

***Response to request for information  
set out in 8<sup>th</sup> December 2023 SoS letter***

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**FURTHER INFORMATION FROM UKWIN  
ON INCINERATION CAPACITY AND  
WASTE HIERARCHY**

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**Proposed Development:**

**North Lincolnshire Green Energy Park**

**Proposed Location:**

**Flixborough Wharf, Flixborough Industrial Estate,  
North Lincolnshire**

**Applicant:**

**North Lincolnshire Green Energy Park Limited**

**Planning Inspectorate Ref:**

**EN010116**

**Registration Identification Ref:**

**20031828**

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**JANUARY 2024**

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**United Kingdom  
Without Incineration  
Network**

## INTRODUCTION

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1. On 8<sup>th</sup> December 2023 the Secretary of State (SoS) wrote to the Applicant requesting information regarding a variety of topics ('the SoS letter'). At the same time the Planning Inspectorate extended an invitation for others "to provide a response to the Secretary of State's letter dated 8 December 2023". Various issues were set out the SoS letter where the SoS requested "updates and/or further information from the Applicant and consultees".
2. The topic that is most relevant to UKWIN's evidence relates to incineration capacity and the waste hierarchy. As UKWIN provided a significant body of evidence on that topic to the Examination we have decided that it would be of assistance to the application's determination to provide updates and further information on this topic within the context of the issues identified.
3. Late last year, the Department for Energy Security & Net Zero (DESNZ) presented a series of revised National Planning Statements (NPSs) to the Houses of Parliament pursuant to section 9(8) of the Planning Act 2008, including updated versions of EN-1 and EN-3. These revisions are due to come into force early in 2024.
4. UKWIN will refer to these revised NPSs as 'EN-1 (2024)' and 'EN-3 (2024)'.
5. UKWIN's focus has therefore shifted from referring to the draft updates of EN-1 and EN-3 (about which we commented in previous submissions to the Examination) to EN-1 (2024) and EN-3 (2024).

## BOSTON, TOLVIK AND OVERCAPACITY

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6. Paragraph 3 of the SoS letter states:

**The Secretary of State notes Draft EN-1 paragraphs 3.3.20 and 5.15.7, and draft EN-3 paragraphs 3.7.7 and 3.7.29 state how an overcapacity of energy from waste treatment should be avoided at national and local scales. Development Consent was granted for the Boston Alternative Energy Facility on 05 July 2023, located in the same waste catchment area as the Proposed Development. The Secretary of State also notes that the Applicant references the eighth annual 'UK Energy from Waste Statistics – 2021' report published by Tolvik in May 2022. The ninth annual report was published in May 2023.**

**The Applicant is requested to explain whether it considers an update to its assessment of waste availability and conformity with the waste hierarchy is required in light of the Boston Alternative Energy Facility and the most recent Tolvik report, and if so to provide updated assessments as required.**

## EN-1 and EN-3 Policies

7. The SoS cites various Draft EN-1 and EN-3 policies, which appear to be a reference to the March 2023 consultation draft of these emerging NPSs.
8. As such, we thought it would be helpful to compare the draft versions of these policies against the EN-3 (2024) versions of these policies.<sup>1</sup>
9. ***Changes to policies referred to by the SoS***

Draft (March 2023)	Revised (2024)
<p>EN-1 paragraph 3.3.40: The proposed plant 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.</p>	<p>EN-1 paragraph 3.3.40: <i>Unchanged from the Draft</i></p>
<p>EN-1 paragraph 5.15.7: The proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EfW or similar processes for the treatment of waste at a national or local level.</p>	<p>EN-1 paragraph 5.15.7: The proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of EfW or similar processes for the treatment of <b><u>residual</u></b> waste at a national or local level.</p>
<p>EN-3 paragraph 3.7.7: The proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of <b><u>EfW waste treatment</u></b> at a national or local level.</p>	<p>EN-3 paragraph 2.7.7 The proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of <b><u>residual waste treatment</u></b> at a national or local level.</p>
<p>EN-3 paragraph 3.7.29: Applicants must ensure EfW plants are fit for the future, do not compete with greater waste prevention, re-use, or recycling and do not result in an over-capacity of EfW waste treatment provision at a local or national level.</p>	<p>EN-3 paragraph 2.7.29: <i>Unchanged from the Draft</i></p>

<sup>1</sup> For this assessment, we assume the reference to Draft EN-1 paragraph 3.3.20 in the SoS letter was a reference to Draft EN-1 paragraph 3.3.40 on the basis that paragraph 3.3.20 relates to the role of wind and solar whereas paragraph 3.3.40 relates to Energy from Waste (EfW).

10. It appears that the draft policies referred to by the SoS have been retained in the revised versions of EN-1 and EN-3, in some cases with tweaks to clarify that overall (residual) waste treatment overcapacity should be avoided and that this is not limited only to EfW overcapacity.
11. This supports the position advanced by UKWIN that other capacity capable of treating residual waste should be considered within the context of the capacity analysis for the North Lincolnshire incinerator proposal, further supporting refusal of permission for the proposal on overcapacity grounds.
12. Other policies in EN-1 (2024) that also support refusal on overcapacity grounds, and the grounds of conflict with recycling and residual waste reduction targets and ambitions, include the following paragraphs:
  - 3.2.3 It is not the role of the planning system to deliver specific amounts or limit any form of infrastructure covered by this NPS. It is for industry to propose new energy infrastructure projects that they assess to be viable within the strategic framework set by government. This is the nature of a market-based energy system. With the exception of new coal or large-scale oil-fired electricity generation [**Footnote: A further exception to this is EfW plants where the primary function is to treat waste and planning decision will be made on the demand for waste infrastructure. See EN-3 for further detail.**], the government does not consider it appropriate for planning policy to set limits on different technologies but planning policy can be used to support the government's ambitions in energy policy and other policy areas. (**emphasis added**):
  - 4.3.20 The Government has set 13 legally binding targets for England under the Environment Act 2021, covering the areas of: ...resource efficiency and waste reduction... Meeting the legally binding targets will be a shared endeavour that will require a whole of government approach to delivery. The Secretary of State have regard to the ambitions, goals and targets set out in the Government's Environmental Improvement Plan 2023 for improving the natural environment and heritage. This includes having regard to the achievement of statutory targets set under the Environment Act.
  - 5.15.19 The Secretary of State should have regard to any potential impacts on the achievement of resource efficiency and waste reduction targets set under the Environment Act 2021 or wider goals set out in the government's Environmental Improvement Plan 2023.

13. Similarly, additional paragraphs from EN-3 (2024) that support refusal on overcapacity grounds and the grounds of conflict with recycling and residual waste reduction targets and ambitions include the following:

- 2.7.27 Waste combustion plants are unlike other electricity generating power stations in that they have two roles: the principal purpose being treatment of waste; and secondly the recovery of energy.
- 2.7.43 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.
- 2.7.44 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.
- 2.7.54 Applicants must ensure proposals do not result in an overcapacity of EfW waste treatment provision at a local or national level.
- 2.7.102 The Secretary of State 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 and local, regional or national waste management targets in Wales.

14. These policies confirm the following Government positions:

- EfW facilities, such as that proposed for North Lincolnshire, have the potential to compete with greater waste prevention, reuse, and recycling.
- New residual waste treatment capacity can result in overcapacity of EfW waste treatment provision at a local or national level.
- EfW capacity may be incompatible with long term recycling targets.
- EfW capacity may be of an inappropriate type or scale that could prejudice achievement of local or national waste management targets.
- It is necessary to consider both existing residual waste treatment capacity and capacity “already in development”.
- It is for the planning system to address these possibilities and to act to prevent EfW overcapacity at either local or national levels.

15. The paragraphs taken from EN-1 (2024) and EN-3 (2024) discussed above should be afforded great weight in this NSIP decision because they reflect current Government thinking with respect to the importance of avoiding EfW overcapacity at local and national levels, the importance of ensuring compliance with the 2027 and 2042 residual waste reduction targets, and the importance of protecting the top tiers of the waste hierarchy.
16. The planning system has a key role to play in constraining EfW overcapacity, and this is especially important for Nationally Significant Infrastructure Projects, both because of their scale and because of the specific planning policies to avoid EfW overcapacity and support the top tiers of the waste hierarchy set out in EN-1 (2024) and EN-3 (2024).

### **Comments on Boston Alternative Energy Facility (BAEF)**

17. As reflected in the SoS letter, 1.2 million tonnes per annum of new EfW capacity at the Boston Alternative Energy Facility (BAEF) was granted permission as part of a Development Consent Order approved by the SoS on 5<sup>th</sup> July 2023, and this facility is “located in the same waste catchment areas as the Proposed [North Lincolnshire] Development”.
18. Given the timing of the BAEF approval, it was not included in the SoCG estimate of 9,097 ktpa of consented EfW projects considered to be already in development agreed with the North Lincolnshire Applicant in REP9-029.
19. The North Lincolnshire NSIP proposal site is less than a two hour drive from the Boston Alternative Energy Facility (which is located in the East Midlands) and, as the SoS letter suggests, there is a significant catchment area overlap.
20. Boston Alternative Energy Facility DCO Requirement 17 (DCO pages 48 and 49) allows transport by road to be authorised subject to a determination that such operational vehicle movements would not cause unacceptable traffic impacts.
21. The Statement of Common Ground between the BAEF developer and Boston Borough Council also envisages the potential delivery of waste fuel via a private road between the BAEF and the nearby Slippery Gowt Waste Transfer Station (operated by Lincolnshire County Council) which currently transfers waste to the 190 ktpa EfW incinerator at North Hykeham.
22. This would mean that this incinerator feedstock from Lincolnshire County Council would have to come from elsewhere to maintain the North Hykeham EfW incinerator.
23. It should be noted that the existing operational North Hykeham EfW incinerator is located in the East Midlands region, less than an hour’s drive via the A15 from the North Lincolnshire NSIP proposal site.

24. In addition to road transport routes to the BAEF facility, the North Lincolnshire NSIP proposal site is within the vicinity of Hull Port which is one of the “potential ports” assumed by the Boston NSIP Applicant to supply incinerator feedstock to the BAEF facility.
25. The Boston NSIP Applicant’s ‘Addendum to Fuel Availability and Waste Hierarchy Assessment for Boston’ produced for the BAEF Examination stated that they had modelled “waste availability within 2-hour travel times of the proposed ports to be utilised to transfer the feedstock”. This document provides both 60-minute and 120-minute indicative drives times from the proposed ports to show the potential catchment areas for their feedstock.
26. One of the catchment areas included was the Port of Hull. The Port of Hull is about a 45-minute drive from Flixborough and is even closer to some of the areas that the North Lincolnshire Applicant is including within their Waste Fuel Availability Assessment, meaning there is an obvious and fairly extensive catchment area overlap.
27. While the BAEF operator might end up taking waste from a variety of ports, there is no planning restrictions that would prevent a significant quantity of the waste coming via the Hull Port given its close geographic proximity to the Boston plant.
28. The North Lincolnshire NSIP Applicant assumes that their feedstock would be waste that would otherwise be landfilled or exported as RDF. These are the same types of waste feedstock that the BAEF Applicant is claiming they too would be targeting.
29. The BAEF Applicant’s stated objectives for the Boston plant includes the objective to “reduce the quantity of waste exported abroad” alongside the objective to “reduce the quantity of waste disposed to landfill”.
30. The BAEF Applicant modelled the GHG impacts of their facility based on diverting between 0% and 50% from RDF export with the remaining 100%-50% being diverted from domestic landfill.
31. The Waste Fuel Availability Assessment Addendum for the BAEF stated that: “Primary sources of fuel will comprise wastes that are currently being landfilled that will be diverted and processed into RDF...”
32. This means it is clearly targeting some of the same sort of feedstock that the North Lincolnshire NSIP Applicant also hopes to pursue.
33. If both schemes operate at the same time, this heightens the risk that there would be EfW overcapacity and that the North Lincolnshire NSIP (or other facilities that would otherwise treat the waste that the North Lincolnshire plant treats) would end up having to take waste that might otherwise have been economic to reduce, re-use, recycle or compost.

## Comments on most recent Tolvik report

34. There are four notable trends that can be seen from the Tolvik report published in May 2023 to which we refer in this submission:

- Conversion of biomass plants to accept mixed waste / RDF / SRF
- Increased use of cement / lime kilns to treat mixed waste / SRF
- Increases in permitted capacity at existing EfW facilities
- Consented incinerators have continued to enter construction

### ***Conversion of biomass plants to accept mixed waste / RDF / SRF***

35. Tolvik notes on page 11 that: "...in 2022 two facilities, originally consented for the processing of biomass, accepted 18kt of Refuse Derived Fuel".

36. This trend can be expected to continue, as a number of biomass plants have varied their permits to allow them to treat mixed waste, e.g. in the form of refuse derived fuel (RDF) and/or Solid Recovered Fuel (SRF).

### ***EXAMPLES OF EXISTING FORMER BIOMASS PLANTS NOW PERMITTED TO TREAT RDF/SRF***

Facility	Region	Permitted capacity	Details
<b>Boston Energy Production Facility</b> (Operational) Permit: UP3131DF	East Midlands	86.4 ktpa	Switched from waste wood (biomass) to mixed waste RDF/SRF feedstock in Q3 2022.
<b>Hull Energy Production Facility</b> (Operational) Permit: DP3932RS	Yorkshire and Humber	86.4 ktpa	Switched from waste wood (biomass) to mixed waste RDF/SRF feedstock in Q3 2022.
<b>Port Clarence</b> (Constructed) <sup>2</sup> Permit: MP3333WX	North East	333 ktpa	Permit varied 9 <sup>th</sup> January 2024 to switch fuel from waste wood/biomass to Refuse Derived Fuel (RDF).

37. None of this circa half a million tonnes of residual waste treatment capacity is included in the Applicant's REP6-032 Annex A or in REP9-029 Updated Table A6 and A7.

38. Given that some of the existing converted waste wood/biomass capacity listed above is located in the East Midlands and in Yorkshire and the Humber, taking this capacity into account would affect the more local/regional analysis in addition to the national overcapacity analysis.

39. In terms of trends, it is also possible that more of this sort of biomass / waste wood capacity will be converted to use for RDF/SRF in the future.

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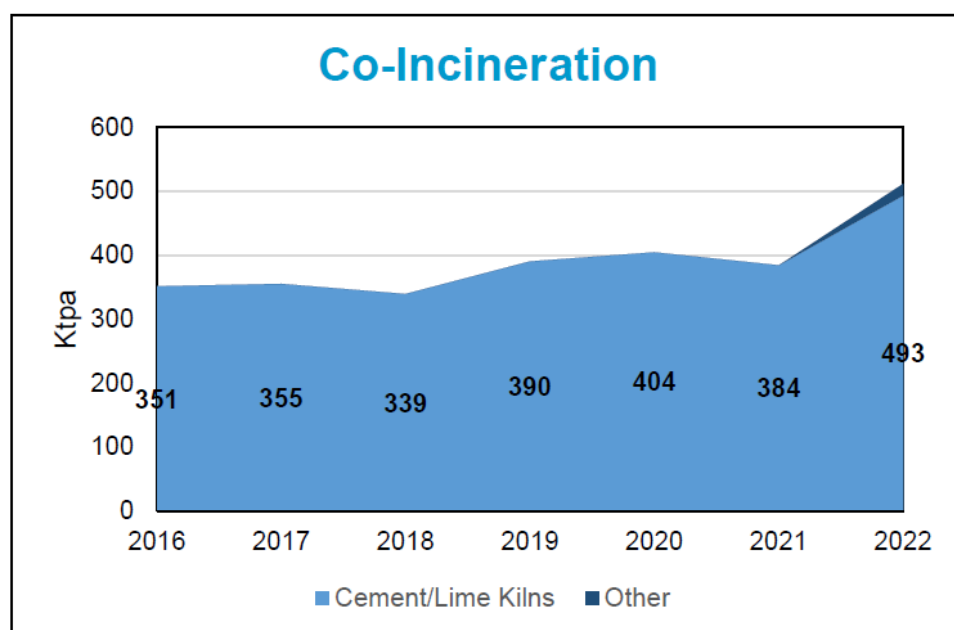
<sup>2</sup> On 10<sup>th</sup> January 2024 it was reported in ENDS that: "The facility, which is fully built but not operational, was bought by...Womble Energy in June last year, following years of industry speculation it would switch from biomass processing to taking [mixed] waste".



### **Increased use of cement / lime kilns to treat mixed waste / SRF**

40. Tolvik’s most recent report indicates that in 2022 the use of municipal waste in cement kilns had increased by 118,000 tonnes, stating: “In 2022, 10 cement and lime kilns (out of 11 operational facilities in the UK) accepted a total of 493kt of SRF under EWC code 19 10 12. This was a 28% increase on the tonnage in the previous year reflecting investment activity at several kilns. The total tonnages of other wastes co-incinerated at these facilities were broadly in line with previous years”.
41. This is illustrated by Tolvik in the following chart:

### **Residual Waste Co-Incinerated in the UK**



42. If cement kiln use continued to increase at a rate of just over 100 ktpa per annum until 2027 then the quantity of residual waste co-incinerated would double to around 1 million tonnes per annum, in line with UKWIN’s assumption in our Deadline 6 response to the ExA’s ExQ2 Annex A which assumes 1Mtpa of such capacity from 2030 at a national level [REP6-043].
43. The extent to which this impacts upon local/regional analysis depends on the extent to which it is assumed that local/regional waste will be used to feed these cement and lime kilns in the future.
44. As noted by the Applicant in REP9-029, and in the notes to the Applicant’s REP6-032 Annex A, the Applicant assumes only 375 ktpa of SRF is used for co-incineration in their ‘Other uses’ for residual waste figures in Table 1 for all years, and the Applicant assumes this is shared out equally amongst the nine English regions, with no waste from North Lincolnshire assumed to be used as feedstock for any co-incineration plants anywhere in the country.

45. If it is assumed that the rates of co-incineration will continue to exceed 375 ktpa then this would increase the level of residual waste treatment overcapacity.

### ***Increases in permitted capacity***

46. Tolvik’s ninth annual report, published in May 2023, indicates that across the UK the total level of permitted EfW capacity for facilities that were fully operational or under construction as of December 2022 was higher than the level reported for December 2021.

47. The permitted capacity levels assumed by the Applicant can be found in REP9-029 Updated Table A6 and A7.

48. There have been numerous increases in EfW capacity across England that have yet to be reflected in the Applicant’s figures, e.g. because they were not known about or because permitted capacity had yet to be increased when the Applicant produced their March 2023 REP6-032 Annex A.

### ***PERMITTED EFW CAPACITY CHANGES AT EXISTING OPERATIONAL EFW FACILITIES***

<b>Facility</b>	<b>Region</b>	<b>Old permitted capacity (ktpa)</b>	<b>New permitted capacity (ktpa)</b>	<b>Details</b>
Newhurst Quarry	East Midlands	350	455	105 ktpa increase through permit variation EPR/RP3004MA/V005 issued on 12 <sup>th</sup> December 2023.
Peterborough (Fourth Drove)	Eastern	85	110	25 ktpa increase through permit variation EPR/NP3638ZS/V007 issued on 26 <sup>th</sup> June 2023.
Cory Riverside Energy	London	785	850	65 ktpa increase through permit variation EPR/BK0825IU/V009 issued 26 <sup>th</sup> August 2022.
Ardley	South East	326	378	52 ktpa increase through permit variation 65 ktpa increase through permit variation EPR/UP3005LJ/V002 issued 11 <sup>th</sup> January 2023.

49. These increases amount to just under a quarter of a million tonnes of extended EfW capacity at existing operational EfW plants across England, including more than 100 ktpa of new permitted capacity in the East Midlands region.
50. Additionally, the Environment Agency issued a draft decision for permit variation EPR/GP3305LN/V003 on the 21<sup>st</sup> of July 2023 indicating that they were minded to increase the permitted capacity for the existing operational Beddington from 347,000 tpa to 382,286 tpa.
51. The consultation for the Beddington expansion closed on the 15<sup>th</sup> of September 2023. While the EA has yet to finalise the requested variation, as they have issued a draft decision to approve, it would be highly unusual for the variation not to be issued in due course.
52. Given the Government's intention to reduce how much plastic is in the residual waste stream which can be expected to reduce the calorific value of potential incinerator feedstock and therefore increase the amount of waste that needs to be incinerated to maintain electricity generation levels, combined with the economic incentive to maximise how much is incinerated, it seems likely that the trend of increased incineration capacity will continue.
53. This means that we can expect that even more existing incinerators will increase their processing capacity in the future, therefore increasing the level of EfW overcapacity at local, regional, and national levels. The proposed North Lincolnshire capacity would therefore be likely to create or exacerbate EfW overcapacity across a range of spatial levels.

### ***Consented incinerators have continued to enter construction***

54. The ninth Tolvik report states that "Riverside Energy Park" is "In Construction / Commissioning" with a capacity of 650ktpa, having reached financial close in Q4 of 2022.
55. According to the website of EfW operator Cory, their 'Riverside Energy Park (REP)', also known as 'Riverside 2' (not to be confused with Cory's existing Riverside Resource Recovery Facility) entered construction in January 2023 and is expected to be able to accept waste by 2026.
56. This status is also reflected in Document Reference: 0.0.1 submitted by the Applicant (Cory Environmental Holdings Limited) in April 2023 for Cory's application (PINS Reference: EN010128) entitled 'Environmental Impact Assessment Scoping Report' where Cory describes how: "Riverside 2, an EfW facility with a generating capacity of approximately 76MW is currently under construction and anticipated to be operational in 2026".

57. The permit for the REP facility dated 17<sup>th</sup> July 2020 provides a permitted capacity of 805,920 tpa and this is the maximum capacity stated in the Riverside Energy Park Order 2020. The Riverside Applicant has publicly stated a nominal capacity of 665ktpa.
58. None of this Riverside 2 REP capacity is included in the North Lincolnshire Applicant's REP6-032 Annex A tables.
59. As noted in REP4-020, the North Lincolnshire Applicant had considered that Cory Riverside Energy Park (REP) to merely be a "Consented Energy from Waste Plant" of 665 ktpa with an assumed capacity factor of 90%.
60. We know that this consented but not under construction assumption was retained for their Annex A tables because we were provided with a copy of the underlying assumptions as part of the SoCG process. This can also be confirmed by the documents already before the Examination.
61. While in REP9-029 the final SoCG lists the existing "Cory Riverside Energy" in Updated Table A6 – Operational EfW plants in England, it does not list Riverside 2 (i.e. the Cory Riverside Energy Park) in Updated Table A7 – Energy from Waste plants under construction in England, meaning that the capacity was still considered as only consented at the time.
62. The most recent Tolvik report and statements from Cory reveal that the REP plant should now be considered as being under construction.
63. If it is assumed that this capacity is regional capacity for London, it would increase national capacity but not the capacity for the other regions.
64. If the REP processed only waste arising in London this could displace waste from London that is currently exported from London for residual waste treatment, freeing up EfW capacity outside London.
65. It should also be noted there is no planning restriction on the geographic origin of REP feedstock, and so could also accept waste from further afield.
66. On the topic of new capacity, on 5<sup>th</sup> January 2024 it was reported in the waste and resources trade press (e.g. LetsRecycle) how "An energy from waste (EfW) plant under construction by Encyclis" in Walsall (in the West Midlands), described as a "due to be finished in 2027", would be entering construction in February 2024.
67. The article notes that: "Encyclis outlined that it will build, own and operate the facility, the first site to be 100% owned by the company. Hitachi Zosen Inova will be the principal contractor, with construction of the facility to begin next month" (i.e. February 2024).
68. The Environmental Permit (EPR/AP3832WS) associated with Encyclis' Walsall Energy Recovery Facility lists the facility's permitted EfW processing capacity as 478,300 tonnes of non-hazardous waste per annum.

69. And, as reflected in the SoS letter, the aforementioned 1.2 million tonnes per annum of new EfW capacity at the Boston Alternative Energy Facility was granted permission as part of a Development Consent Order approved by the SoS on 5<sup>th</sup> July 2023, and this facility is “located in the same waste catchment areas as the Proposed [North Lincolnshire] Development”.
70. Given the timing of the Boston approval, this 1.2 million tonnes of additional EfW capacity was not included in the estimate of 9,097 ktpa of consented EfW projects considered to still be under development agreed with the Applicant in REP9-029, which included 500 ktpa of capacity specifically in the Yorkshire & Humber region.
71. As UKWIN has previously noted, even if only a small proportion of currently consented EfW projects move forward then it could have a significant impact on EfW overcapacity across a range of geographic scales.

## **IS THE PROPOSAL NONETHELESS JUSTIFIED?**

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72. Paragraph 5 of the SoS letter states:

**EN-3 paragraph 2.5.70 states that the Secretary of State should be satisfied that the Proposed Development is in accordance with the waste hierarchy and would be of an appropriate type and scale as to not prejudice the achievement of local or national waste management targets. Where there are concerns in terms of a possible conflict, the Applicant should provide evidence as to “*why this is not the case or why a deviation from the relevant waste strategy or plan is nonetheless appropriate and in accordance with the waste hierarchy*”. (emphasis added).**

**The Applicant is requested to provide further evidence and reasoning beyond that stated in [REP6-032] that: “some resilience is necessary in the system to ensure as least waste as possible goes to landfill”.**

73. EN-3 (2011) paragraph 2.5.70 is retained in EN-3 (2024) as paragraphs 2.7.102 and 2.7.103, with the wording changed to replace “IPC” with “Secretary of State”.
74. As such, the requirement that the SoS must be satisfied that the Proposed Development is in accordance with the waste hierarchy and would be of an appropriate type and scale as to not prejudice the achievement of local or national waste management targets and that any deviation from the waste hierarchy must be justified by evidence has been retained in the 2024 version of EN-3.

## CONFIRMING EWC CODES AND LANDFILL PROPORTIONS

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75. Paragraph 8 of the SoS letter states:

**The Applicant is requested to respond to the Environment Agency's comments [REP6-040] that whilst the European Waste Catalogue (EWC) codes on an environmental permit would limit the types of waste the ERF may receive, it does not provide certainty that the same waste would be unsuitable for treatment at an earlier stage in the waste hierarchy. The Environment Agency also states [REP9-046] that it is the relevant planning authority that is responsible for driving waste generated in a given area up the waste hierarchy.**

**The Applicant is requested to respond to the Environment Agency's comments and to confirm which EWC codes are relevant to the waste the Proposed Development would treat and what proportion of the landfill waste is/would be comprised of waste with these EWC codes.**

76. For the avoidance of doubt it should be noted that not all material that is currently being landfilled is suitable for incineration. This unsuitability of some landfilled waste for use as a fuel for EfW extends beyond major mineral waste, as the North Lincolnshire Applicant acknowledged in REP7-032.<sup>3</sup>
77. By way of providing an update and further information on this important topic, we submit to this Examination the technical note produced by Beyond Waste for the Medworth EfW CHP proposal Examination (EN010110).
78. This analysis indicates that only around c. 40% of landfilled waste assigned the EWC code 19 12 12 (for sorting residues) might be combustible.
79. This is significant because a large proportion of landfilled waste falls under this code.
80. While it is the case that some waste under the EWC code 19 12 12 is incinerated, the 19 12 12 coded material sent for incineration is not the same material as the 19 12 12 coded waste that is landfilled.
81. That is to say, 19 12 12 material arises as the result of sorting processes, and generally speaking the combustible fraction of that residual waste is sent to be incinerated while the non-combustible fraction is sent to landfill.

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<sup>3</sup> Page 39 of the Applicant's Responses to ExAs ExQ2 [REP7-032] includes the statement "...The Applicant recognises that not all of this waste [covered by EIP Interim Target 1] will be suitable for use as a fuel for EfW, but the information needed to quantify this precisely is not available."

82. This means that evidence of quantities of 19 12 12 going to landfill is not strong evidence of the availability of potential incinerator feedstock.
83. As the technical note puts it: "...the provision of EfW capacity does not mean 19 12 12 waste can be expected to be diverted from landfill".
84. The Beyond Waste technical note also explains how: "The processing of mixed skip waste [associated with the 19 12 12 waste code] generates residues of low combustibility after removal of wood and cardboard in sorting. These are normally referred to as trommel fines".
85. The note goes on to explain how: "There is a specific provision under the HMRC landfill tax regime to allow the disposal of these residues to landfill under the inactive waste classification if they meet a loss on ignition test. That is to say they have to prove they are not combustible to qualify. This by definition means they would be unsuitable for incineration. The landfill tax applies two rates, standard rate for active waste which currently stands at £102.10/tonne and inactive which currently stands at £3.25/tonne".
86. It should also be noted that some of the 19 12 12 coded material that is combustible is also recyclable.
87. As UKWIN set out in our Written Representation [REP2-10], the Government's Resources and Waste Strategy acknowledges that residual waste is "an indicator of avoidable waste in that residual waste will include material that could have been recycled".
88. As part of the May 2023 Parliamentary debate on Waste Incineration, the Government told Parliament that: "We want to see less waste being sent to incinerators, which is why we set a statutory target to halve the 2019 level of residual waste by 2042" (emphasis added). Source: Hansard – Oral answer to question on Waste Incineration (Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, 25 May 2023)
89. The Government's target to reduce both waste to landfill and incineration makes it clear that the UK Government does not think that all waste currently being landfilled ought to be locked into treatment that is only one rung up the hierarchy. Instead, the Government wants as much of that waste as possible to be treated at the top tiers of the waste hierarchy (i.e. prevented, reused, recycled, or composted).