In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 102) the provisions of article 46 (arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator in accordance with the rules at Schedule 15 to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 9

FOR THE PROTECTION OF CAMBRIDGESHIRE COUNTY COUNCIL AS HIGHWAY AUTHORITY

114.—(1) The following provisions of this Part of this Schedule, unless otherwise agreed in writing between the undertaker and Cambridgeshire County Council, have effect.

(2) In this Part of this Schedule—

“highway” means any highway of which Cambridgeshire County Council is the highway authority;

“plans” includes sections, designs, drawings, specifications, soil reports, staging proposals, programmes, calculations, methods of construction, risk assessments and details of the extent, timing and duration of any proposed occupation of any highway and “approved plans” means plans approved or deemed to be approved or settled by arbitration in accordance with the provisions of this Part of this Schedule; and

“property of Cambridgeshire County Council” means any apparatus or street furniture of the highway authority affixed to or placed under any highway.

“works” means so much of any part of the authorised development as forms part of or is intended to become a highway, or part of any such highway, or any work which could introduce water onto the highway or any work which is underneath or over the highway.

(3) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of Cambridgeshire County Council, that approval or consent must be in writing and subject to such reasonable terms and conditions as Cambridgeshire County Council may require.

(4) In exercising the powers conferred by this Order in relation to any highway the undertaker must have regard to the potential disruption of traffic which may be caused and must seek to minimise such disruption so far as is reasonably practicable.

115.—(1) Before commencing the construction of, or the carrying out of any work which involves interference with a highway, the undertaker must submit to Cambridgeshire County Council for its approval plans relating thereto, and the works must not be carried out except in accordance with the plans submitted to, and approved by, Cambridgeshire County Council.

(2) If within 28 days after the plans have been submitted Cambridgeshire County Council has not approved or disapproved them, it is deemed to have approved the plans as submitted provided that this sub-paragraph does not apply to any plans submitted for approval pursuant to requirement 5 of Schedule 2 where the time periods set out in Schedule 12 apply.

(3) In the event of any disapproval of plans by Cambridgeshire County Council under sub-paragraph (2), the undertaker shall re-submit the plans with modifications and, in that event, if Cambridgeshire County Council has not intimated its disapproval and the grounds of disapproval within 28 days of the plans being re-submitted, it is deemed to have approved them.

(4) The undertaker must include in any submission made to Cambridgeshire County Council under sub-paragraph (1) or any re-submission under sub-paragraph (3), a statement that the deemed approval provisions of sub-paragraph (2) or sub-paragraph (3) apply, as the case may be, and if the submission fails to do so, the deemed approval provision is null and void.

(5) Any officer of Cambridgeshire County Council duly appointed for the purpose of inspecting the works may at all reasonable times during the carrying out of work and following completion of the works, on giving to the undertaker such notice as may in the circumstances be reasonable, enter upon and inspect any part of the works authorised by this Order (and such inspection may include works to be uncovered as reasonably required by the officer at the cost of the undertaker) which—

(a) is in, over or under any highway; or

(b) which may affect any highway or any property of Cambridgeshire County Council,

during the carrying out of the work, and the undertaker must give to such officer all reasonable facilities for such inspection and shall ensure that the officer is accompanied by one of its contractors, agents or employees familiar with the works, if the officer is of the opinion that the construction of the work is attended with danger to any highway or to any property of Cambridgeshire County Council on or under any highway, the undertaker must adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury to the highway.

(6) In the construction of any part of the said works under a highway no part of it shall, except with the consent of Cambridgeshire County Council, be so constructed as to interfere with the provision of proper means of drainage of the surface of the highway.

116.—(1) The undertaker must not alter, disturb or in any way interfere with any property of Cambridgeshire County Council on or under any highway, or the access thereto, without the consent of the Cambridgeshire County Council, and any alteration, diversion, replacement or reconstruction of any such property which may be necessary may be made by Cambridgeshire County Council or the undertaker as the Cambridgeshire County Council thinks fit, and the expense reasonably incurred by Cambridgeshire County Council in so doing must be repaid to Cambridgeshire County Council by the undertaker.

(2) The undertaker must not under the powers conferred by or under this Order without the consent of Cambridgeshire County Council, acquire or enter upon, take or use whether temporarily or

permanently or acquire any new rights over any part of any highway, including subsoil beneath the surface of any highway.

(3) If within 28 days after a request for consent has been submitted Cambridgeshire County Council has not given or refused such consent, it is deemed to have consented to the request as submitted provided that the undertaker includes in any such request for consent a statement confirming that the deemed consent provisions this paragraph apply to such request and if such request fails to do so, the deemed consent provision of this paragraph is null and void.

117.—(1) Where any part of any highway has been broken up or disturbed by the undertaker, the undertaker must make good the subsoil, foundations and surface of that part of the highway to the reasonable satisfaction of Cambridgeshire County Council and must maintain the same to the reasonable satisfaction of Cambridgeshire County Council for such time as may reasonably be required for the permanent reinstatement of the highway.

(2) The reinstatement of that part of the highway must be carried out by the undertaker to the reasonable satisfaction of Cambridgeshire County Council in accordance with such requirements as to specification of material and standards of workmanship as may be prescribed for equivalent reinstatement work by regulations made under section 71 of the 1991 Act.

118. If any damage to any highway or any property of Cambridgeshire County Council on or under any highway is caused by, or results from, the construction of any work authorised by this Order or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon such work, the undertaker must, in the case of damage to a highway, make good such damage to the reasonable satisfaction of Cambridgeshire County Council and, where the undertaker does not make good, or in the case of damage to property of Cambridgeshire County Council, the undertaker must pay reasonable compensation to Cambridgeshire County Council for such damage.

119. The fact that any act or thing may have been done in accordance with plans approved by Cambridgeshire County Council does not (if it was not attributable to the act, neglect or default of Cambridgeshire County Council or of any person in its employment or its contractors or agents) exonerate the undertaker from any liability, or affect any claim for damages, under this Part or otherwise.

120. Cambridgeshire County Council must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which paragraph 118 applies. If requested to do so by the undertaker, Cambridgeshire County Council must provide an explanation of how the claim has been minimised. The undertaker is only liable under paragraph 118 for claims reasonably incurred by Cambridgeshire County Council.

121. On completion of the works the undertaker must seek written certification from Cambridgeshire County Council that the works are acceptable and relevant drawings and new highway asset information shall be provided to Cambridgeshire County Council as part of the undertaker's request for certification. Cambridgeshire County Council shall only resume its maintenance responsibilities for the affected highways once certification under this paragraph has been issued.

122.—(1) Cambridgeshire County Council must not unreasonably withhold or delay the issue of a written certification under paragraph 121. Subject to sub-paragraphs (2) and (3), if Cambridgeshire County Council has not given or refused such written certification within 28 days, it is deemed to have issued a written certification provided that the undertaker includes in any such request for certification a statement confirming that the deemed certification provisions this paragraph apply to such request and if such request fails to do so, the deemed certification provision of this paragraph is null and void.

(2) Any officer of Cambridgeshire County Council duly appointed for the purpose of issuing a written certification under sub-paragraph (1) may at all reasonable times and on reasonable notice during the 28 day period enter upon and inspect any part of the completed works.

(3) If further information is requested by Cambridgeshire County Council, the 28 day period to issue a written certificate in accordance with sub-paragraph (1) will recommence starting on the

date that such further information has been submitted by the undertaker to Cambridgeshire County Council.

123. On receipt of certification that completed works are acceptable under paragraph 121 above unlocking devices for the new bollards on New Bridge Lane shall be provided by the undertaker to Cambridgeshire County Council.

124. Any difference arising between the undertaker and the Cambridgeshire County Council under this part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) shall be resolved by arbitration under article 46 (arbitration).

125.—(1) Subject to sub-paragraphs (2) and (3), the undertaker must indemnify Cambridgeshire County Council from and against all costs, expenses, damages, losses and liabilities suffered by Cambridgeshire County Council arising from or in connection with any claim, demand, action or proceedings resulting from damage caused by the construction, maintenance or use of the specified works.

(2) Sub-paragraph (1) does not apply if the costs, expenses, liabilities and damages were caused by or arose out of the neglect or default of Cambridgeshire County Council or its officers, servants, agents or contractors or any person or body for whom it is responsible.

(3) If any person makes a claim or notifies an intention to make a claim against Cambridgeshire County Council which may reasonably be considered likely to give rise to a liability under this paragraph then Cambridgeshire County Council must—

- (a) as soon as reasonably practicable give the undertaker reasonable notice of any such third party claim or demand, specifying the nature of the indemnity liability in reasonable detail; and
- (b) not make any admission of liability, agreement or compromise in relation to the indemnity liability without first consulting the undertaker and considering their representations.

(4) The undertaker acknowledges that Cambridgeshire County Council may receive statutory compensation claims and that Cambridgeshire County Council may not be able to comply with sub-paragraph (3) in respect of such claims.

(5) Where Cambridgeshire County Council considers that sub-paragraph (4) applies to any claim or demand it must give notice of that view as part of the relevant notice provided pursuant to sub-paragraph (3)(a).

(6) Cambridgeshire County Council must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within Cambridgeshire County Council's reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Cambridgeshire County Council's control. If reasonably requested to do so by the undertaker, Cambridgeshire County Council must provide an explanation of how any claim has been mitigated or minimised or where mitigation or minimisation is not possible an explanation as to why.

126. All reasonable costs incurred by Cambridgeshire County Council under this part of this Schedule shall be paid in full by the undertaker on written demand by Cambridgeshire County Council.

PROCEDURE FOR THE DISCHARGE OF REQUIREMENTS

Interpretation**1.** In this Schedule—

“relevant authority” means the relevant planning authority, relevant highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain as may be appropriate to the consent, agreement or approval sought; and

“requirement consultee” means any body named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement.

Applications made under requirements

2.—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) the relevant authority must give notice to the undertaker of their decision on the application within a period of 12 weeks beginning with—

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (2); or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority,

whichever is the latest.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement included in this Order, and—

- (a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or
- (b) the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is to be taken to have been refused by the relevant authority at the end of that period.

Further information and consultation

3.—(1) In relation to any application to which this Schedule applies, the relevant authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required the relevant authority must, within 14 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within 15 business days of receipt of the application, and must notify the

undertaker in writing specifying any further information requested by the requirement consultee within 15 business days of receipt of such a request and in any event within 35 business days of receipt of the application or such longer period as may be agreed in writing by the undertaker and the relevant authority.

(4) In the event that the relevant authority does not give notification as specified in sub-paragraph (2) or (3) it is to be deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph 3 in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph 2(1)(b), paragraph 2(3) and paragraph 3.

Appeals

4.—(1) The undertaker may appeal in the event that—

- (a) the relevant authority refuses (including a deemed refusal pursuant to paragraph 2(3)) an application for any consent, agreement or approval required by an article or requirement included in this Order or grants it subject to conditions;
- (b) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
- (c) on receipt of any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant authority and any consultee required to be consulted pursuant to the article or requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) the Secretary of State is to appoint a person within 20 business days of receiving the appeal documentation and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for his attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant authority and any consultee required to be consulted pursuant to the article or requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (c) above;
- (e) the appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 business days of the deadline for the receipt of counter-submissions pursuant to paragraph (d); and
- (f) the appointment of the person pursuant to paragraph (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable him to consider the appeal he must, within five business days of his appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the undertaker to the appointed person, the relevant authority and any consultee required to be consulted pursuant to the article or requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the

specified date but otherwise is to be in accordance with the process and time limits set out in paragraphs (2)(c) to (2)(e).

(5) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(7) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to him that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant authority. The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(10) The appointed person may or may not be a member of the Planning Inspectorate but must be a qualified town planner of at least 10 years experience.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

SCHEDULE 13

Article 42

DOCUMENTS AND PLANS TO BE CERTIFIED

Table 10

<i>(1)</i> <i>Document name</i>	<i>(2)</i> <i>Document reference</i>	<i>(3)</i> <i>Revision number</i>	<i>(4)</i> <i>Date</i>
access and public rights of way plans	2.4	7	August 2023
book of reference	4.1	6	August 2023
carbon capture and export embedded design measures	14.7 (Appendix B)	1	June 2023
carbon capture and export readiness reserve space plan	10.7	1	March 2023
combined heat and power embedded design measures	14.7 (Appendix A)	1	June 2023
combined heat and power statement	7.6	1	June 2022
design and access statement	7.5	1	June 2022
environmental statement	6.1, 6.2	1	June 2022
environmental statement figures	6.3	2	March 2023
environmental statement appendices	6.4	2	March 2023
flood risk assessment	6.4 (ES Appendix 12A)	1	June 2022
land plans	2.2	5	August 2023
outline biodiversity net gain strategy	6.4 (ES Appendix 11M)	5	July 2023
outline construction environmental management plan	7.12	6	July 2023
outline construction traffic management plan	6.4 (ES Appendix 6A)	7	August 2023
outline decommissioning plan	12.4	1	May 2023
outline drainage strategy	6.4 (ES Appendix 12F)	4	August 2023
outline employment and skills strategy	7.8	1	June 2022
outline fire prevention plan	7.10	3	August 2023
outline flood emergency management plan	7.9	2	March 2023
outline landscape and ecology strategy	6.3 (ES Figure 3.14)	2	March 2023

outline landscape and ecology management plan	7.7	2	April 2023
outline lighting strategy	6.4 (ES Appendix 3B)	3	June 2023
outline local air quality monitoring strategy	9.21	3	May 2023
outline odour management plan	7.11	3	August 2023
outline operational noise management plan	6.4 (ES Appendix 7D)	4	June 2023
outline operational traffic management plan	7.15	4	July 2023
outline operational travel plan	6.4 (ES Appendix 6C)	1	June 2022
waste area plan	15.9	1	July 2023
works plans	2.3	4	August 2023

SCHEDULE 14

Article 3

MAXIMUM AND MINIMUM DESIGN PARAMETERS

Table 11

<i>(1)</i> <i>Element of authorised development</i>	<i>(2)</i> <i>Work No.</i>	<i>(3)</i> <i>Maximum length (metres)</i>	<i>(4)</i> <i>Maximum width (metres)</i>	<i>(5)</i> <i>Maximum height (metres) (above finished floor level of 3.0m AOD)</i>	<i>(6)</i> <i>Minimum height (metres) (above finished floor level of 3.0m AOD)</i>
Gatehouse / weighbridge	2A	9.5	2.4	3	
Tipping hall	1	58.5	38	18.5	
Fire water tank	2A		16	10	
Fire water pump building	2A	12.5	9.5	5.5	
Waste bunker building	1	102	37	38.5	
Tipping bunker	1	–	–	-14	
Main waste bunker	1	–	–	-14	
Boiler house building	1	55	47.6	52	
Loading area (a)	1	12.2	12.2	12	
APCr silos	1	33.3	12.2	37	
Loading area (b)	1	12.2	12.2	12	
Air pollution control building	1	33.2	28.6	37	
Induced draft fans building	1	10	10	12	
Chimneys	1A	–	3.2	90	84
CEMS platform	1A	–	–	18	
Switchgear building north	1	35.2	10	35	
Switchgear building south	1	12.4	10	18	
IBA enclosure east	1	14	11	12	
IBA enclosure west	1	11	6	12	

Diesel tanks and urea tanks building	1	25.9	9.1	35
Compressed air station	1	13	8	10
Main transformer	2A	11	6	12
Emergency diesel generator	1	13.5	5.5	12
Air cooled condenser	1	37	37	30
Turbine hall	1	47	34	27
Water treatment plant	1	30	22	18
Workshop and stores	2A	34	15	18
Administration building	1B	34	12	15
132kV switching compound	2A	23	13	6.5
Private wire transformer	2A	11	5	12
Private wire switchgear compound	2A	7	6	12
Water re-cooling system	1	18.5	7.5	27
Steam and condensate pipelines	3	–	–	23

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the arbitrator is appointed pursuant to article 46.

(2) The parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the parties. Any dispute which is not resolved amicably by the senior management of the parties within twenty (20) working days of the dispute arising, or such longer period as agreed in writing by the parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in working days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will be either—

- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the Claimant will provide both the Respondent and the arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the arbitrator and Respondent, the Respondent will provide the Claimant and the arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant’s statements, comments on the Claimant’s expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements pursuant to sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The arbitrator will make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator will direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing will not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any expert(s) attending the hearing may be asked questions by the arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator will take these submissions into account in the award.

(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction or both.

(10) The arbitrator's award will include reasons. The parties will accept that the extent to which reasons are given will be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There will be no discovery or disclosure, except that the arbitrator will have the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure or both—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice; and
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration will include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be open to and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph will prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

(a) 1996 c.23.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Medworth CHP Limited (referred to in this Order as the undertaker) to construct, operate and maintain an Energy from Waste Combined Heat and Power Facility. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the new section of highway.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 42 (certification of plans etc.) of this Order may be inspected free of charge during working hours at Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ.

APPENDIX E: EXAMINATION LIBRARY

Medworth Energy from Waste Combined Heat and Power Facility Examination Library

Updated – 22 August 2023

This Examination Library relates to the Medworth Energy from Waste Combined Heat and Power Facility application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**EN010110 - Medworth Energy from Waste Combined Heat and Power Facility
Examination Library - Index**

Category	Reference
<p>Application Documents</p> <p>As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received</p>	APP-xxx
<p>Adequacy of Consultation responses</p>	AoC-xxx
<p>Relevant Representations</p>	RR-xxx
<p>Procedural Decisions and Notifications from the Examining Authority</p> <p>Includes Examining Authority's questions, s55, and post acceptance s51</p>	PD-xxx
<p>Additional Submissions</p> <p>Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters</p>	AS-xxx
<p>Events and Hearings</p> <p>Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices</p>	EV-xxx
<p>Representations – by Deadline</p>	
<p>Procedural Deadline A</p>	PDA-xxx
<p>Deadline 1:</p> <p>For receipt by the ExA of: - Comments on Relevant</p>	REP1-xxx

<p>Representations (RRs) (see Annex H of this letter)</p> <ul style="list-style-type: none"> - Summaries of all RRs exceeding 1500 words (see Annex H of this letter) - Post-hearing submissions including written submissions of oral cases as heard on OFH1, OFH2 and ISH1 - Applicant’s draft itinerary for Accompanied Site Inspection (ASI) (if required) - Local Impact Report(s) (LIRs) - Draft Statements of Common Ground (SoCG) (see Annex H of this letter) - Draft Statement of Commonality (SoC) of SoCG (see Annex H of this letter) - The Compulsory Acquisitions (CA) Schedule (see Annex H of this letter) - Draft National Policy Statement (NPS) Tracker (see Annex H of this letter) - Draft Application Document Tracker (see Annex H of this letter) - Updated BoR and schedule of changes to the BoR in clear and tracked versions - Notification by Statutory Parties of their wish to be considered as an IP by the ExA - Requests by Interested Parties to be heard at a subsequent Open Floor Hearing (OFH) - Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) to be heard at a Compulsory Acquisition Hearing (CAH) - Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 - Comments on any information/submissions accepted by the ExA 	
<p>Deadline 2:</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Response to the ExA’s ExQ1 - Written Representations (WRs) - Summaries of all WRs exceeding 1500 words - Comments on LIR(s) - Status of Negotiations with Statutory 	<p>REP2-xxx</p>

<p>Undertakers</p> <ul style="list-style-type: none"> - An updated version of the draft Development Consent Order (dDCO) in clean, tracked and Word versions (if required as a result of the ExA's ExQ1) - Updated BoR and schedule of changes to the BoR (if required) in clear and tracked versions - Comments on the Applicant's draft itinerary for the ASI - Draft Application Document Tracker (if required) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 1 	
<p>Deadline 3:</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written submissions of oral cases - Comments on WRs - Updated SoCG - Updated SoC - An updated version of the dDCO in clean, tracked and word versions (if required as a result of the ExA's commentary) - Updated BoR and schedule of changes to the BoR (if required) - Updated CA Schedule (if required) - Comments on dDCO - Comments on responses to ExQ1 - Draft Application Document Tracker (if required) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 2 	<p>REP3-xxx</p>

<p>Deadline 4</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written submissions of oral cases - Updated Status of negotiations with Statutory Undertakers - Updated CA Schedule (if required) - Comments on the RIES (if published) - Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) to be heard at a Compulsory Acquisition Hearing (CAH) - Requests by Interested Parties to be heard at a subsequent Open Floor Hearing (OFH) and participate at an Issue Specific Hearing (ISH) - Draft Application Document Tracker (if required) - Updated Guide to the Application in clean and tracked versions - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 3 	<p>REP4-xxx</p>
<p>Deadline 5:</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Responses to ExQ2 (if published) - Updated SoCG - Updated SoC - Draft Application Document Tracker (if required) - Comments on the ExA's commentary on, or schedule of changes to, the draft DCO (if required) - An updated version of the dDCO in clean, tracked and word versions (if required as a result of the previously held Hearings) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 4 	<p>REP5-xxx</p>
<p>Deadline 6:</p>	<p>REP6-xxx</p>

<p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on responses to ExQ2 (if published) - Post-hearing submissions including written submissions (if required) - Final SoCG - Final SoC - List of matters not agreed where SoCG could not be finalised - Updated Status of negotiations with Statutory Undertakers - Final Status of Negotiations with Statutory Undertakers - An updated version of the dDCO in clean, tracked and word versions (if required) - Comments on the dDCO - Draft Application Document Tracker (if required) - Updated Guide to the Application in clean and tracked versions - Comments on any further information/submissions received by Deadline 5 - Any further information requested by the ExA under Rule 17 of the Examination Rules 	
<p>Deadline 7:</p> <ul style="list-style-type: none"> - Response to Further Written Questions (if published) - Final DCO to be submitted by the Applicant in the SI template with the SI template validation report - Final updated BoR and schedule of changes to BoR - Final Guide to the Application - Final Status of Negotiations CA Schedule - Final NPS tracker - Comments on the REIS and responses to any associated questions (if published) - Comments on any additional information/submissions received by Deadline 6 - Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 	REP7-xxx
<p>Deadline 7a</p>	REP7a-xxx

<p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Representations on the Applicant's changes to the Application received on 05 June 2023 (Examination Library references [AS-017] to [AS-030]) 	
<p>Deadline 8:</p> <p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on responses to further Written Questions (if published) - Comments on any further information/submissions received by Deadline 7 and Deadline 7a - Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 	REP8-xxx
<p>Other Documents</p> <p>Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents</p>	OD-xxx

EN010110 - Medworth Energy from Waste Combined Heat and Power Facility

Examination Library

Application Documents

APP-001	Medworth CHP Limited Volume 1.1 Covering letter
APP-002	Medworth CHP Limited Volume 1.2 DCO Application Form signed
APP-003	Medworth CHP Limited Volume 1.4 Section 55 Checklist
APP-004	Medworth CHP Limited Volume 1.5 Guide to the Application
APP-005	Medworth CHP Limited Volume 2.1 Site Location Plan
APP-006	Medworth CHP Limited Volume 2.2 Land Plan
APP-007	Medworth CHP Limited Volume 2.3 Works Plan
APP-008	Medworth CHP Limited Volume 2.4 Access and Public Rights of Way Plan
APP-009	Medworth CHP Limited Volume 2.5 Features of Nature Conservation Plan
APP-010	Medworth CHP Limited Volume 2.6 Statutory and Non-Statutory Features of Historic Environment
APP-011	Medworth CHP Limited Volume 2.7 Energy from Waste Combined Heat and Power Facility Elevations
APP-012	Medworth CHP Limited Volume 2.8 Administration Building Elevations
APP-013	Medworth CHP Limited Volume 3.1 Draft Development Consent Order
APP-014	Medworth CHP Limited Volume 3.2 Explanatory Memorandum
APP-015	Medworth CHP Limited Volume 4.1 Book of Reference
APP-016	Medworth CHP Limited Volume 4.2 Funding Statement
APP-017	Medworth CHP Limited Volume 4.3 Statement of Reasons
APP-018	Medworth CHP Limited Volume 5.1 Consultation Report
APP-019	Medworth CHP Limited Volume 5.1 Consultation Report Appendix A to B
APP-020	Medworth CHP Limited Volume 5.1 Consultation Report Appendix C to M
APP-021	Medworth CHP Limited Volume 5.1 Consultation Report Appendix N to II

APP-022	Medworth CHP Limited Volume 5.1 Consultation Report Appendix JJ
APP-023	Medworth CHP Limited Volume 5.1 Consultation Report Appendix H (Confidential)
APP-024	Medworth CHP Limited Volume 5.2 Statement of Statutory Nuisance
APP-025	Medworth CHP Limited Volume 5.3 Habitats Regulations Assessment No Significant Effects Report (NSER)
APP-026	Medworth CHP Limited Volume 5.4 List of Other Consents and Licences
APP-027	Medworth CHP Limited Volume 6.1 ES Non Technical Summary
APP-028	Medworth CHP Limited Volume 6.2 ES Chapter 1 Introduction
APP-029	Medworth CHP Limited Volume 6.2 ES Chapter 2 Alternatives
APP-030	Medworth CHP Limited Volume 6.2 ES Chapter 3 Description of the Proposed Development
APP-031	Medworth CHP Limited Volume 6.2 ES Chapter 4 Approach to Environmental Impact Assessment
APP-032	Medworth CHP Limited Volume 6.2 ES Chapter 5 Legislation and Policy
APP-033	Medworth CHP Limited Volume 6.2 ES Chapter 6 Traffic and Transport
APP-034	Medworth CHP Limited Volume 6.2 ES Chapter 7 Noise and Vibration
APP-035	Medworth CHP Limited Volume 6.2 ES Chapter 8 Air Quality
APP-036	Medworth CHP Limited Volume 6.2 ES Chapter 9 Landscape and Visual
APP-037	Medworth CHP Limited Volume 6.2 ES Chapter 10 Historic Environment
APP-038	Medworth CHP Limited Volume 6.2 ES Chapter 11 Biodiversity
APP-039	Medworth CHP Limited Volume 6.2 ES Chapter 12 Hydrology
APP-040	Medworth CHP Limited Volume 6.2 ES Chapter 13 Geology, Hydrogeology and Contaminated Land
APP-041	Medworth CHP Limited Volume 6.2 ES Chapter 14 Climate
APP-042	Medworth CHP Limited Volume 6.2 ES Chapter 15 Socio-Economics, Tourism, Recreation and Land Use
APP-043	Medworth CHP Limited Volume 6.2 ES Chapter 16 Health
APP-044	Medworth CHP Limited Volume 6.2 ES Chapter 17 Major Accidents and Disasters

APP-045	Medworth CHP Limited Volume 6.2 ES Chapter 18 Cumulative Effects
APP-046	Medworth CHP Limited Volume 6.2 ES Chapter 19 Schedule of Mitigation and Monitoring
APP-047	Medworth CHP Limited Volume 6.3 ES Chapter 1 Introduction Figures
APP-048	Medworth CHP Limited Volume 6.3 ES Chapter 2 Alternatives Figures
APP-049	Medworth CHP Limited Volume 6.3 ES Chapter 3 Description of the Proposed Development Figures
APP-050	Medworth CHP Limited Volume 6.3 ES Chapter 6 Traffic and Transport Figures
APP-051	Medworth CHP Limited Volume 6.3 ES Chapter 7 Noise and Vibration Figures
APP-052	Medworth CHP Limited Volume 6.3 ES Chapter 8 Air Quality Figures
APP-053	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.1 to 9.14
APP-054	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.15i to 9.15x
APP-055	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.15xi to 9.15xxi
APP-056	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.15xxii to 9.15xxx
APP-057	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.16
APP-058	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.17 to 9.24
APP-059	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.25 to 9.32
APP-060	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.33 to 9.39
APP-061	Medworth CHP Limited Volume 6.3 ES Chapter 9 Landscape and Visual Figures 9.40 to 9.46
APP-062	Medworth CHP Limited Volume 6.3 ES Chapter 10 Historic Environment Figures
APP-063	Medworth CHP Limited Volume 6.3 ES Chapter 11 Biodiversity Figures
APP-064	Medworth CHP Limited Volume 6.3 ES Chapter 12 Hydrology Figures
APP-065	Medworth CHP Limited

	Volume 6.3 ES Chapter 13 Geology Hydrogeology and Contaminated Land Figures
APP-066	Medworth CHP Limited Volume 6.3 ES Chapter 15 Socio-economic Figures
APP-067	Medworth CHP Limited Volume 6.3 ES Chapter 18 Cumulative Effects Figures
APP-068	Medworth CHP Limited Volume 6.4 ES Chapter 1 Introduction Appendices
APP-069	Medworth CHP Limited Volume 6.4 ES Chapter 2 Alternatives Appendices
APP-070	Medworth CHP Limited Volume 6.4 ES Chapter 3 Description of the Proposed Development Appendix 3A
APP-071	Medworth CHP Limited Volume 6.4 ES Chapter 3 Description of the Proposed Development Appendix 3B Outline Lighting Strategy
APP-072	Medworth CHP Limited Volume 6.4 ES Chapter 6 Traffic and Transport Appendix 6A Outline Construction Traffic Management Plan
APP-073	Medworth CHP Limited Volume 6.4 ES Chapter 6 Traffic and Transport Appendix 6B Transport Assessment
APP-074	Medworth CHP Limited Volume 6.4 ES Chapter 6 Traffic and Transport Appendix 6C Outline Operational Travel Plan
APP-075	Medworth CHP Limited Volume 6.4 ES Chapter 6 Traffic and Transport Appendix 6D - 6F
APP-076	Medworth CHP Limited Volume 6.4 ES Chapter 7 Noise and Vibration Appendix 7A - 7C
APP-077	Medworth CHP Limited Volume 6.4 ES Chapter 7 Noise and Vibration Appendix 7D Outline Operational Noise Management Plan
APP-078	Medworth CHP Limited Volume 6.4 ES Chapter 8 Air Quality Appendices
APP-079	Medworth CHP Limited Volume 6.4 ES Chapter 9 Landscape and Visual Appendices
APP-080	Medworth CHP Limited Volume 6.4 ES Chapter 10 Historic Environment Appendices
APP-081	Medworth CHP Limited Volume 6.4 ES Chapter 11 Biodiversity Appendix 11A -11D
APP-082	Medworth CHP Limited Volume 6.4 ES Chapter 11 Biodiversity Appendix 11E Badger Survey (Confidential)
APP-083	Medworth CHP Limited Volume 6.4 ES Chapter 11 Biodiversity Appendix 11F-11M
APP-084	Medworth CHP Limited Volume 6.4 ES Chapter 12 Hydrology Appendix 12A FRA
APP-085	Medworth CHP Limited Volume 6.4 ES Chapter 12 Hydrology Appendix 12B - 12E
APP-086	Medworth CHP Limited

	Volume 6.4 ES Chapter 12 Hydrology Appendix 12F Outline Drainage Strategy
APP-087	Medworth CHP Limited Volume 6.4 ES Chapter 13 Geology Appendices
APP-088	Medworth CHP Limited Volume 6.4 ES Chapter 14 Climate Appendices
APP-089	Medworth CHP Limited Volume 6.4 ES Chapter 16 Health Appendices
APP-090	Medworth CHP Limited Volume 6.4 ES Chapter 18 Cumulative Effects Assessment Appendices
APP-091	Medworth CHP Limited Volume 7.1 Planning Statement
APP-092	Medworth CHP Limited Volume 7.1 Planning Statement Executive Summary
APP-093	Medworth CHP Limited Volume 7.2 Electricity Grid Connection Statement
APP-094	Medworth CHP Limited Volume 7.3 Waste Fuel Availability Assessment
APP-095	Medworth CHP Limited Volume 7.4 Project Benefits Report
APP-096	Medworth CHP Limited Volume 7.5 Design and Access Statement
APP-097	Medworth CHP Limited Volume 7.6 Combined Heat and Power Assessment
APP-098	Medworth CHP Limited Volume 7.7 Outline Landscape and Ecology Management Plan
APP-099	Medworth CHP Limited Volume 7.8 Outline Employment and Skills Strategy
APP-100	Medworth CHP Limited Volume 7.9 Outline Flood Emergency Management Plan
APP-101	Medworth CHP Limited Volume 7.10 Outline Fire Prevention Plan
APP-102	Medworth CHP Limited Volume 7.11 Outline Odour Management Plan
APP-103	Medworth CHP Limited Volume 7.12 Outline Construction Environmental Management Plan
APP-104	Medworth CHP Limited Volume 7.13 Tree Survey
APP-105	Medworth CHP Limited Volume 7.14 Outline Community Benefits Strategy
APP-106	Medworth CHP Limited Volume 7.15 Outline Operational Traffic Management Plan
Adequacy of Consultation Responses	
AoC-001	Bedford Borough Council Adequacy of Consultation Response
AoC-002	Breckland Council Adequacy of Consultation Response

AoC-003	Cambridgeshire County Council Adequacy of Consultation Response
AoC-004	Central Bedfordshire Council Adequacy of Consultation Response
AoC-005	East Cambridgeshire District Council Adequacy of Consultation Response
AoC-006	Essex County Council Adequacy of Consultation Response
AoC-007	Fenland District Council Adequacy of Consultation Response
AoC-008	Huntingdonshire District Council Adequacy of Consultation Response
AoC-009	King's Lynn & West Norfolk Adequacy of Consultation Response
AoC-010	Norfolk County Council Adequacy of Consultation Response
AoC-011	North Norfolk District Council Adequacy of Consultation Response
AoC-012	Peterborough County Council Adequacy of Consultation Response
AoC-013	South Holland District Council Adequacy of Consultation Response
AoC-014	Suffolk County Council Adequacy of Consultation Response
AoC-015	West Suffolk Council Adequacy of Consultation Response
Relevant Representations	
RR-001	Borough Council of King's Lynn and West Norfolk (Borough Council of King's Lynn and West Norfolk)
RR-002	Cambridgeshire County Council (Cambridgeshire County Council)
RR-003	Fenland District Council (Fenland District Council)
RR-004	Norfolk County Council (Norfolk County Council)
RR-005	Leziate Parish Council (Leziate Parish Council)
RR-006	Snettisham Parish Council (Snettisham Parish Council)
RR-007	South Wootton Parish Council (South Wootton Parish Council)
RR-008	Walsoken Parish Council (Walsoken Parish Council)
RR-009	West Walton Parish Council (West Walton Parish Council)
RR-010	Adams Hendry Consulting Limited (Adams Hendry Consulting Limited) on behalf of Wisbech Town Council
RR-011	Addleshaw Goddard LLP (Addleshaw Goddard LLP) on behalf of Network Rail Infrastructure Limited (Network Rail Infrastructure Limited)
RR-012	BNP Paribas Real Estate (BNP Paribas Real Estate) on behalf of Royal Mail Group Limited (Royal Mail Group Limited)
RR-013	East of England Ambulance Service NHS Trust (East of England Ambulance Service NHS Trust)
RR-014	Environment Agency (Environment Agency)
RR-015	Fraser Dawbarns LLP (Fraser Dawbarns LLP)
RR-016	Historic England (Historic England)

RR-017	Hundred of Wisbech Internal Drainage Board (Hundred of Wisbech Internal Drainage Board)
RR-018	Icon Engineering (Wisbech) Ltd (Icon Engineering (Wisbech) Ltd)
RR-019	King's Lynn Internal Drainage Board (King's Lynn Internal Drainage Board)
RR-020	Jacobs UK Limited (Jacobs UK Limited) on behalf of Anglian Water (Anglian Water)
RR-021	National Highways Limited (National Highways Limited)
RR-022	Natural England (Natural England)
RR-023	UK HEALTH SECURITY AGENCY (UK HEALTH SECURITY AGENCY)
RR-024	Waldersey Internal Drainage Board (Waldersey Internal Drainage Board)
RR-025	A1 Engraving LTD (A1 Engraving LTD)
RR-026	A Jeffries Recruitment Ltd t/as Driver Hire Wisbech & The Fens (A Jeffries Recruitment Ltd t/as Driver Hire Wisbech & The Fens)
RR-027	Alderman Payne Primary school (Alderman Payne Primary school)
RR-028	The Bramley Line Heritage Railway Trust (The Bramley Line Heritage Railway Trust)
RR-029	Cambian Home tree school (Cambian Home tree school)
RR-030	Clarkes Mowers
RR-031	Cambridge Friends of the Earth (Cambridge Friends of the Earth)
RR-032	CPRE Cambridgeshire and Peterborough (CPRE Cambridgeshire and Peterborough)
RR-033	Elgood & Sons Ltd (Elgood & Sons Ltd)
RR-034	Elgood & sons ltd (Elgood & sons ltd)
RR-035	Engineering & Factory Supplies Ltd (Engineering & Factory Supplies Ltd)
RR-036	Fenland Branch of Unite Community Union (Fenland Branch of Unite Community Union)
RR-037	Fenland & West Norfolk Friends of the Earth Group (Fenland & West Norfolk Friends of the Earth Group)
	Formed Fabrication Ltd (Formed Fabrication Ltd)
RR-038	Floorspan Contracts Ltd (Floorspan Contracts Ltd)
RR-039	F&W Taylor Ltd (F&W Taylor Ltd)
RR-040	Hair at AKA (Hair at AKA)
RR-041	HHA Grounds Maintenance Ltd (HHA Grounds Maintenance Ltd)
RR-042	Hutchinson Group Limited (Hutchinson Group Limited)
RR-043	James Mackle Ltd (James Mackle Ltd)
RR-044	Kings Lynn Without Incineration (KLWIN) (Kings Lynn Without Incineration (KLWIN))
RR-045	MAHA UK Ltd (MAHA UK Ltd)
RR-046	MJ Acoustics (MJ Acoustics)
RR-047	Optimum Packaging Limited (Optimum Packaging Limited)
RR-048	Premierchoice Limited
RR-049	Pro-Clean Industrial UK Ltd (Pro-Clean Industrial UK Ltd)
RR-050	Rapid Recruitment Ltd. (Rapid Recruitment Ltd.)
RR-051	Taylors Reclaims Ltd (Taylors Reclaims Ltd)
RR-052	Tiger Racing Ltd (Tiger Racing Ltd)

RR-053	Peterborough, Fenlands and King's Lynn Community Branch (LE/00021) of Unite the Union (Peterborough, Fenlands and King's Lynn Community Branch (LE/00021) of Unite the Union)
RR-054	Unite Community Union Le/00021 (Unite Community Union Le/00021)
RR-055	United Kingdom Without Incineration Network (UKWIN) (United Kingdom Without Incineration Network (UKWIN))
RR-056	Welding Centre Ltd (Welding Centre Ltd)
RR-057	Welle Streame Ltd (Welle Streame Ltd)
RR-058	WEP Fabrications Ltd (WEP Fabrications Ltd)
RR-059	WEP Powdercoating Ltd (WEP Powdercoating Ltd)
RR-060	Wisbech, March and District Trades Union Council (Wisbech, March and District Trades Union Council)
RR-061	WisWin (WisWin) on behalf of Wisbech Without Incineration (WisWin)
RR-062	Yvecourt Investments (Yvecourt Investments)
RR-063	Philip Abrosimov
RR-064	Juliet Adams
RR-065	Martin Adams
RR-066	Pauline Adams
RR-067	Ann Adkins
RR-068	Ben Aistrup
RR-069	Kim Allen
RR-070	Helen Mary Allmond
RR-071	Astrid Allott
RR-072	Fred Apps
RR-073	Frances Arden
RR-074	Nicola Ashley
RR-075	Marcus Aspden
RR-076	Jean Atkins
RR-077	Kate Badham
RR-078	Angela Bailey
RR-079	Charlotte Anita Bailey
RR-080	Simon Bailey
RR-081	Dr Clive Ballard
RR-082	Julie Ballard
RR-083	Brenda Barber
RR-084	Rt Hon Stephen Barclay MP
RR-085	Barbara Barker
RR-086	Josephine Mary Barnard
RR-087	Mr John Barnes
RR-088	Michael Stephen Barratt
RR-089	Janet Anne Evelyn Barrett-Treen
RR-090	Susan Barton
RR-091	Jacqueline Barwell
RR-092	Jeanette Bateman on behalf of The Bateman Family (The Bateman Family)
RR-093	Claire Bates
RR-094	Lorraine Beakhouse on behalf of Beakhouse (Beakhouse)
RR-095	Diane Beard

RR-096	Marion Beard Jones
RR-097	Beata
RR-098	Richard Bell
RR-099	Mick Bellamy
RR-100	Glyn Bennett
RR-101	Paul Bennett
RR-102	Sarah-Fay Berry
RR-103	Anthony Betts
RR-104	Helana Francise Betts
RR-105	JONATHAN BETTS
RR-106	David Blake
RR-107	Amanda Bliss
RR-108	Susan Blyth
RR-109	Diana Boarer
RR-110	Councillor Chris Boden
RR-111	Debbie Boekee
RR-112	Julie Boriel
RR-113	Peter Boulton
RR-114	Laura Bowden
RR-115	Jonathan Bowman Thompson
RR-116	Roger Bowman Thompson
RR-117	Shane Box
RR-118	Mark Timothy Bradberry
RR-119	Nora Bradford
RR-120	The Brady family (The Brady family) on behalf of The Brady family
RR-121	David Peter Bragg
RR-122	Bruce Braithwaite
RR-123	Mellody Patricia Bray
RR-124	Angela Brennan-glass
RR-125	Kevin Brennan-glass
RR-126	Debra Brenner
RR-127	Jayne Bridgeland
RR-128	Allen David Briscoe
RR-129	Rhiannon Brittain
RR-130	Anthony Howard Brooker
RR-131	Andrew Broughton
RR-132	Annabel Brown
RR-133	Colin Brown
RR-134	Paul Brown
RR-135	Paul Malcolm Delman Brown
RR-136	Richard Brown
RR-137	Richard Brown
RR-138	Eleanor Brown-Ahern
RR-139	Lee Brown-Ahern
RR-140	Nicola Brundle
RR-141	A J Bryant
RR-142	PJ Bryant
RR-143	Marilyn Buckley
RR-144	Martin John Buckley

RR-145	Michael George Bucknor
RR-146	Virginia Mary Bucknor
RR-147	Derek Bull
RR-148	Sarah Jane Bunning
RR-149	Maureen Burgess
RR-150	Andrew Burke
RR-151	Niall Burnell
RR-152	Jade Burns
RR-153	MICHAEL BURNS
RR-154	R Burry
RR-155	Christopher John Calver
RR-156	Hannah Campagna
RR-157	Jack Cannon
RR-158	Nicola Carr
RR-159	Samantha Carrier
RR-160	Benjamin Charles Carter
RR-161	Shirley Carter
RR-162	Vincent James Cartledge
RR-163	Louise Cater
RR-164	Karen Scott Champion
RR-165	Amanda Channing
RR-166	Ruth Chaplain-Barton
RR-167	James Chase
RR-168	Joanne Chase
RR-169	Douglas Cheyne
RR-170	Robin Clapperton
RR-171	Stephen McGrath Clark
RR-172	Linda Clarke
RR-173	Michael Clarke
RR-174	Richard David Clarke
RR-175	Simon Clarke
RR-176	wayne clarke cowling
RR-177	Roy Henry Claxton
RR-178	Tony Clee
RR-179	sarah cliss
RR-180	Julie Dawn Coales
RR-181	James Coates
RR-182	Diana Coe
RR-183	Rachel Collins
RR-184	Robert Colwell
RR-185	Christine Cook
RR-186	Wayne Cook
RR-187	William Cook
RR-188	Susan Cooke
RR-189	Ian W Cooper
RR-190	Philip Cooper
RR-191	Brodie Kyle Corbett
RR-192	Lisa Corbett
RR-193	Peter Thomas Corbett
RR-194	Raymond Denis Costen

RR-195	Mary Cowan
RR-196	Robert Cowen
RR-197	Bradley Cox
RR-198	Anne Craw
RR-199	Bettina Croft
RR-200	Susan Joy Crown
RR-201	Patricia Anne Cuthbertson
RR-202	Charles Cutler
RR-203	Diane P Cutler
RR-204	Christopher Dallison
RR-205	Lee Dalton
RR-206	Travers Dann
RR-207	Alexander Daniel
RR-208	Barrie John Darville
RR-209	Mark Davenport
RR-210	David John Davey
RR-211	Colin Davies
RR-212	Elisabeth Davies
RR-213	Maureen Therese Davis
RR-214	Carolyn Day
RR-215	Sara Dennis
RR-216	Andrew Michael de WHALLEY
RR-217	Ana Catarina Dias Lopes
RR-218	Owen Dobson
RR-219	Susan Julia Dockett
RR-220	Margaret Diane Donaldson
RR-221	Alan Dougall
RR-222	Kathy Dougall
RR-223	Paul Downham
RR-224	Tanya Downham
RR-225	Anthony Dring
RR-226	Dorothy Duffy
RR-227	Sarah Dunn
RR-228	Kevin Durham
RR-229	Andrea Durling
RR-230	Karen Durrant
RR-231	Nigel Dyer
RR-232	Albert Edward Eaglen
RR-233	Paul Edward Eden
RR-234	Adam Edgeley
RR-235	Andrew James Edgeley
RR-236	Tracey Edgeley
RR-237	Adrian Edgington
RR-238	Linda Jean Edwards
RR-239	Neil Elcome
RR-240	Nigel Elgood
RR-241	Rosemary Elliott
RR-242	Lin everett
RR-243	Darren Exell
RR-244	Adam John Fairbrother

RR-245	Pamela Fenton
RR-246	Laia Fernandez Tolos
RR-247	Maureen Fernley
RR-248	Betty Glenys Fillingham
RR-249	William David Fillingham
RR-250	Barry Fogarty
RR-251	Belinda Francis
RR-252	Andrea Louisa French
RR-253	Joyce Fry
RR-254	Roland Fry
RR-255	The Fuller Family
RR-256	Martin Field
RR-257	Christopher John Finlay
RR-258	Valerie Fitzpatrick
RR-259	Lesley Ford
RR-260	David Forster
RR-261	Belinda Francis
RR-262	Rosina Jane Frost
RR-263	Stephen John Frost
RR-264	Barry George Fryer
RR-265	Mr Glen Fulcher
RR-266	Kim Fulcher
RR-267	Julia Gale
RR-268	John Gallagher
RR-269	Wendy Anne Galley
RR-270	Christine Gardner
RR-271	Chris Garner
RR-272	Kieran Garrett
RR-273	Karen and Pat Gathercole
RR-274	Mrs Sally Gibbs
RR-275	Geoffrey Chapman Gibson
RR-276	Lesley Gibson
RR-277	Anne Gilbert
RR-278	Mark Gilbert
RR-279	Trevor Gilbert
RR-280	Will Gilbert
RR-281	Adam gipp
RR-282	P W Gleaves
RR-283	Alan John Gooch
RR-284	Gillian Goodchild
RR-285	Peter goodchild
RR-286	Rosemary Goodenough
RR-287	Cliff Goodman
RR-288	Jean Goward
RR-289	Jean Goward
RR-290	Emma Gower
RR-291	Jane Gower
RR-292	Martin Gower
RR-293	Colin Gowler
RR-294	Charlotte Graham-Cameron

RR-295	Karen Grainger-Smith
RR-296	Louise Gratton
RR-297	David Green
RR-298	Davina Green
RR-299	James Green
RR-300	James Andrew Green
RR-301	Lisa Anne Green
RR-302	Lynda Green
RR-303	Phill Green
RR-304	Marina Guarino
RR-305	Rosie Guest
RR-306	David Gutteridge
RR-307	Diana Elizabeth Haine
RR-308	Neil Halliday
RR-309	David Hammond
RR-310	Gary Hancock
RR-311	Alan Hanrahan
RR-312	Andrew Harnwell
RR-313	Karen Harrington
RR-314	Eleanor Harris
RR-315	Simon James Harris
RR-316	John Harrison
RR-317	Joanne Hart
RR-318	Paul Maurice Harwood
RR-319	Brian Hay
RR-320	Debbie Hayler
RR-321	Henry Michael Head
RR-322	Jacob Hearn
RR-323	Jason hearn
RR-324	Joanne Hearn
RR-325	Lucia Hedderley
RR-326	Irene Henson
RR-327	Barry William HILL
RR-328	Jane Hill
RR-329	Sue Hill
RR-330	Susan Hilland
RR-331	Felicity Hills
RR-332	Michael Hodgskins
RR-333	Bob Hodgson
RR-334	Stephen Holloway
RR-335	Pauline Holman
RR-336	Debra Hook
RR-337	Michael Anthony Hopgood
RR-338	Ruth Fenella Hopgood
RR-339	Margaret Jane Horscroft
RR-340	Angie Horton
RR-341	I.horton
RR-342	Andrew Houghton
RR-343	Samantha Houghton
RR-344	Scarlett Georgia Housden

RR-345	Sharon Housden
RR-346	Mick Howard
RR-347	Emma Howlett
RR-348	Joseph Thomas Howlett
RR-349	Lea Howley
RR-350	Karen Hughes
RR-351	Paul Hughes
RR-352	Beverley Hulme
RR-353	Peter Human
RR-354	Richard Humphrey
RR-355	Sandra Elizabeth Humphrey
RR-356	Michael Huntley-Chipper
RR-357	Patricia Huntley-Chipper
RR-358	Stephen Hurst
RR-359	Jan Hutchinson on behalf of Hutchinsons
RR-360	Nigel Hutton
RR-361	Burleigh Ibbott
RR-362	Judith Ingram
RR-363	Paula Ireland
RR-364	Elaine Ann Jefferis
RR-365	Holly Jayne Jefferis
RR-366	John Jefferis
RR-367	Lucy Jefferis
RR-368	Susanne Caroline Jennings
RR-369	Anthony Percy Johnson
RR-370	Carla Johnson
RR-371	Madeleine Ruth Johnson
RR-372	Peter Johnson
RR-373	Alan Jones
RR-374	Ann Elizabeth Jones
RR-375	Elizabeth Jane Jones
RR-376	Gary Jones
RR-377	Jean Mary Jones
RR-378	James Joyce
RR-379	Hollie Judd
RR-380	Councillor Alexandra Kemp (Borough of King's Lynn and West Norfolk) (Councillor Alexandra Kemp (Borough of King's Lynn and West Norfolk))
RR-381	Alastair Kent
RR-382	MRS JANET KERBY
RR-383	John Kierman
RR-384	Russ Killick
RR-385	William King
RR-386	Darren Kirk
RR-387	Rebecca Kirk
RR-388	Janet Knight
RR-389	John Knight
RR-390	Michelle Knight
RR-391	Judi Knights
RR-392	Donna Knott

RR-393	Heather Knott
RR-394	John Edward Knott
RR-395	Katarzyna Komasa
RR-396	Brian Lakey
RR-397	Clive Landa
RR-398	Alex Lane
RR-399	Paul Lattimore
RR-400	Dr S Lawrence
RR-401	Stephanie Lee
RR-402	Wendy Lemon
RR-403	The Lewis Family (The Lewis Family) on behalf of The Lewis Family (The Lewis Family)
RR-404	John Lewis
RR-405	K Lipscomb
RR-406	Jessica Lloyd
RR-407	Claudia Logan
RR-408	Stuart Lowes
RR-409	Angela Loynes
RR-410	Michael Lyon
RR-411	Annegret Mabbett
RR-412	Christopher MacKillican
RR-413	Valerie Macrae
RR-414	James Major-Mackay
RR-415	B Males
RR-416	Pamela Manley
RR-417	G J Mann
RR-418	Patricia Eveline Lecompte usage Manning
RR-419	A Manning
RR-420	Lisa Manning
RR-421	Michael Marriott
RR-422	Anne Marsden
RR-423	John Marsden
RR-424	Barbara Marshall
RR-425	K Martin
RR-426	G Martin
RR-427	Georgina martin
RR-428	Stephen Masterson
RR-429	Elizabeth Maxey
RR-430	Hugh Richard Maxey
RR-431	Wayne McCoo
RR-432	Julia Jane McCourt
RR-433	Debra Eve McGowan
RR-434	Amanda McGrath
RR-435	John Terence Blake McGrath
RR-436	Sheila McGrath Clark
RR-437	Stephen John McGregor
RR-438	Elizabeth Mcmanus
RR-439	Michael William Mead
RR-440	Nicholas Anthony Meekins
RR-441	Paul Merrell

RR-442	Rose Merrilees
RR-443	Alison Merton
RR-444	David Miles
RR-445	Julie Mills
RR-446	Corrine Mitcham
RR-447	Mark Mitcham
RR-448	Robert Mitchell
RR-449	Garry Monger
RR-450	Sharon Monk
RR-451	Lucy Moody
RR-452	Adrian Moore
RR-453	Annie Moore
RR-454	Sylvia Moore
RR-455	Terence John Moore
RR-456	Carole Ann Morris
RR-457	Richard Morrish
RR-458	Helen Janice Mowat
RR-459	Neal John Mowbray
RR-460	Rob Murphy
RR-461	Diana Mutimer
RR-462	Janette Neeld
RR-463	Joanne negus
RR-464	Geoff Newham
RR-465	Frances Nolan
RR-466	Donna Northwood
RR-467	Martin Norman
RR-468	Andrew Nuttall
RR-469	Jevan Oakley
RR-470	John Colin Ogden
RR-471	David Colin Oliver
RR-472	Hadleigh Osborne
RR-473	Elizabeth Oselton
RR-474	Roisin Mary O'Shea
RR-475	Rebecca Owen
RR-476	Ci Bob Page
RR-477	Darrin Parish
RR-478	Mark Andrew parker
RR-479	Linda Parsley
RR-480	Linda Parsley on behalf of Neil Parsley (Neil Parsley)
RR-481	Reema Pate-Lynn
RR-482	K Payne
RR-483	Ronald Payne
RR-484	Brian Pawley
RR-485	Gloria Peacock
RR-486	Thomas Pearson
RR-487	Stephen David John Penny
RR-488	Helen Pentelow
RR-489	William Pentelow
RR-490	Sarah Perks
RR-491	Jenny Perryman

RR-492	Philip Pilbeam
RR-493	Christopher John pirie
RR-494	Mark Plumb
RR-495	Linda Pollard
RR-496	Rebecca Kate Prest
RR-497	John Prior
RR-498	Paul Edward Probets
RR-499	Katie Punter
RR-500	Andrew Charles Pyshorn
RR-501	Colin Quince
RR-502	John Patrick Ramsay
RR-503	James L Rand
RR-504	jaswinder rao
RR-505	Pauline Rayner
RR-506	Paul Reachill
RR-507	Carly Read
RR-508	Jayne Suzanne Reeve
RR-509	Roberta Reilly
RR-510	Nicholas Reims
RR-511	Antony Richardson
RR-512	Stella Richardson
RR-513	Nadine Ridgewell
RR-514	Simon Ridgewell
RR-515	Trudy Ann Ridgewell
RR-516	Angela Risebrow
RR-517	Maureen Robertson
RR-518	Simon Robshaw
RR-519	Sara Rolfe
RR-520	Christine Rothwell
RR-521	Shirley Rowley
RR-522	Daljit Roy
RR-523	Megan royal
RR-524	Robyn Rudland
RR-525	David Russell
RR-526	Lynda Russell
RR-527	Jonathan Rylance
RR-528	Alan Sacre
RR-529	Ebru Sahin
RR-530	David Salmon
RR-531	Brian Samson
RR-532	Elizabeth Samson
RR-533	Janice Sandom
RR-534	Anne Sargeant
RR-535	Mervyn Sargeant
RR-536	Marie Savine
RR-537	Antony Scott
RR-538	Helen Scott
RR-539	Susan Scott
RR-540	Linda Mary Seagroatt
RR-541	Timothy Robert Seagroatt

RR-542	Kathryn Severn
RR-543	Nicola Sewell
RR-544	Glenn David Shales
RR-545	Jacqueline Shanks
RR-546	David Sharpe
RR-547	Maria Sheppard
RR-548	K. G. Sherry
RR-549	Jennifer Alison Shippey
RR-550	Carole Anne Simmonds
RR-551	Paul simpson
RR-552	Jayne Sinnott
RR-553	Peter Slater
RR-554	Martin Slough
RR-555	Kenneth John Smart
RR-556	Sandra Smedley
RR-557	Jane Smith
RR-558	Katherine Smith
RR-559	Paul Smith
RR-560	Paul Smith
RR-561	Robert Smith
RR-562	Steven Smith
RR-563	Stephen Snell
RR-564	Mark Southwell
RR-565	David Spinks
RR-566	Debora Spiteri
RR-567	Grace Stanford
RR-568	Nigel Staff
RR-569	Patricia Stammers
RR-570	Duncan Stevenson
RR-571	Craig Stewart
RR-572	Maureen Ann Stewart
RR-573	Maureen Ann Stewart
RR-574	Adrian Graham Stokes
RR-575	helen strickle
RR-576	Sara Strickle
RR-577	David Sturgess
RR-578	Deirdre Sturgess
RR-579	Phyl Sugden
RR-580	Phyl Sugden on behalf of Robert Edwin Sugden (Robert Edwin Sugden)
RR-581	Nicola Ann Sutheran
RR-582	Jude Sutton
RR-583	Mark Antony Swann
RR-584	Barbara Symonds
RR-585	John Symonds
RR-586	Lorrain Symons
RR-587	Marcus Symons
RR-588	Tamar IT Limited (Tamar IT Limited)
RR-589	Margaret Tanner
RR-590	Andrew Taylor

RR-591	Emma Taylor
RR-592	John Taylor
RR-593	Michael Charles Taylor
RR-594	Rachel Taylor
RR-595	Shawn Taylor
RR-596	Sean Terrington Logan
RR-597	Deborah Thomas
RR-598	Janet Susan Thompson
RR-599	Simon Thompson
RR-600	Michael Eric Thornborrow
RR-601	Emily Thorpe
RR-602	nicholas John Thorpe
RR-603	Tracey Thulborn
RR-604	Cllr Steven Tierney
RR-605	Jennifer Ann Titman
RR-606	Louise Tombleson
RR-607	John Louis Tonks
RR-608	Barry Toovey
RR-609	Carol Toovey
RR-610	Lisa Toovey
RR-611	Mrs Jeanette Townsend
RR-612	Elizabeth Truss
RR-613	Alexander Vale
RR-614	Christine May Vale
RR-615	David Granville Thomas Veal
RR-616	Gary Veasey
RR-617	Eimantas Vileikis
RR-618	Janet Vint
RR-619	Kevin Waddington
RR-620	Nicholas Wakeling
RR-621	Corinne Walker
RR-622	Craig Wallace
RR-623	Michael Waller-Bridge
RR-624	Hillary Warby
RR-625	Jason Watson
RR-626	Dr U Waverley
RR-627	Roy Alan Weare
RR-628	Dawn-marie Webber
RR-629	Hannah Welcher
RR-630	Stephen Charles Wenn
RR-631	Robert West
RR-632	April Louise Westwood
RR-633	Alan Wheeldon
RR-634	Valerie whitby
RR-635	Beatrice White
RR-636	Dennis white
RR-637	Fred White
RR-638	Mervyn John White
RR-639	Adam Whittaker
RR-640	Sandra Willatt

RR-641	Jessica Williams
RR-642	Julie Priscilla Williams
RR-643	Nicholas Williams
RR-644	Kelly Wilshire
RR-645	Kevin Wilshire
RR-646	Anthony wilson
RR-647	Christian Mark Wilson
RR-648	George Wilson
RR-649	Michelle Mary Elaine Wilson
RR-650	Paul WILSON
RR-651	Samantha Wilson
RR-652	Tina Wilson
RR-653	Jacqueline Wisby
RR-654	Phil Wiskin
RR-655	John Woods
RR-656	Paul Woodward
RR-657	Martin Woollard
RR-658	Anne Jocelyn Wright
RR-659	Michelle wright
RR-660	Maurice Peter Wright IEng MIED (retired structural engineer)
RR-661	Trevor Wright
RR-662	Wendy Wright
RR-663	Andrew John Wring
RR-664	Janice Young
RR-665	Julie Young
RR-666	Trevor Young
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Rule 4 Letter - Appointment of the Examining Authority
PD-005	Rule 6 letter - notification of the preliminary meeting and matters to be discussed
PD-006	Rule 4, Rule 8 and Rule 9 - Examination Timetable and procedure, and appointment of a Panel as the Examining Authority
PD-007	Rule 4 Letter - Appointment of the Examining Authority - Switching from a single appointed person to a Panel
PD-008	Examining Authority's First Written Questions (ExQ1)
PD-009	Rule 13 - Notification of Hearings
PD-010	Rule 16 - Notification of ASI letter
PD-011	Rule 13 - Notification of Hearings
PD-012	Procedural Decision regarding Notification of the Applicant's intention to submit a request for changes
PD-013	Examining Authority's Written Questions (ExQ2)
PD-014	Schedule of changes to the draft Development Consent Order (dDCO)
PD-015	Rule 9 and 13 - Notification of Hearings
PD-016	Procedural Decision following request to make changes to the application

PD-017	Examining Authority's Third Written Questions (ExQ3)
PD-018	Rule 8(3) and Rule 9 - following submission of non-statutory consultation and Amended Examination Timetable
PD-019	Request for Further Information - Rule 17
PD-020	Notification of completion of the Examining Authority's Examination
Additional Submissions	
AS-001	Medworth CHP Limited Additional Submission – Applicant's Response to s51 advice on 2 August 2022 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-002	Medworth CHP Limited Additional Submission – 1.5 Guide to the Application (Clean) - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-003	Medworth CHP Limited Additional Submission – 1.5 Guide to the Application (Tracked) - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-004	Medworth CHP Limited Additional Submission – 2.2 Land Plans - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-005	Medworth CHP Limited Additional Submission – 2.4 Access and Rights of Way Plan - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-006	Medworth CHP Limited Additional Submission – 4.1 Book of Reference - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-007	Medworth CHP Limited Additional Submission – 5.3 Habitats Regulations Assessment No Significant Effects Report (NSER) - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-008	Medworth CHP Limited Additional Submission – 6.2 Environmental Statement Chapter 11 Biodiversity - Rev 2 - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-009	Medworth CHP Limited

	Additional Submission – 6.4 Environmental Statement Chapter 11 Biodiversity Appendix 11M Biodiversity Net Gain - Rev 2 -This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-010	Medworth CHP Limited Additional Submission - Volume 6.4 ES Chapter 7 Noise and Vibration Appendix 7A - 7C Revision 2 - Additional submission submitted by Applicant - This was published provisionally on the 26 August 2022 and has now been accepted by the ExA on the 11 November 2022, following his appointment on the 25 October 2022
AS-011	Chris Benton Additional Submission - Accepted at the discretion of the Examining Authority
AS-012	Sedgeford Parish Council Additional Submission - Accepted at the discretion of the Examining Authority
AS-013	Wendy Rogers Additional Submission - Accepted at the discretion of the Examining Authority
AS-014	Cambridgeshire County Council Additional Submission - Letter from Cambridgeshire County Council in relation to ISH2, accepted at the discretion of the Examining Authority
AS-015	Medworth CHP Limited Additional Submission - Accepted at the discretion of the Examining Authority. Applicant's notification of intention to submit request for changes dated 16 May 2023
AS-016	Cambridgeshire County Council Additional Submission - Letter from Cambridgeshire County Council in relation to Applicant's Non-Material Amendment Request, accepted at the discretion of the Examining Authority
Applicant's change request dated 5 June 2023	
AS-017	Medworth CHP Limited Change request – 1.5 Guide to the Application – Rev 7.A - Change Application - Accepted at the discretion of the Examining Authority
AS-018	Medworth CHP Limited Change request -2.1 Site Location Plan - Rev 1A - Change Application -Accepted at the discretion of the Examining Authority
AS-019	Medworth CHP Limited Change request - 2.2 Land Plan - Rev 4A - Change Application - Accepted at the discretion of the Examining Authority
AS-020	Medworth CHP Limited Change request - 2.3 Works Plan - Rev 2A - Change Application - Accepted at the discretion of the Examining Authority
AS-021	Medworth CHP Limited Change request - 2.4 Access and Rights of Way Plan - Rev 4A - Change Application - Accepted at the discretion of the Examining Authority

AS-022	Medworth CHP Limited Change request - 2.5 Features of Nature Conservation Plan - Rev 1A - Change Application - Accepted at the discretion of the Examining Authority
AS-023	Medworth CHP Limited Change request - 2.6 Statutory and Non-Statutory Features of Historic Environment - Rev 2A - Change Application - Accepted at the discretion of the Examining Authority
AS-024	Medworth CHP Limited Change of request - 3.1 Draft Development Consent Order (Tracked) - Rev 3A - Change Application - Accepted at the discretion of the Examining Authority
AS-025	Medworth CHP Limited Change of request - 3.1 Draft Development Consent Order (Clean) - Rev 3A - Change Application - Accepted at the discretion of the Examining Authority
AS-026	Medworth CHP Limited Change request - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport - Appendix 6A Outline CTMP - Change Application - Rev 4.A - Accepted at the discretion of the Examining Authority
AS-027	Medworth CHP Limited Change request - 13.1 - Covering Letter - Change Application - Accepted at the discretion of the Examining Authority
AS-028	Medworth CHP Limited Change request - 13.2 Change Application Report - Rev 1 - Accepted at the discretion of the Examining Authority
AS-029	Medworth CHP Limited Change request - 13.3 Environmental Statement - Chapter 6 - Appendix 6B -Transport Assessment Addendum - Rev 1 - Accepted at the discretion of the Examining Authority
AS-030	Medworth CHP Limited Change request - 13.4 Schedule of Changes – Change Application - Rev 1 - Accepted at the discretion of the Examining Authority
AS-031	Medworth CHP Limited Applicant's request regarding the notification of hearings w/c 26 June 2023
AS-032	Medworth CHP Limited Applicant response to the ExA's Procedural Decision of 13 June 2023 - accepted at the discretion of the Examining Authority
Non-Statutory Consultation Report in relation to the Applicant's change request dated 5 June 2023	
AS-033	Medworth CHP Limited Additional Submission - Change application Consultation report Cover letter
AS-034	Medworth CHP Limited

	Additional Submission - 13.6 Change Application: Non-Statutory Consultation report
Additional Submissions	
AS-035	Tesco Plc Additional Submission - Tesco Plc response to Medworth CHP Limited - accepted at the discretion of the ExA
Events and Hearings	
Accompanied, Unaccompanied Site Inspections, Preliminary Meeting and Hearings	
EV-001	Examining Authority's Note of an Unaccompanied Site Inspection (USI1) - 23 November 2022
EV-002	Recording of Preliminary Meeting - 21 February 2023
EV-003	Preliminary Meeting - Transcript - 21 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-004	Recording of Issue Specific Hearing (ISH) 1 on the scope of the Proposed Development and Alternatives – Part 1 - 22 February 2023
EV-005	Recording of Issue Specific Hearing (ISH) 1 on the scope of the Proposed Development and Alternatives - Part 2 - 22 February 2023
EV-006	Recording of Issue Specific Hearing (ISH) 1 on the scope of the Proposed Development and Alternatives - Part 3 - 22 February 2023
EV-007	Issue Specific Hearing 1 on the scope of the Proposed Development and Alternatives - Part 1 - Transcript - 22 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008	Issue Specific Hearing 1 on the scope of the Proposed Development and Alternatives - Part 2 - Transcript - 22 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-009	Issue Specific Hearing 1 on the scope of the Proposed Development and Alternatives - Part 3 - Transcript - 22 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-010	Recording of Open Floor Hearing 1 - 22 February 2023

EV-011	Open Floor Hearing 1- Transcript - 22 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-012	Recording of Open Floor Hearing 2 - 23 February 2023
EV-013	Open Floor Hearing 2 - Transcript - 23 February 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-014	Preliminary Meeting Note
EV-015	Action Points from Issue Specific Hearing 1 (ISH1) - 22 February 2023
EV-016	Agenda for Issue Specific Hearing 2 (ISH2) - 12 April 2023
EV-017	Agenda for Compulsory Acquisition Hearing 1 (CAH1) - 13 April 2023
EV-018	Agenda for Compulsory Acquisition Hearing 2 (CAH2) - 13 April 2023
EV-019	Compulsory Acquisition Hearing 1 (CAH1) - Thursday 13 April 2023
EV-020	Transcript of Recording of Compulsory Acquisition Hearing 1 (CAH1)- Thursday 13 April 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-021	Compulsory Acquisition Hearing 2 (CAH2) - Thursday 13 April 2023
EV-022	Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2)- Thursday 13 April 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-023	Recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 1 - Wednesday 12 April 2023
EV-024	Transcript of the recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 1 - Wednesday 12 April 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-025	Recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 2 - Wednesday 12 April 2023
EV-026	Transcript of the recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 2 - Wednesday 12 April 2023

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-027	Recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 3 - Wednesday 12 April 2023
EV-028	Transcript of the recording of Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) - Part 3 - Wednesday 12 April 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-029	Examining Authority's Note of an Unaccompanied Site Inspection (USI2) - 11,13,14 April 2023
EV-030	Action Points from Compulsory Acquisition Hearing 1 (CAH1) - 13 April 2023
EV-031	Action Points from Compulsory Acquisition Hearing 2 (CAH2) - 13 April 2023 (PDF, 54 KB)
EV-032	Action Points from Issue Specific Hearing 2 (ISH2) - 12 April 2023
EV-033	Accompanied Site Inspection Itinerary - 11 May 2023
EV-034	Agenda for Issue Specific Hearing 3 (ISH3) on Environmental Matters - 16 May 2023
EV-035	Agenda for Issue Specific Hearing 4 (ISH4) on Environmental Matters - 17 May 2023
EV-036	Agenda for Issue Specific Hearing 5 (ISH5) on Environmental Matters - 18 May 2023
EV-037	Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 1 – Tuesday 16 May 2023
EV-038	Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 2 – Tuesday 16 May 2023
EV-039	Recording of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 3 – Tuesday 16 May 2023
EV-040	Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 1 – Tuesday 16 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-041	Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 2 – Tuesday 16 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-042	Transcript of Issue Specific Hearing 3 (ISH3) on Environmental Matters – Part 3 – Tuesday 16 May 2023

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-043	Recording of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 1 – Wednesday 17 May 2023
EV-044	Recording of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 2 – Wednesday 17 May 2023
EV-045	Recording of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 3 – Wednesday 17 May 2023
EV-046	Recording of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 4 – Wednesday 17 May 2023
EV-047	Transcript of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 1 – Wednesday 17 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-048	Transcript of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 2 – Wednesday 17 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-049	Transcript of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 3 – Wednesday 17 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-050	Transcript of Issue Specific Hearing 4 (ISH4) on Environmental Matters – Part 4 – Wednesday 17 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-051	Recording of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 1 – Thursday 18 May 2023
EV-052	Recording of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 2 – Thursday 18 May 2023
EV-053	Recording of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 3 – Thursday 18 May 2023
EV-054	Recording of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 4 – Thursday 18 May 2023
EV-055	Transcript of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 1 – Thursday 18 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-056	Transcript of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 2 – Thursday 18 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-057	Transcript of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 3 – Thursday 18 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-058	Transcript of Issue Specific Hearing 5 (ISH5) on Environmental Matters – Part 4 – Thursday 18 May 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-059	Action Points from Issue Specific Hearings 3, 4 and 5 (ISH3, ISH4 and ISH5)
EV-060	Examining Authority’s Note of an Unaccompanied Site Inspection (USI3) - 10 May 2023
EV-061	Issue Specific Hearing 6 on Environmental Matters
EV-062	Issue Specific Hearing 7 on Environmental Matters
EV-063	Compulsory Acquisition Hearing 3
EV-064	Open Floor Hearing 3
EV-065	Recording of Issue Specific Hearing 6 (ISH6) – Part 1 – Monday 26 June 2023
EV-066	Recording of Issue Specific Hearing 6 (ISH6) – Part 2 – Monday 26 June 2023
EV-067	Recording of Issue Specific Hearing 6 (ISH6) – Part 3 – Monday 26 June 2023
EV-068	Transcript of Issue Specific Hearing 6 (ISH6) – Part 1 – Monday 26 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-069	Transcript of Issue Specific Hearing 6 (ISH6) – Part 2 – Monday 26 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-070	Transcript of Issue Specific Hearing 6 (ISH6) – Part 3 – Monday 26 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-071	Recording of Issue Specific Hearing 7 (ISH7) – Part 1 – Tuesday 27 June 2023
EV-072	Recording of Issue Specific Hearing 7 (ISH7) – Part 2 – Tuesday 27 June 2023
EV-073	Recording of Issue Specific Hearing 7 (ISH7) – Part 3 – Tuesday 27 June 2023
EV-074	Transcript of Issue Specific Hearing 7 (ISH7) – Part 1 – Tuesday 27 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-075	Transcript of Issue Specific Hearing 7 (ISH7) – Part 2 – Tuesday 27 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-076	Transcript of Issue Specific Hearing 7 (ISH7) – Part 3 – Tuesday 27 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-077	Recording of Compulsory Acquisition Hearing 3 (CAH3) - 29 June 2023
EV-078	Transcript of Compulsory Acquisition Hearing 3 (CAH3) - 29 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-079	Recording of Open Floor Hearing 3 (OFH3) - 29 June 2023
EV-080	Transcript of Open Floor Hearing 3 (OFH3) - 29 June 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-081	Action Points from Issue Specific Hearings 6 (ISH6)
EV-082	Action Points from Issue Specific Hearings 7 (ISH7)
Representations	
Procedural Deadline A – 10 February 2023	
PDA-001	Medworth CHP Limited Procedural Deadline A Submission - Written submissions on the Examination Procedure and Timetable
PDA-002	Medworth CHP Limited Procedural Deadline A Submission - Statement of Common Ground between Medworth CHP Limited and Network Rail
PDA-003	Medworth CHP Limited

	Procedural Deadline A Submission - Guide to the Application - Revision 3 (Amended)
PDA-004	Medworth CHP Limited Procedural Deadline A Submission - Guide to the Application - Revision 3
PDA-005	Not in use
PDA-006	Anglian Water Procedural Deadline A Submission - Written submissions on the Examination Procedure and Timetable
PDA-007	Cambridgeshire County Council Procedural Deadline A Submission - Other
PDA-008	Fenland District Council Procedural Deadline A Submission - Request to participate in the Issue Specific Hearing 1 (ISH1) on 22 February 2023
PDA-009	Norfolk County Council Procedural Deadline A Submission - Other
PDA-010	Virginia Bucknor Procedural Deadline A Submission - Suggested locations for site inspections
PDA-0011	Virginia Bucknor Procedural Deadline A Submission - Other

Deadline 1 – 10 March 2023

For receipt by the ExA of:

- Comments on Relevant Representations (RRs) (see Annex H of this letter)
- Summaries of all RR's exceeding 1500 words (see Annex H of this letter)
- Post-hearing submissions including written submissions of oral cases as heard on OFH1, OFH2 and ISH1
- Applicant's draft itinerary for Accompanied Site Inspection (ASI) (if required)
- Local Impact Report(s) (LIRs)
- Draft Statements of Common Ground (SoCG) (see Annex H of this letter)
- Draft Statement of Commonality (SoC) of SoCG (see Annex H of this letter)
- The Compulsory Acquisitions (CA) Schedule (see Annex H of this letter)
- Draft National Policy Statement (NPS) Tracker (see Annex H of this letter)
- Draft Application Document Tracker (see Annex H of this letter)
- Updated BoR and schedule of changes to the BoR in clear and tracked versions
- Notification by Statutory Parties of their wish to be considered as an IP by the ExA
- Requests by Interested Parties to be heard at a subsequent Open Floor Hearing (OFH)
- Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) to be heard at a Compulsory Acquisition Hearing (CAH)
- Any further information requested by the ExA under Rule 17 of The

Infrastructure Planning (Examination Procedure) Rules 2010 - Comments on any information/submissions accepted by the ExA	
REP1-001	Medworth CHP Limited Deadline 1 Submission - 4.1 Updated Book of Reference (Clean)
REP1-002	Medworth CHP Limited Deadline 1 Submission - 1.5 Guide to the Application – Revision 4 (Tracked)
REP1-003	Medworth CHP Limited Deadline 1 Submission - 1.5 Guide to the Application – Revision 4 (Clean)
REP1-004	Medworth CHP Limited Deadline 1 Submission - 2.2 Land Plan (Rev3)
REP1-005	Medworth CHP Limited Deadline 1 Submission - 2.4 Access and Rights of Way Plan (Rev3)
REP1-006	Medworth CHP Limited Deadline 1 Submission - 3.1 Draft Development Consent Order (Tracked) - Rev2
REP1-007	Medworth CHP Limited Deadline 1 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 2
REP1-008	Medworth CHP Limited Deadline 1 Submission - 4.1 Updated Book of Reference (Tracked)
REP1-009	Medworth CHP Limited Deadline 1 Submission - 6.3 ES Chapter 3 Description of the Proposed Development - Figures 3.19 i-iv (Rev2)
REP1-010	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport - Appendix 6A - Outline Construction Traffic Management Plan (Tracked) - Rev 2
REP1-011	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport - Appendix 6A - Outline Construction Traffic Management Plan (Clean) - Rev 2
REP1-012	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 7 - Noise and Vibration Appendix 7D - Outline Operational Noise Management Plan (Tracked) - Rev 2
REP1-013	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 7 - Noise and Vibration Appendix 7D - Outline Operational Noise Management Plan (Clean) - Rev 2
REP1-014	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 8 - Air Quality Appendix 8B - Air Quality Technical Note (Tracked)
REP1-015	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement - Chapter 8 - Air Quality Appendix 8B - Air Quality Technical Note (Clean)

REP1-016	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement Chapter 12 Hydrology - Appendix 12F -Outline Drainage Strategy (Tracked) - Rev 2
REP1-017	Medworth CHP Limited Deadline 1 Submission - 6.4 Environmental Statement Chapter 12 Hydrology - Appendix 12F - Outline Drainage Strategy (Clean) - Rev 2
REP1-018	Medworth CHP Limited Deadline 1 Submission - 7.9 Outline Flood Emergency Management Plan (Tracked) - Rev 2
REP1-019	Medworth CHP Limited Deadline 1 Submission - 7.9 Outline Flood Emergency Management Plan (Clean) - Rev 2
REP1-020	Medworth CHP Limited Deadline 1 Submission - 7.11 Outline Odour Management Plan (Tracked) - Rev 2
REP1-021	Medworth CHP Limited Deadline 1 Submission - 7.11 Outline Odour Management Plan (Clean) - Rev 2
REP1-022	Medworth CHP Limited Deadline 1 Submission - 7.12 Outline Construction Environmental Management Plan (Tracked) - Rev 2
REP1-024	Medworth CHP Limited Deadline 1 Submission - 7.12 Outline Construction Environmental Management Plan (Clean) - Rev 2
REP1-025	Medworth CHP Limited Deadline 1 Submission - 7.15 Outline Operational Traffic Management Plan (Tracked) - Rev 2
REP1-026	Medworth CHP Limited Deadline 1 Submission - 7.15 Outline Operational Traffic Management Plan (Clean) - Rev 2
REP1-027	Medworth CHP Limited Deadline 1 Submission - 9.1 Applicant Cover Letter for Deadline 1 Submissions (redacted)
REP1-028	Medworth CHP Limited Deadline 1 Submission - 9.2 Applicant's Comments on the Relevant Representations - Part 1 Local Authorities and 3(a) Statutory Parties
REP1-029	Medworth CHP Limited Deadline 1 Submission - 9.2 Applicant's Comments on the Relevant Representations - Part 2 Other Interested Parties and 3(b) Statutory Parties - Representations RR-001 - RR-099
REP1-030	Medworth CHP Limited Deadline 1 Submission - 9.2 Applicant's Comments on the Relevant Representations - Part 3 Other Interested Parties and 3(b) Statutory Parties - Relevant Representations RR-100 - RR-199
REP1-031	Medworth CHP Limited Deadline 1 Submission - 9.2 Applicant's Comments on the Relevant Representations - Part 4 Other Interested Parties and

	<u>3(b) Statutory Parties – Relevant Representations RR-200 – RR-299</u>
REP1-032	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.2 Applicant’s Comments on the Relevant Representations – Part 5 Other Interested Parties and 3(b) Statutory Parties – Relevant Representations RR-300 – RR-399</u>
REP1-033	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.2 Applicant’s Comments on the Relevant Representations – Part 6 Other Interested Parties and 3(b) Statutory Parties – Relevant Representations RR-400 – RR-499</u>
REP1-034	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.2 Applicant’s Comments on the Relevant Representations – Part 7 Other Interested Parties and 3(b) Statutory Parties – Relevant Representations RR-500 – RR-599</u>
REP1-035	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.2 Applicant’s Comments on the Relevant Representations – Part 2 Other Interested Parties and 3(b) Statutory Parties – Relevant Representations RR-600 – RR-666 and Additional Submission</u>
REP1-036	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.2 Applicant’s response to the Relevant Representations – Part 9 Appendices</u>
REP1-037	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.3 Draft Itinerary for Accompanied Site Inspection</u>
REP1-038	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.4 Statement of Common Ground between Medworth CHP Limited and the Host Authorities (DRAFT)</u>
REP1-039	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.5 Statement of Common Ground between Medworth CHP Limited and Walsoken Parish Council</u>
REP1-040	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.6 Statement of Common Ground between Medworth CHP Limited and Wisbech Town Council (DRAFT)</u>
REP1-041	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.7 Statement of Common Ground between Medworth CHP Limited and Environment Agency (DRAFT)</u>
REP1-042	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.8 Statement of Common Ground between Medworth CHP Limited and the UK Health Security Agency (DRAFT)</u>
REP1-043	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.9 Statement of Common Ground between Medworth CHP Limited and Natural England (DRAFT)</u>
REP1-044	<u>Medworth CHP Limited</u>

	<u>Deadline 1 Submission - 9.10 Statement of Common Ground between Medworth CHP Limited and Anglian Water (DRAFT)</u>
REP1-045	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.11 Statement of Common Ground between Medworth CHP Limited and the East of England Ambulance Service NHS Trust (DRAFT)</u>
REP1-046	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.12 Statement of Common Ground between Medworth CHP Limited and Historic England</u>
REP1-047	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.13 Statement of Common Ground between Medworth CHP Limited and the Middle Level Commissioners (DRAFT)</u>
REP1-048	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.14 Statement of Common Ground between Medworth CHP Limited and King's Lynn Internal Drainage Board (DRAFT)</u>
REP1-049	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.15 Statement of Common Ground between Medworth CHP Limited and National Highways (DRAFT)</u>
REP1-050	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.16 Statement of Commonality of Statements of Common Ground: (Deadline 1)</u>
REP1-051	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.17 Compulsory Acquisitions Schedule</u>
REP1-052	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.18 National Policy Statement Tracker</u>
REP1-053	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.19 Schedule of Changes to Book of Reference</u>
REP1-054	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.20 Schedule of Changes</u>
REP1-055	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.21 Outline Local Air Quality Monitoring Strategy</u>
REP1-056	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.23 Summary of Oral Submissions made by Interested Parties at Open Floor Hearings 1 and 2 and the Applicant's Response</u>
REP1-057	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.23 Draft Written Summary of the Applicant's Oral Submissions at ISH1</u>
REP1-058	<u>Medworth CHP Limited</u> <u>Deadline 1 Submission - 9.24 Technical Note: R1 Calculation</u>
REP1-059	<u>Alan Wheeldon</u> <u>Deadline 1 Submission - Post hearing submission (OFH1)</u>
REP1-060	<u>Alan Wheeldon</u> <u>Deadline 1 Submission - Post hearing submission (OFH2)</u>
REP1-061	<u>Andrew Michael de Whalley</u> <u>Deadline 1 Submission - Post hearing submission</u>
REP1-062	<u>Andrew Michael de Whalley</u>

	Deadline 1 Submission - Post-hearing submission
REP1-063	Anthony Martin Clee Deadline 1 Submission - Written submission of oral case
REP1-064	Borough Council of King's Lynn and West Norfolk Deadline 1 Submission - Local Impact Report(s) (LIRs)
REP1-065	Borough Council of King's Lynn and West Norfolk Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases
REP1-066	Cambridge Friends of the Earth Deadline 1 Submission
REP1-067	Cambridgeshire County Council Deadline 1 Submission - ExA requested confirmation regarding adoption of Algores Way from CCC as LHA
REP1-068	Cambridgeshire County Council Deadline 1 Submission - Post-hearing submission
REP1-069	Cambridgeshire County Council Deadline 1 Submission - Summaries of all RRs exceeding 1500 words (see Annex H of this letter)
REP1-070	Borough Council of King's Lynn and West Norfolk Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases
REP1-071	Cllr Alexandra Kemp Deadline 1 Submission - Post-hearing submission
REP1-072	Diana Mutimer Deadline 1 Submission - Post-hearing submission
REP1-073	Dr Jennifer Haine Deadline 1 Submission - Post-hearing submission
REP1-074	Fenland District Council Deadline 1 Submission - Joint Local Impact Report with Cambridgeshire County Council
REP1-075	Borough Council of King's Lynn and West Norfolk Deadline 1 Submission - Summary of Written Representation
REP1-076	Fraser Dawbarns LLP on behalf of Fountain Frozen Limited Deadline 1 Submission - Post-hearing submission
REP1-077	Garry Monger Deadline 1 Submission - Post-hearing submission
REP1-078	Hair World UK Ltd Deadline 1 Submission - Post-hearing submission
REP1-079	Helen Pentelow Deadline 1 Submission - Post-hearing submission
REP1-080	Huntingdonshire District Council Deadline 1 submission
REP1-081	Jenny Perryman Deadline 1 Submission - Post-hearing submission
REP1-082	Judi Knights Deadline 1 - Post-hearing submission
REP1-083	Mervyn Sargeant Deadline 1 Submission - Post-hearing submission
REP1-084	Neil Elcome Deadline 1 Submission - Post-hearing submissions

REP1-085	REFERENCE NOT IN USE
REP1-086	Nicola Sutheran) Deadline 1 Submission - Post-hearing submission
REP1-087	Norfolk County Council Deadline 1 Submission - Summaries of all RRs exceeding 1500 words (see Annex H of this letter)
REP1-088	Not in use
REP1-089	North Norfolk District Council Deadline 1 Submission
REP1-090	Oliver Mackle Deadline 1 Submission - Post-hearing submission
REP1-091	Professor Clive Ballard Deadline 1 Submission - Post-hearing submission
REP1-092	Reena Black Deadline 1 Submission - Post-hearing submission
REP1-093	Robert Mitchell Family Deadline 1 Submission - Post-hearing submission
REP1-094	Rt Hon Stephen Barclay MP Deadline 1 Submission - Post-hearing submission
REP1-095	Tom Howlett on behalf of WisWin Deadline 1 Submission - Post-hearing submission
REP1-096	United Kingdom Without Incineration Network (UKWIN) Deadline 1 Submission - Post-hearing submission
REP1-097	Valerie MacRae Deadline 1 Submission - Post-hearing submission
REP1-098	Virginia Bucknor Deadline 1 Submission - Post-hearing submission
REP1-099	Wayne Cook Deadline 1 Submission - Post-hearing submission
REP1-100	Wisbech, March and District Trades Union Council Deadline 1 Submission - Comments on Relevant Representations
Deadline 2 – 24 March 2023	
<p>For receipt by the ExA of:</p> <ul style="list-style-type: none"> - Response to the ExA's ExQ1 - Written Representations (WRs) - Summaries of all WRs exceeding 1500 words - Comments on LIR(s) - Status of Negotiations with Statutory Undertakers - An updated version of the draft Development Consent Order (dDCO) in clean, tracked and Word versions (if required as a result of the ExA's ExQ1) - Updated BoR and schedule of changes to the BoR (if required) in clear and tracked versions - Comments on the Applicant's draft itinerary for the ASI - Draft Application Document Tracker (if required) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 1 	
REP2-001	Medworth CHP Limited Deadline 2 Submission - 10.1 Cover Letter

REP2-002	Medworth CHP Limited Deadline 2 Submission - 1.5 Guide to the Application (Clean) - Revision: 5.0
REP2-003	Medworth CHP Limited Deadline 2 Submission - 1.5 Guide to the Application (Tracked Changes) - Revision: 5.0
REP2-004	Medworth CHP Limited Deadline 2 Submission - 4.1 Book of Reference (Clean) - Revision : 4.0
REP2-005	Medworth CHP Limited Deadline 2 Submission - 4.1 Book of Reference (Tracked Changes) - Revision : 4.0
REP2-006	Medworth CHP Limited Deadline 2 Submission - 6.4 Environmental Statement Appendix 8B: Air Quality Technical Report (Clean) - Revision: 3.0
REP2-007	Medworth CHP Limited Deadline 2 Submission - 6.4 Environmental Statement Appendix 8B: Air Quality Technical Report (Tracked Changes) - Revision: 3.0
REP2-008	Medworth CHP Limited Deadline 2 Submission - 6.4 Environmental Statement Chapter 9 Landscape and Visual Appendices – Revision: 2.0
REP2-009	Medworth CHP Limited Deadline 2 Submission - 7.3 Waste Fuel Availability Assessment (Clean) - Revision : 2.0
REP2-010	Medworth CHP Limited Deadline 2 Submission - 7.3 Waste Fuel Availability Assessment (Tracked Changes) - Revision :2.0
REP2-011	Medworth CHP Limited Deadline 2 Submission - 7.10 Outline Fire Prevention Plan (Clean) - Revision : 2.0
REP2-012	Medworth CHP Limited Deadline 2 Submission - 7.10 Outline Fire Prevention Plan (Tracked Changes) - Revision : 2.0
REP2-013	Medworth CHP Limited Deadline 2 Submission - 9.8 Statement of Common Ground between Medworth CHP Limited and the UK Health Security Agency - Revision : 2.0
REP2-014	Medworth CHP Limited Deadline 2 Submission - 9.11 Statement of Common Ground between Medworth CHP Limited, the East of England Ambulance Service NHS Trust and Cambridgeshire and Peterborough Integrated Care System - Revision : 2.0
REP2-015	Medworth CHP Limited Deadline 2 Submission - 9.12 Statement of Common Ground between Medworth CHP Limited and Historic England - Revision : 2.0
REP2-016	Medworth CHP Limited Deadline 2 Submission - 9.16 Statement of Commonality of Statements of Common Ground - Revision : 2.0
REP2-017	Medworth CHP Limited

	Deadline 2 Submission - 9.19 Schedule of Changes to the Book of Reference - Revision : 2.0
REP2-018	Medworth CHP Limited Deadline 2 Submission - 9.20 Schedule of Changes - Revision : 2.0
REP2-019	Medworth CHP Limited Deadline 2 Submission - 10.2 Response to the ExA's Written Questions (ExQ1) - Revision: 1.0
REP2-020	Medworth CHP Limited Deadline 2 Submission - 10.3 Applicant's Response to the CCC and FDC Local Impact Report - Revision: 1.0
REP2-021	Medworth CHP Limited Deadline 2 Submission - 10.4 Applicant's Response to NCC and KLWN's Local Impact Report - Revision: 1.0
REP2-022	Medworth CHP Limited Deadline 2 Submission - 10.5 Status of Negotiations with Statutory Undertakers - Revision: 1.0
REP2-023	Medworth CHP Limited Deadline 2 Submission - 10.6 Applicant's response to Deadline 1 Submission - Revision: 1.0
REP2-024	Medworth CHP Limited Deadline 2 Submission - 10.7 Carbon Capture and Export Readiness Reserve Space Plan
REP2-025	Medworth CHP Limited Deadline 2 Submission - 10.8 Applicant's response to the Host Authorities Summary of Relevant Representations - Revision: 1.0
REP2-026	Medworth CHP Limited Deadline 2 Submission - Figure 3.14 Outline Landscape and Ecology Strategy
REP2-027	Borough Council of King's Lynn and West Norfolk Deadline 2 Submission - Response to the ExA's ExQ1
REP2-028	Borough Council of King's Lynn and West Norfolk Deadline 2 Submission - Written Representations (WRs)
REP2-029	Borough Council of King's Lynn and West Norfolk Deadline 2 Submission - Comments on any further information/submissions received by Deadline 1
REP2-030	Cambridgeshire County Council and Fenland District Council Deadline 2 Submission - Response to the ExA's ExQ1
REP2-031	Cambridgeshire County Council and Fenland District Council Deadline 2 Submission - Comments on the Applicant's D1 Submissions
REP2-032	Cambridgeshire County Council and Fenland District Council Deadline 2 Submission - Summaries of all WRs exceeding 1500 words
REP2-033	Cambridgeshire County Council and Fenland District Council Deadline 2 Submission - Written Representations (WRs)
REP2-034	Environment Agency Deadline 2 Submission - Written Representations (WRs)
REP2-035	Environment Agency Deadline 2 Submission - Response to the ExA's ExQ1
REP2-036	Historic England

	Deadline 2 Submission - Written Representations (WRs)
REP2-037	National Highways Deadline 2 Submission - Written Representations (WRs)
REP2-038	Natural England Deadline 2 Submission - Response to the ExA's ExQ1
REP2-039	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited Deadline 2 Submission - Written Representations (WRs)
REP2-040	Norfolk County Council Deadline 2 Submission - Response to the ExA's ExQ1
REP2-041	Royal Mail Deadline 2 Submission - Written Representations (WRs)
REP2-042	Alan Wheeldon Deadline 2 Submission - Written Representations (WRs)
REP2-043	Angela Risebrow Deadline 2 Submission - Written Representations (WRs)
REP2-044	Anglian Water Services Limited Deadline 2 Submission - Written Representations (WRs)
REP2-045	B Fogarty Deadline 2 Submission - Written Representations (WRs)
REP2-046	Carla Johnson Deadline 2 Submission - Written Representations (WRs)
REP2-047	Clive Landa Deadline 2 Submission - Written Representations (WRs)
REP2-048	David Hammond Deadline 2 Submission - Written Representations (WRs)
REP2-049	Dr Ursula Waverley Deadline 2 Submission - Written Representations (WRs)
REP2-050	Fenland and West Norfolk Friends of the Earth Deadline 2 Submission - Written Representations (WRs)
REP2-051	Hutchinson Group Limited Deadline 2 Submission - Written Representations (WRs)
REP2-052	Jenny Perryman Deadline 2 - late submission accepted at the discretion of the ExA
REP2-053	John Colin Ogden Deadline 2 Submission - Written Representations (WRs)
REP2-054	Kings Lynn Without Incineration (KLWIN) Deadline 2 Submission - Written Representations (WRs)
REP2-055	Lynne Hayden Deadline 2 Submission - Written Representations (WRs)
REP2-056	Nicola Sutheran Deadline 2 Submission - Written Representations (WRs)
REP2-057	Optimum Packaging Limited Deadline 2 Submission - Written Representations (WRs)
REP2-058	Paul Merrell Deadline 2 Submission - Written Representations (WRs)
REP2-059	Paul Wilson Deadline 2 Submission - Written Representations (WRs)
REP2-060	Philip Brown Deadline 2 Submission - Written Representations (WRs)
REP2-061	Phyl Sugden

	Deadline 2 Submission - Written Representations (WRs)
REP2-062	Robert Mitchell Deadline 2 Submission - Written Representations (WRs)
REP2-063	Robert Sugden Deadline 2 Submission - Written Representations (WRs)
REP2-064	Rt Hon Stephen Barclay MP Deadline 2 Submission - Written Representations (WRs). The accompanying appendices accepted as a late submission at the discretion of the ExA
REP2-065	Stephen Charles Wenn Deadline 2 Submission - Written Representations (WRs)
REP2-066	United Kingdom Without Incineration Network (UKWIN) Deadline 2 Submission - Written Representations (WRs)
REP2-067	Valerie and John Witby Deadline 2 Submission - Written Representations (WRs)
REP2-068	Valerie MacRae Deadline 2 Submission - Written Representations (WRs)
REP2-069	Welle Streame Ltd Deadline 2 Submission - Written Representations (WRs)
REP2-070	S Walters Deadline 2 - late submission accepted at the discretion of the ExA
REP2-071	Medworth CHP Limited Deadline 2 Submission - 2.6 Statutory and Non-Statutory Features of Historic Environment - Rev 2 - - late submission accepted at the discretion of the ExA
REP2-072	Medworth CHP Limited Deadline 2 Submission - 6.3 ES Chapter 9 LVIA Figures 9.33 to 9.39 - Rev 2 - late submission accepted at the discretion of the ExA
Deadline 3 – 25 April 2023	
For receipt by the ExA of:	
<ul style="list-style-type: none"> - Post-hearing submissions including written submissions of oral cases - Comments on WRs - Updated SoCG - Updated SoC - An updated version of the dDCO in clean, tracked and word versions (if required as a result of the ExA’s commentary) - Updated BoR and schedule of changes to the BoR (if required) - Updated CA Schedule (if required) - Comments on dDCO - Comments on responses to ExQ1 - Draft Application Document Tracker (if required) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 2 	
REP3-001	Medworth CHP Limited

	Deadline 3 Submission - 1.5 Guide to the Application (Tracked) - Rev 6
REP3-002	Medworth CHP Limited Deadline 3 Submission - 1.5 Guide to the Application (Clean) - Rev 6
REP3-003	Medworth CHP Limited Deadline 3 Submission - 2.2 Land Plan (Rev 4)
REP3-004	Medworth CHP Limited Deadline 3 Submission - 2.3 Works Plan (Rev 2)
REP3-005	Medworth CHP Limited Deadline 3 Submission - 2.4 Access and Rights of Way Plan (Rev 4)
REP3-006	Medworth CHP Limited Deadline 3 Submission - 3.1 Draft Development Consent Order (Tracked) - Rev 3
REP3-007	Medworth CHP Limited Deadline 3 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 3
REP3-008	Medworth CHP Limited Deadline 3 Submission - 4.1 Book of Reference (Tracked) - Rev 5
REP3-009	Medworth CHP Limited Deadline 3 Submission - 4.1 Book of Reference (Clean) - Rev 5
REP3-010	Medworth CHP Limited Deadline 3 Submission - 4.3 Statement of Reasons (Tracked) - Rev 2
REP3-011	Medworth CHP Limited Deadline 3 Submission - 4.3 Statement of Reasons - (Clean) - Rev 2
REP3-012	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement Chapter - Chapter 3 description of the Proposed Development Appendix 3B Outline Lighting Strategy (Tracked) – Rev 2 - Outline CTMP (clean)
REP3-013	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement - Chapter 3 - Description of the Proposed Development - Appendix 3B - Outline Lighting Strategy (Clean) - Rev 2
REP3-014	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport - Appendix 6A - Outline CTMP (Tracked) - Rev 3
REP3-015	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement - Technical Appendix - Appendix 7D Outline Operational Noise Management Plan (Tracked) - Rev 2
REP3-016	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement -Technical Appendix - Appendix 7D - Outline Operational Noise Management Plan (Clean) - Rev 2
REP3-017	Medworth CHP Limited

	Deadline 3 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity Appendix 11M Biodiversity Net Gain Assessment (Clean) - Rev 3
REP3-018	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity Appendix 11M Biodiversity Net Gain Assessment (Tracked) - Rev 3
REP3-019	Medworth CHP Limited Deadline 3 Submission - 6.4 Environmental Statement - Traffic and Transport - Outline- CTMP (Clean) - Rev 3
REP3-020	Medworth CHP Limited Deadline 3 Submission - 7.7 Outline Landscape and Ecological Management Plan (Tracked) - Rev 2
REP3-021	Medworth CHP Limited Deadline 3 Submission - 7.7 Outline Landscape and Ecological Management Plan (Clean) - Rev 2
REP3-022	Medworth CHP Limited Deadline 3 Submission - 7.12 Outline Construction Environmental Management Plan (Tracked) - Rev 3
REP3-023	Medworth CHP Limited Deadline 3 Submission - 7.12 Outline Construction Environmental Management Plan (Clean) - Rev 3
REP3-024	Medworth CHP Limited Deadline 3 Submission - 7.15 Outline Operational Traffic Management Plan (Tracked) - Rev 3
REP3-025	Medworth CHP Limited Deadline 3 Submission - 7.15 Outline Operational Traffic Management Plan (Clean) - Rev 3
REP3-026	Medworth CHP Limited Deadline 3 Submission - 9.7 Statement of Common Ground between Medworth CHP Limited and Environment Agency
REP3-027	Medworth CHP Limited Deadline 3 Submission - 9.12 Statement of Common Ground between Medworth CHP Limited and Historic England
REP3-028	Medworth CHP Limited Deadline 3 Submission - 9.16 Statement of Commonality of Statements of Common Ground
REP3-029	Medworth CHP Limited Deadline 3 Submission - 9.17 Compulsory Acquisition Schedule (Tracked) - Rev 2
REP3-030	Medworth CHP Limited Deadline 3 Submission - 9.17 Compulsory Acquisition Schedule (Clean) - Rev 2
REP3-031	Medworth CHP Limited Deadline 3 Submission - 9.18 National Policy Statement Tracker - Rev 2
REP3-032	Medworth CHP Limited Deadline 3 Submission - 9.19 Schedule of Changes to Book of Reference
REP3-033	Medworth CHP Limited Deadline 3 Submission - 9.20 Schedule of Changes - Rev 3

REP3-034	Medworth CHP Limited Deadline 3 Submission - 9.21 Outline Local Air Quality Monitoring Strategy (Tracked) - Rev 2
REP3-035	Medworth CHP Limited Deadline 3 Submission - 9.21 Outline Local Air Quality Monitoring Strategy (Clean) - Rev 2
REP3-036	Medworth CHP Limited Deadline 3 Submission -11.1 Cover Letter
REP3-037	Medworth CHP Limited Deadline 3 Submission - 11.2 Draft Written Summary of the Applicant's Oral Submissions at CAH 1 & 2
REP3-038	Medworth CHP Limited Deadline 3 Submission - 11.2a Written Summary of the Applicant's Oral Submissions at ISH2 on the Draft DCO
REP3-039	Medworth CHP Limited Deadline 3 Submission - 11.3 Comments on the Written Representations: Part 1 - Statutory Parties
REP3-040	Medworth CHP Limited Deadline 3 Submission -11.3 Comments on Written Representations: Part 2 – Other Interested Parties - late submission accepted at the discretion of the ExA
REP3-041	Medworth CHP Limited Deadline 3 Submission - 11.4 Comments on the responses to the ExA's Written Questions (ExQ1)
REP3-042	Medworth CHP Limited Deadline 3 Submission - 11.5 Comments on Deadline 2 submissions
REP3-043	Anglian Water Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-044	Cambridgeshire County Council and Fenland District Council Deadline 3 Submission - - Post-hearing submissions including written submissions of oral cases and comments on submissions received at Deadline 2
REP3-045	Cambridgeshire County Council and Fenland District Council Deadline 3 Submission - Written summaries of oral representations at ISH2 and CAH2
REP3-046	Cambridgeshire County Council and Fenland District Council Deadline 3 Submission - Response to ISH2 and CAH2 Action Points
REP3-047	Jenny Perryman Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-048	Mervyn Sargeant Hair World UK Ltd Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-049	Oliver Mackle of James Mackle UK LTD Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-050	United Kingdom Without Incineration Network (UKWIN)

	Deadline 3 Submission - Comments on any further information/submissions received by Deadline 2
REP3-051	Wayne Cook Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-052	Wisbech Town Council Deadline 3 Submission - Comments on any further information/submissions received by Deadline 2
Deadline 4 – 25 May 2023	
For receipt by the ExA of:	
<ul style="list-style-type: none"> - Post-hearing submissions including written submissions of oral cases - Updated Status of negotiations with Statutory Undertakers - Updated CA Schedule (if required) - Comments on the RIES (if published) - Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) to be heard at a Compulsory Acquisition Hearing (CAH) - Requests by Interested Parties to be heard at a subsequent Open Floor Hearing (OFH) and participate at an Issue Specific Hearing (ISH) - Draft Application Document Tracker (if required) - Updated Guide to the Application in clean and tracked versions - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 3 	
REP4-001	Medworth CHP Limited Deadline 4 Submission - 1.5 Guide to the Application (Clean) - Rev 7
REP4-002	Medworth CHP Limited Deadline 4 Submission - 1.5 Guide to the Application (Tracked) - Rev 7
REP4-003	Medworth CHP Limited Deadline 4 Submission - 6.3 Environmental Statement - Chapter 12 - Hydrology Figures - Rev 2
REP4-004	Medworth CHP Limited Deadline 4 Submission - 6.4 Environmental Statement - Technical Appendix - Appendix 7D - Outline Operational Noise Management Plan (Clean) - Rev 3
REP4-005	Medworth CHP Limited Deadline 4 Submission - 6.4 Environmental Statement - Technical Appendix - Appendix 7D Outline Operational Noise Management Plan (Tracked) - Rev 3
REP4-006	Medworth CHP Limited Deadline 4 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A Outline CTMP (Clean)- Rev 4
REP4-007	Medworth CHP Limited Deadline 4 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP (Tracked) - Rev 0
REP4-008	Medworth CHP Limited

	Deadline 4 Submission - 7.12 Outline Construction Environmental Management Plan ((Clean) - Rev 4
REP4-009	Medworth CHP Limited Deadline 4 Submission - 7.12 Outline Construction Environmental Management Plan ((Tracked) - Rev 4
REP4-010	Medworth CHP Limited Deadline 4 Submission - 9.7 Statement of Common Ground between Medworth CHP Limited and Environment Agency - Rev 2
REP4-011	Medworth CHP Limited Deadline 4 Submission - 9.9 Statement of Common Ground between Medworth CHP Limited and Natural England - Rev 2
REP4-012	Medworth CHP Limited Deadline 4 Submission - 9.16 Statement of Commonality of Statements of Common Ground: - Rev 4
REP4-013	Medworth CHP Limited Deadline 4 Submission - 9.17 Compulsory Acquisition Schedule - Rev 3
REP4-014	Medworth CHP Limited Deadline 4 Submission - 9.20 Schedule of Changes - Rev 4
REP4-015	Medworth CHP Limited Deadline 4 Submission - 9.21 Outline Local Air Quality Monitoring Strategy (Clean) - Rev 3
REP4-016	Medworth CHP Limited Deadline 4 Submission - 9.21 Outline Local Air Quality Monitoring Strategy (Tracked) - Rev 3
REP4-017	Medworth CHP Limited Deadline 4 Submission - 10.5 Status of Negotiations with Statutory Undertakers - Rev 2
REP4-018	Medworth CHP Limited Deadline 4 Submission - 12.1 Cover Letter
REP4-019	Medworth CHP Limited Deadline 4 Submission -12.2a Written Summary of the Applicant's Oral Submissions at ISH3 - Rev 1
REP4-020	Medworth CHP Limited Deadline 4 Submission - 12.2b Written Summary of the Applicant's Oral Submissions at ISH4 - Rev 1
REP4-021	Medworth CHP Limited Deadline 4 Submission - 12.2c Written Summary of the Applicant's Oral Submissions at ISH5 - Rev 1
REP4-022	Medworth CHP Limited Deadline 4 Submission - 12.3 comments on the Deadline 3 Submissions: Part 1 Statutory Parties - Rev 1
REP4-023	Medworth CHP Limited Deadline 4 Submission - 12.3b comments on the Deadline 3 Submissions: Part 2 Other Interested Parties - Rev 1
REP4-024	Medworth CHP Limited Deadline 4 Submission - 12.4 Outline Decommissioning Plan - Rev 1
REP4-025	Medworth CHP Limited Deadline 4 Submission - 12.5 Response to CAH1 Action Point 4 - Rev 1

REP4-026	Medworth CHP Limited Deadline 4 Submission - 12.7 Response to CAH2 Action Point 7 - Rev 1
REP4-027	Medworth CHP Limited Deadline 4 Submission - 12.8 Technical Note: Alternative Technology - Rev 1
REP4-028	Cambridgeshire County Council and Fenland District Council Deadline 4 Submission - Deadline 4 Submission - Cover letter and Appendices
REP4-029	Cambridgeshire County Council and Fenland District Council Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-030	Cambridgeshire County Council and Fenland District Council Deadline 4 Submission - Response to ISH3, ISH4 and ISH5 Action Points
REP4-031	Cambridgeshire County Council and Fenland District Council Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-032	Wisbech Town Council Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-033	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited Deadline 4 Submission
REP4-034	Anglian Water Services Limited Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-035	Cambridge Friends of the Earth Deadline 4 Submission
REP4-036	CPRE Cambridgeshire and Peterborough Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-037	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-038	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-039	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-040	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-041	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Appendices
REP4-042	United Kingdom Without Incineration Network (UKWIN) Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-043	Wisbech Without Incineration

	Deadline 4 - Requests by Interested Parties to be heard at a subsequent Open Floor
REP4-044	Jenny Perryman Deadline 4 Submission - Submission in response to ISH 3 and 4
REP4-045	Joseph Howlett WisWin Deadline 4 Submission - Post-hearing submissions including written submissions of oral cases
REP4-046	Lesley Morton Deadline 4 Submission - Requests by Affected Persons (defined in section 59(4) of the Planning Act 2008) to be heard at a Compulsory Acquisition Hearing (CAH)
REP4-047	Dr Ursula Waverley Deadline 4 Submission
Deadline 5 – 16 June 2023	
For receipt by the ExA of:	
<ul style="list-style-type: none"> - Responses to ExQ2 (if published) - Updated SoCG - Updated SoC - Draft Application Document Tracker (if required) - Comments on the ExA's commentary on, or schedule of changes to, the draft DCO (if required) - An updated version of the dDCO in clean, tracked and word versions (if required as a result of the previously held Hearings) - Any further information requested by the ExA under Rule 17 of the Examination Rules - Comments on any further information/submissions received by Deadline 4 	
REP5-001	Medworth CHP Limited Deadline 5 Submission - 1.5 Guide to the Application Revision 8 (Tracked) - Revision 8.0
REP5-002	Medworth CHP Limited Deadline 5 Submission - 1.5 Guide to the Application (Clean) - Revision 8.0
REP5-003	Medworth CHP Limited Deadline 5 Submission - 2.3 Works Plan - Revision 3
REP5-004	Medworth CHP Limited Deadline 5 Submission - 2.4 Access and Rights of Way Plan Revision 5.0
REP5-005	Medworth CHP Limited Deadline 5 Submission - 3.1 Draft Development Consent Order (Tracked) - Revision 4.0
REP5-006	Medworth CHP Limited Deadline 5 Submission - 3.1 Draft Development Consent Order (Clean) - Revision 4.0
REP5-007	Medworth CHP Limited Deadline 5 Submission - 6.2 Environmental Statement - Chapter 12 - Hydrology (Tracked) - Revision 2
REP5-008	Medworth CHP Limited Deadline 5 Submission - 6.2 Environmental Statement Chapter 12 Hydrology (Clean) - Revision 2.0

REP5-009	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 3 - Description of the Proposed Development - Appendix 3B Outline Lighting Strategy (Tracked) Revision 3.0
REP5-010	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 3 - Description of the Proposed Development - Appendix 3B Outline Lighting Strategy (Clean) Revision 3.0
REP5-011	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP (Tracked) - Revision 5.0
REP5-012	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 6 - Traffic and Transport Appendix 6A - Outline CTMP (Clean) - Revision 5.0
REP5-013	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Technical Appendix - Appendix 7D Outline Operational Noise Management Plan (Tracked) - Revision 4.0
REP5-014	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Technical Appendix - Appendix 7D - Outline Operational Noise Management Plan (Clean) - Revision 4.0
REP5-015	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity - Appendix 11M Biodiversity Net Gain Assessment (Tracked) - Revision 4
REP5-016	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity Appendix 11M Biodiversity Net Gain (Clean) - Revision 4.0
REP5-017	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 12 - Hydrology Appendix 12F Outline Drainage Strategy (Tracked) - Revision 3.0
REP5-018	Medworth CHP Limited Deadline 5 Submission - 6.4 Environmental Statement - Chapter 12 - Hydrology Appendix 12F Outline Drainage Strategy Revision (Clean) - Revision 3.0
REP5-019	Medworth CHP Limited) Deadline 5 Submission - 7.3 Waste Fuel Availability Assessment (Tracked) - Revision 3.0
REP5-020	Medworth CHP Limited Deadline 5 Submission - 7.3 Waste Fuel Availability Assessment (Clean) - Revision 3.0
REP5-021	Medworth CHP Limited Deadline 5 Submission - 7.12 Outline Construction Environmental Management Plan (Tracked) - Revision 5.0
REP5-022	Medworth CHP Limited

	Deadline 5 Submission - 7.12 Outline Construction Environmental Management Plan (Clean) - Revision 5.0
REP5-023	Medworth CHP Limited Deadline 5 Submission - 9.4 Statement of Common Ground between Medworth CHP Limited and the Host Authorities (DRAFT) - Revision 2.1
REP5-024	Medworth CHP Limited Deadline 5 Submission - 9.5 Statement of Common Ground between Medworth CHP Limited and Walsoken Parish Council - Revision 2.0
REP5-025	Medworth CHP Limited Deadline 5 Submission - 9.10 Statement of Common Ground between Medworth CHP Limited and Anglian Water (DRAFT) - Revision 2.0
REP5-026	Medworth CHP Limited Deadline 5 Submission - 9.14 Statement of Common Ground between Medworth CHP Limited and King's Lynn Internal Drainage Board (DRAFT) - Revision 2.0
REP5-027	Medworth CHP Limited Deadline 5 Submission - 9.16 Statement of Commonality of Statements of Common Ground - Revision 5.0
REP5-028	Medworth CHP Limited Deadline 5 Submission - 9.20 Schedule of Changes - Revision 5.0
REP5-029	Medworth CHP Limited Deadline 5 Submission - 12.5 Applicant's Response to CAH1 Action Point 4 (Tracked) - Revision 2.0
REP5-030	Medworth CHP Limited Deadline 5 Submission - 12.5 Applicant's Response to CAH1 Action Point 4 (Clean) - Revision 2
REP5-031	Medworth CHP Limited Deadline 5 Submission - 14.1 Cover Letter
REP5-032	Medworth CHP Limited Deadline 5 Submission - 14.2 Applicant's response to the ExA's Written Questions (ExQ2) - Revision 1.0
REP5-033	Medworth CHP Limited Deadline 5 Submission -14.3 Applicant's Comments on the ExA's Schedule of Changes to the Draft Development Consent Order - Revision 1
REP5-034	Medworth CHP Limited Deadline 5 Submission - 14.4a Applicant's comments on the Deadline 4 Submissions: Part 1 Statutory Parties - Revision 1.0
REP5-035	Medworth CHP Limited Deadline 5 Submission - 14.4b Applicant's comments on the Deadline 4 Submissions: Part 2 Other Interested Parties - Revision 1.0
REP5-036	Medworth CHP Limited Deadline 5 Submission - 14.5 Applicant's Response to CAH2 Action Point 6 - Revision 1.0
REP5-037	Medworth CHP Limited

	Deadline 5 Submission - 14.6 Applicant's response to ISH3 Action Point 10: Position Statement on Site Selection and Alternatives - Revision 1.1
REP5-038	Medworth CHP Limited Deadline 5 Submission - 14.7 Applicant's Response to ISH4 Action Point 6 - Revision 1.0
REP5-039	Medworth CHP Limited Deadline 5 Submission - 14.8 Water Supply Availability Statement - Rev 1.0
REP5-040	Medworth CHP Limited Deadline 5 Submission - DCO Letter to PINS re Change Request Procedural Decision
REP5-041	Anglian Water Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-042	Borough Council of King's Lynn & West Norfolk Deadline 5 Submission - Response to ExQ2
REP5-043	Cambridgeshire County Council and Fenland District Council Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-044	Cambridgeshire County Council and Fenland District Council Deadline 5 Submission - Response to ISH4 and ISH5 action points
REP5-045	Cambridgeshire County Council and Fenland District Council Deadline 5 Submission - Response to ExQ2
REP5-046	Elaine Jefferis Deadline 5 Submission - Response to ExQ2
REP5-047	Environment Agency Deadline 5 Submission - Response to ExQ2
REP5-048	Helen Pentelow/WEP Fabrications Ltd Deadline 5 Submission - Response to ExQ2
REP5-049	Kerys Jordan Deadline 5 Submission - Response to ExQ2
REP5-050	Mervyn Seargent Deadline 5 Submission - Response to ExQ2
REP5-051	National Highways Deadline 5 Submission - Response to ExQ2
REP5-052	Natural England Deadline 5 submission - Response to ExQ2 - late submission accepted at the discretion of the ExA
REP5-053	United Kingdom Without Incineration Network (UKWIN) Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-054	Wisbech Town Council Deadline 5 Submission - Response to ExQ2
Deadline 6 – 21 July 2021	
For receipt by the ExA of:	
- Comments on responses to ExQ2 (if published)	
- Post-hearing submissions including written submissions (if required)	
- Final SoCG	
- Final SoC	

- List of matters not agreed where SoCG could not be finalised
- Updated Status of negotiations with Statutory Undertakers
- Final Status of Negotiations with Statutory Undertakers
- An updated version of the dDCO in clean, tracked and word versions (if required)
- Comments on the dDCO
- Draft Application Document Tracker (if required)
- Updated Guide to the Application in clean and tracked versions
- Comments on any further information/submissions received by Deadline 5
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP6-001	Medworth CHP Limited Deadline 6 Submission - 1.5 Guide to the Application (Clean) - Revision 9
REP6-002	Medworth CHP Limited Deadline 6 Submission - 1.5 Guide to the Application (Tracked) - Revision 9
REP6-003	Medworth CHP Limited Deadline 6 Submission - 3.1 Draft Development Consent Order (Tracked)
REP6-004	Medworth CHP Limited Deadline 6 Submission - 3.1 Draft Development Consent Order (clean)
REP6-005	Medworth CHP Limited Deadline 6 Submission - 5.4 List of other Consents and Licences (Clean) - Revision 2
REP6-006	Medworth CHP Limited Deadline 6 Submission - 5.4 List of other Consents and Licences (Tracked) - Revision 2
REP6-007	Medworth CHP Limited Deadline 6 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity - Appendix 11M Biodiversity Net Gain Assessment - (Clean) - Revision 5
REP6-008	Medworth CHP Limited Deadline 6 Submission - 6.4 Environmental Statement - Chapter 11 - Biodiversity - Appendix 11M Biodiversity Net Gain Assessment - (Tracked) - Revision 5
REP6-009	Medworth CHP Limited Deadline 6 Submission - 9.16 Statement of Commonality of Statements of Common Ground
REP6-010	Medworth CHP Limited Deadline 6 Submission - 6.4 Environmental Statement - Chapter 6 Traffic and Transport - Appendix 6A Outline CTMP (Clean) - Revision 6
REP6-011	Medworth CHP Limited Deadline 6 Submission - 6.4 Environmental Statement - Chapter 6 Traffic and Transport - Appendix 6A Outline CTMP (Tracked) - Revision 6
REP6-012	Medworth CHP Limited

	Deadline 6 Submission - 7.12 Outline Construction Environmental Management Plan (Clean) - Revision
REP6-013	Medworth CHP Limited Deadline 6 Submission - 7.12 Outline Construction Environmental Management Plan (Tracked) - Revision 6
REP6-014	Medworth CHP Limited Deadline 6 Submission - 7.14 Outline Community Benefits Strategy (Clean) - Revision 2
REP6-015	Medworth CHP Limited Deadline 6 Submission - 15.9 DCO Requirement 29: Waste Area Plan - Revision 1
REP6-016	Medworth CHP Limited Deadline 6 Submission - 7.14 Outline Community Benefits Strategy (Tracked) - Revision 2
REP6-017	Medworth CHP Limited Deadline 6 Submission - 7.15 Outline Operational Traffic Management Plan (Clean) - Revision 4
REP6-018	Medworth CHP Limited Deadline 6 Submission - 7.15 Outline Operational Traffic Management Plan (Tracked) - Revision 4
REP6-019	Medworth CHP Limited Deadline 6 Submission - 9.4 Statement of Common Ground between Medworth CHP Limited and the Host Authorities (DRAFT) - Revision 3.1
REP6-020	Medworth CHP Limited Deadline 6 Submission - 9.6 Statement of Common Ground between Medworth CHP Limited and Wisbech Town Council
REP6-021	Medworth CHP Limited Deadline 6 Submission - 9.10 Statement of Common Ground between Medworth CHP Limited and Anglian Water
REP6-022	Medworth CHP Limited Deadline 6 Submission - 9.20 Schedule of Changes - Revision 6
REP6-023	Medworth CHP Limited Deadline 6 Submission - 15.1 Deadline 6 Covering Letter
REP6-024	Medworth CHP Limited Deadline 6 Submission - 15.2 Written Summary of the Applicant's Oral Submissions at ISH6 - Revision 1
REP6-025	Medworth CHP Limited Deadline 6 Submission - 15.3 Written Summary of the Applicant's Oral Submissions at ISH7 - Revision 1
REP6-026	Medworth CHP Limited Deadline 6 Submission - 15.4 Written Summary of the Applicant's Oral Submissions at CAH3 - Revision 1
REP6-027	Medworth CHP Limited Deadline 6 Submission - 15.5 Applicant's comments on the responses to the ExA's Written Questions (ExQ2)
REP6-028	Medworth CHP Limited Deadline 6 Submission - 15.6a Applicant's comments on the Deadline 5 Submissions: Part 1 Statutory Parties
REP6-029	Medworth CHP Limited

	Deadline 6 Submission - 15.6b Applicant's comments on the Deadline 5 Submissions: Part 2 Other Interested Parties
REP6-030	Medworth CHP Limited Deadline 6 Submission - 15.7 Applicant's Response to ISH4 Action Point 7 Technical Note: Climate Additional Sensitivity Assessment
REP6-031	Medworth CHP Limited Deadline 6 Submission - 15.8 Section 106 Heads of Terms - Revision 2
REP6-032	Medworth CHP Limited Deadline 6 Submission - 15.10 Summary of Oral Submissions made by Interested Parties at Open Floor Hearing 3 and the Applicant's Response - Revision 1
REP6-033	Medworth CHP Limited Deadline 6 Submission - Updated Status of negotiations with Statutory Undertakers
REP6-034	National Highways Deadline 6 Submission - Statement of Common Ground between Medworth CHP Limited and National Highways (DRAFT)
REP6-035	Cambridgeshire County Council and Fenland District Council Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-036	Cambridgeshire County Council and Fenland District Council Deadline 6 Submission - Response to ISH6 and ISH7 Action Points
REP6-037	Cambridgeshire County Council and Fenland District Council Deadline 6 Submission - Comments on any further information/submissions received by Deadline 5
REP6-038	Wisbech Town Council Deadline 6 Submission - Comments on any further information/submissions received by Deadline 5
REP6-039	Wisbech Town Council Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-040	Icon Engineering Wisbech Ltd Deadline 6 - Post-hearing submissions including written submissions
REP6-041	Taylors Reclaims Ltd Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-042	United Kingdom Without Incineration Network (UKWIN) Deadline 6 Submission - Comments on any further information/submissions received by Deadline 5
REP6-043	United Kingdom Without Incineration Network (UKWIN) Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-044	WisWIN - Wisbech Without Incineration Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-045	Yvecourt Investments

	Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-046	Alan Wheeldon Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-047	Amanda Gower Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-048	Ana Ferreira Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-049	Andreia Ferreira Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-050	Angela Brennan-Glass Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-051	Anthony Foice-Beard Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-052	Derek Bull Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-053	Diana Mutimer Deadline 6 submission - Comments on any further information/submissions received by Deadline 5 - late submission accepted at the discretion of the ExA
REP6-054	Diane Hunt Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-055	Dr U Waverly Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-056	Hayley Johnson Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-057	Helen Pentelow Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-058	Isobel clarke Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-059	Jane, Martin & Emma Gower Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-060	Janet Thompson

	Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-061	Jenny Perryman Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-062	Jo Barnard Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-063	John Taylor Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-064	Kerys Jordan Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-065	Linda Seagroatt Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-066	Louise Lesniak Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-067	Maria Swaep Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-068	Martin Payne Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-069	Mervyn Sargeant Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-070	Nadine Ridgewell Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-071	Neil Elcome Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-072	Nicola Sutheran Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-073	Norman and Barbara Swain Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-074	Oliver Wardill Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-075	Peter Risebrow

	Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-076	Richard Thompson Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-077	Rob Murphy Deadline 6 submission
REP6-078	Roger Thompson Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-079	Sally Bass Deadline 6 submission - Post-hearing submission including written submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-080	Sir John Hayes MP Deadline 6 submission - Written Submission received from a Non-IP accepted at the discretion of the Examining Authority
REP6-081	Tom Howlett Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-082	Tony Wilson Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-083	Valerie MacRae Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-084	Wayne Cook Deadline 6 Submission - Post-hearing submissions including written submissions
REP6-085	B Fogarty Deadline 6 Submission - Post-hearing submissions including written submissions - late submission accepted at the discretion of the Examining Authority

Deadline 7 – 04 August 2023

- **Response to Further Written Questions (if published)**
- **Final DCO to be submitted by the Applicant in the SI template with the SI template validation report**
- **Final updated BoR and schedule of changes to BoR**
- **Final Guide to the Application**
- **Final Status of Negotiations CA Schedule**
- **Final NPS tracker**
- **Comments on the REIS and responses to any associated questions (if published)**
- **Comments on any additional information/submissions received by Deadline 6**
- Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010

REP7-001	Medworth CHP Limited Deadline 7 Submission - 2.1 Site Location Plan Rev 2
REP7-002	Medworth CHP Limited Deadline 7 Submission - 2.2 Land Plan Rev 5
REP7-003	Medworth CHP Limited Deadline 7 Submission - 2.3 Works Plan Rev 4
REP7-004	Medworth CHP Limited Deadline 7 Submission - 2.4 Access and Rights of Way Plan Rev 6
REP7-005	Medworth CHP Limited Deadline 7 Submission - 2.5 Features of Nature Conservation Plan Rev 2
REP7-006	Medworth CHP Limited Deadline 7 Submission - 2.6 Statutory and Non-Statutory features of Historic Environment Rev 3
REP7-007	Medworth CHP Limited Deadline 7 Submission - 3.2 Explanatory memorandum Rev 2
REP7-008	Medworth CHP Limited Deadline 7 Submission - 4.3 Statement of Reasons (clean) - Rev 3
REP7-009	Medworth CHP Limited Deadline 7 Submission - 4.3 Statement of Reasons (tracked) - Rev 3
REP7-010	Medworth CHP Limited Deadline 7 Submission - 6.4 ES Chapter 6 Traffic and Transport Appendix 6A Outline CTMP (clean) - Rev 7
REP7-011	Medworth CHP Limited Deadline 7 Submission - 6.4 ES Chapter 6 Appendix 6A CTMP (tracked) - Rev 7
REP7-012	Medworth CHP Limited Deadline 7 Submission - 6.4 ES Chapter 12 Hydrology Outline Drainage Strategy (clean) - Rev 4
REP7-013	Medworth CHP Limited Deadline 7 Submission - 6.4 ES Chapter 12 Hydrology Outline Drainage Strategy (tracked) - Rev 4
REP7-014	Medworth CHP Limited Deadline 7 Submission - 7.14 Outline Community Benefits Strategy (clean) -Rev 3
REP7-015	Medworth CHP Limited Deadline 7 Submission - 7.14 Outline Community Benefits Strategy (tracked) - Rev 3
REP7-016	Medworth CHP Limited Deadline 7 Submission - 9.4A SOCG between Medworth CHP Ltd and NCC and BCKLWN Rev 4
REP7-017	Medworth CHP Limited Deadline 7 Submission - 9.4B SOCG between Medworth CHP Ltd and CCC and FDC Rev 4 Draft
REP7-018	Medworth CHP Limited Deadline 7 Submission - 9.13 SOCG between Medworth CHP Ltd and Hundred of Wisbech IDB Rev 2.2
REP7-019	Medworth CHP Limited

	Deadline 7 Submission - 9.14 SOCG between Medworth CHP Ltd and Kings Lynn IDB Rev 3
REP7-020	Medworth CHP Limited Deadline 7 Submission - 9.15 SOCG between Medworth CHP Ltd and National Highways Rev 2
REP7-021	Medworth CHP Limited Deadline 7 Submission - 9.16 Statement of Commonality of Statements of Common Ground Rev 7
REP7-022	Medworth CHP Limited Deadline 7 Submission - 9.20 Schedule of Changes Rev 7
REP7-023	Medworth CHP Limited Deadline 7 Submission - 10.5 Status of Negotiations with Statutory Undertakers (clean) Rev4
REP7-024	Medworth CHP Limited Deadline 7 Submission - 13.3 ES Chapter 6 Traffic and Transport Appendix 6B Transport Assessment Addendum (clean) - Rev 2
REP7-025	Medworth CHP Limited Deadline 7 Submission - 13.3 ES Chapter 6 Traffic and Transport Appendix 6B Transport Assessment Addendum (tracked) - Rev 2
REP7-026	Medworth CHP Limited Deadline 7 Submission - 16.1 Deadline 7 Cover Letter signed MVV
REP7-027	Medworth CHP Limited Deadline 7 Submission - 16.1 Deadline 7 Cover Letter Redacted
REP7-028	Medworth CHP Limited Deadline 7 Submission - Applicant's comments on the Deadline 6 Submissions: Part 1 Statutory Parties Rev 1
REP7-029	Medworth CHP Limited Deadline 7 Submission - Applicant's comments on Written Representations: Part 2 - Other Interested Parties Rev 1
REP7-030	Medworth CHP Limited Deadline 7 Submission - Book of Reference (clean) - Rev 6
REP7-031	Medworth CHP Limited Deadline 7 Submission - Book of Reference (tracked) - Rev 6
REP7-032	Medworth CHP Limited Deadline 7 Submission - Schedule of Changes to Book of Reference Rev 4
REP7-033	Medworth CHP Limited Deadline 7 Submission - Draft Development Consent Order (clean) - Rev 6
REP7-034	Medworth CHP Limited Deadline 7 Submission - Draft Development Consent Order (tracked) - Rev 6
REP7-035	Medworth CHP Limited Deadline 7 Submission - Final DCO to be submitted by the Applicant in the SI template with the SI template validation report (tracked)
REP7-036	Medworth CHP Limited Deadline 7 Submission - Final Guide to the Application (clean) - Rev 10
REP7-037	Medworth CHP Limited

	Deadline 7 Submission - Final Guide to the Application (tracked) - Rev 10
REP7-038	Medworth CHP Limited Deadline 7 Submission - Final National Policy Statement Tracker Rev 3
REP7-039	Medworth CHP Limited Deadline 7 Submission - Final Status of Negotiations Compulsory Acquisition Schedule Rev 4
REP7-040	Medworth CHP Limited Deadline 7 Submission - Response to Further Written Questions (if published) Rev 1
REP7-041	Borough Council of King's Lynn & West Norfolk Deadline 7 Submission - Response to Further Written Questions
REP7-042	Cambridgeshire County Council and Fenland District Council Deadline 7 Submission - Cover letter
REP7-043	Cambridgeshire County Council and Fenland District Council Deadline 7 Submission - Comments on any additional information/submissions received by Deadline 6
REP7-044	Cambridgeshire County Council and Fenland District Council Deadline 7 Submission - Response to Further Written Questions (if published)
REP7-045	Environment Agency Deadline 7 Submission - Response to Further Written Questions (if published)
REP7-046	Hundred of Wisbech Internal Drainage Board Deadline 7 Submission - Response to further written questions
REP7-047	Jenny Perryman Deadline 7 Submission - Comments on any additional information/submissions received by Deadline 6
REP7-048	Network Rail Infrastructure Limited Deadline 7 Submission - Network Rail position statement
REP7-049	Norfolk County Council Deadline 7 Submission - Response to Further Written Questions (if published)
REP7-050	RSPB Deadline 7 Submission - Comments on any additional information/submissions received by Deadline 6
REP7-051	United Kingdom Without Incineration Network (UKWIN) Deadline 7 Submission - Comments on any additional information/submissions received by Deadline 6
REP7-052	Wisbech Town Council Deadline 7 Submission - Response to Further Written Questions (if published)
Deadline 7a - 11 August 2023	
For receipt by the ExA of:	
- Representations on the Applicant's changes to the Application received on 05 June 2023 (Examination Library references [AS-017] to [AS-030])	
REP7a-001	Medworth CHP Limited

	Deadline 7a Submission - Other: MVV Volume 17.1 Deadline 7A Cover letter
REP7a-002	Anglian Water Services Limited Deadline 7a Submission - Representations on the Applicant's changes to the Application received on 05 June 2023 - Examination Library references AS-017 to AS-030
Deadline 8 - 18 August 2023	
For receipt by the ExA of:	
- Comments on responses to further Written Questions (if published)	
- Comments on any further information/submissions received by Deadline 7 and Deadline 7a	
- Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010	
REP8-001	Medworth CHP Limited Deadline 8 Submission - 1.5 Guide to the Application (Clean) - Rev 10
REP8-002	Medworth CHP Limited Deadline 8 Submission - 1.5 Guide to the Application (tracked) - Rev 10
REP8-003	Medworth CHP Limited Deadline 8 Submission - 2.4 Access and Rights of Way Plan - Rev 7
REP8-004	Medworth CHP Limited Deadline 8 Submission - 3.1 Draft DCO (clean) - Rev 7
REP8-005	Medworth CHP Limited Deadline 8 Submission - 3.1 Draft DCO (tracked) - Rev 7
REP8-006	Medworth CHP Limited Deadline 8 Submission - 7.10 Medworth Outline Fire Prevention Plan (clean) - Rev 3.0
REP8-007	Medworth CHP Limited Deadline 8 Submission - 7.10 Medworth Outline Fire Prevention Plan (tracked) - Rev 3.0
REP8-008	Medworth CHP Limited Deadline 8 Submission - 7.11 Medworth Outline Odour Management Plan (clean) - Rev 3.0
REP8-009	Medworth CHP Limited Deadline 8 Submission - 7.11 Medworth Outline Odour Management Plan (tracked) - Rev 3.0
REP8-010	Medworth CHP Limited Deadline 8 Submission - 8.2 Statement of Common Ground between Medworth CGHP Ltd and Network Rail (signed) - Rev 3
REP8-011	Medworth CHP Limited Deadline 8 Submission - 9.4B Statement of Common Ground between Medworth CHP Ltd and CCC and FDC (signed) - Rev 5
REP8-012	Medworth CHP Limited Deadline 8 Submission - 9.16 Statement of Commonality of Statements of Common Ground - Rev 8
REP8-013	Medworth CHP Limited Deadline 8 Submission - 9.20 Schedule of Changes - Rev 8
REP8-014	Medworth CHP Limited

	Deadline 8 Submission - 10.5 Status of Negotiations with Statutory Undertakers - Rev 5
REP8-015	Medworth CHP Limited Deadline 8 Submission - 18.1 Deadline 8 Cover letter
REP8-016	Medworth CHP Limited Deadline 8 Submission - 18.2a Applicant's comments on the Deadline 7 Submissions: Part 1 Statutory Parties - Rev. 1.0
REP8-017	Medworth CHP Limited Deadline 8 Submission - 18.2b Applicant's comments on the Deadline 7 Submissions: Part 2 Other Interested Parties - Rev. 1.0
REP8-018	Medworth CHP Limited Deadline 8 Submission - 18.3 Applicant's comments on the Deadline 7A Submissions - Rev. 1.0
REP8-019	Medworth CHP Limited Deadline 8 Submission - 18.4 Applicant's comments on the responses to the ExA's Written Questions (ExQ3) - Rev. 1.0
REP8-020	Medworth CHP Limited Deadline 8 Submission - 18.5 Applicant's Closing Position Statement on Waste
REP8-021	Medworth CHP Limited Deadline 8 Submission - 18.6 Applicant's Closing Position Statement on Climate
REP8-022	Medworth CHP Limited Deadline 8 Submission - 18.7 Applicant's Closing Position Statement on Access Improvements
REP8-023	Medworth CHP Limited Deadline 8 Submission - DCO Validation Report
REP8-024	Anglian Water Services Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010
REP8-025	Cambridgeshire County Council and Fenland District Council Deadline 8 Submission - Comments on any further information/submissions received by Deadline 7 and Deadline 7a
REP8-026	Cambridgeshire County Council and Fenland District Council Deadline 8 Submission - Other: CCC & FDC Final Position Statement
REP8-027	Cambridgeshire County Council and Fenland District Council Deadline 8 Submission - Other: Copy of CCC & FDC Statement of Common Ground with the Applicant
REP8-028	Cambridgeshire County Council and Fenland District Council Deadline 8 Submission - Other: Cover letter for Deadline 8 Submissions
REP8-029	Network Rail Infrastructure Limited Deadline 8 Submission - Other: Network Rail position statement
REP8-030	Tom Howlett Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010
REP8-031	United Kingdom Without Incineration Network (UKWIN)

	Deadline 8 Submission - Comments on any further information/submissions received by Deadline 7 and Deadline 7a
REP8-032	United Kingdom Without Incineration Network - UKWIN Deadline 8 Submission - Comments on responses to further Written Questions
Late Submissions	
REP8-033	Medworth CHP Limited Deadline 8 Submission - Section 106 Agreement (including agreed form of S278 Agreement) between Cambridgeshire City Council, Alboro Developments Ltd and Medworth CHP Limited (unsigned)
REP8-034	CPRE Cambridgeshire and Peterborough Deadline 8 Submission - Other
Other Documents	
OD-001	Submissions received during the Acceptance Period
OD-002	Medworth CHP Limited Section 56 Notice
OD-003	Medworth CHP Limited Hearing Notice