

APPENDIX CRU

Correspondence with North Northamptonshire Council

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Cc: [REDACTED]
Subject: ENRMF DCO application - draft agenda for the meeting on 29 April 2021
Date: 22 April 2021 16:15:00
Attachments: [_DOC_166123378\(5\)_DRAFT Explanatory Memorandum 19_04_21.DOCX](#)
[_DOC_166878625\(3\)_Working Draft DCO 15_04_21.DOC](#)
[_DOC_166899774\(1\)_Draft works plan_16 April 2021.PDF](#)
[Signed s106 agreement for DCO application 17 Jan 2013.pdf](#)
[image002.png](#)

Dear Mark and Phil

In preparation for our meeting at 9am on Thursday 29 April 2021, we provide below a draft agenda. Please let us know if there are any other specific aspects you would like to add. Meanwhile we attach the draft DCO, draft Explanatory Memorandum and draft Works Plan for your review prior to our discussions.

Draft Agenda

1. Welcome
2. Update on the structure of NNDC
3. Update on responses to PEIR and progress since
4. Discussion of draft DCO (the draft DCO, draft explanatory memorandum and draft Works Plan are attached)
5. Section 106 Agreement principles (the current S106 is attached for reference)
6. Discussion on the main points raised during the consultation by NCC if not covered above
 - a. Minerals and Waste Planning Policy
 - b. Highways
7. Timetable for submission and examination
8. Any other matters

We look forward to our discussions.

Kind regards
Leslie

Leslie Heasman
MJCA
Baddesley Colliery Offices
Main Road
Baxterley
Atherstone
Warwickshire
CV9 2LE

Current main contact number [REDACTED]
Tel: 01827 717891
www.mjca.co.uk



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THE PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND
PROCEDURE) REGULATIONS 2009 REGULATION 5(2)(c)**

THE PROPOSED EAST NORTANTS RESOURCE MANAGEMENT FACILITY ORDER 202*

EXPLANATORY MEMORANDUM

1 Introduction

- 1.1 This memorandum accompanies an application for development consent (the **Application**) by Augean South Ltd (the **Applicant**) for a hazardous waste and low level radioactive waste landfill facility. The memorandum explains the purpose and effect of each article of, and Schedule to, the draft East Northants Resource Management Facility Order 202* (the **draft Order**), as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 1.2 The wording used in the draft Order has been derived from the East Northamptonshire Resource Management Facility Order 2013 as amended by the East Northamptonshire Resource Management Facility (Amendment) Order 2018 (**Original Order**).
- 1.3 There is already an existing facility on the site which is in the process of being constructed pursuant to the Original Order. The Application is for an extended version of the existing facility, which consists of a waste treatment and recovery facility and a hazardous waste landfill (**Existing Facility**). The draft Order revokes the Original Order and will replace it.
- 1.4 Additional articles have been included where necessary and in some cases, the draft Order draws from the drafting used in Orders for similar developments made under the Planning Act 2008 (the 2008 Act) and other Acts authorising development. A table has been included at Schedule 1 to summarise the basis of the drafting used in the case of each Article of the draft Order
- 1.5 Because the Order revokes and replaces to Original Order, we have included a comparison table of the Requirements in the draft Order with the Requirements in the Original Order, which is attached at Schedule 1.

2 Purpose of the Order

- 2.1 In overview, the purpose of the Order is to grant the Applicant development consent for a Nationally Significant Infrastructure Project (**NSIP**).
- 2.2 The Existing Facility receives wastes generated primarily in the centre, east and south of the UK. The Original Order requires use of the Existing Facility to cease by 2026, but the need for specialist facilities to serve these areas of the country will continue beyond the duration of the current consent. Therefore the Applicant is applying for a new development consent order for an extension in the area and timescales for the operation of the Existing Site (**Project**).
- 2.3 The Project includes:
 - The construction of new landfill void for the disposal of the same range of hazardous wastes and low level radioactive waste (**LLW**) disposed of at the site currently with a capacity of greater than 100,000 tonnes per annum (**tpa**) supported by the existing site infrastructure. The new landfill will comprise a number of phases and provide a landfill void of approximately 2million cubic metres.
 - The continuation of filling of the existing ENRMF landfill with hazardous waste and LLW the subject of the current Development Consent Order and the amendment of the consented restoration profile to tie the existing landfill in to the proposed

extension landform. The amendment to the restoration profile will result in the creation of new void at the existing site.

- The winning and working of minerals in order to create the landfill void and provide extracted materials for use on site as well as the exportation of clay and overburden for use in engineering, restoration and general fill at other sites.
- The stockpiling of clay, overburden and soils for use in the construction of the engineered containment system at the site and restoration of the site.
- The direct input of waste into the existing and new landfill will continue at a rate of up to 150,000tpa.
- An increase to the waste throughput of the waste treatment and recovery facility to 250,000tpa which comprises an increase of 50,000tpa compared with the rate consented in the 2018 Order amendment.
- A combined waste importation rate limit to the waste treatment and recovery facility and landfill of 300,000tpa which is an increase of 50,000tpa compared with the currently consented total input rate.
- The LLW which is and will continue to be disposed of at the ENRMF will be limited to that which is at the lower end of the activity range and typically will have a level of radioactivity of up to 200 Bq/g.
- The diversion of some of the services that cross the western extension to alternative routes within the application area.
- The operational hours of the site will not change from those already permitted.
- Restoration to generally domed restoration landforms in the extension area and amendment to the approved restoration profile of the existing ENRMF site to create a coherent restored landform over the whole application site.
- Restoration of the site to nature conservation interest using the soils available at the site as well as suitable imported materials.
- Completion of the landfilling and restoration operations by December 2046. This is a provisional completion date that will be updated as part of the ongoing detailed design works.
- Retention of infrastructure until 2046 and the retention of long term management infrastructure beyond this date.
- The site will be subject to a ten year aftercare and maintenance period following the completion of restoration. The Environmental Permits for the landfill site will continue for a longer period until the point at which the Environment Agency consider that the site no longer presents a potential risk to the environment and that the permits can be surrendered.

2.3 A detailed explanation of the authorised development is set out in the Project Description chapter (chapter X) of the Environmental Statement (Document XX) which accompanies the Application.

2.4 The Project does not require any compulsory acquisition of land. All works will take place on land which the Applicant has a leasehold interest in or has an option over. Similarly no compulsory acquisition or extinguishment of rights of any other party is required in order to

deliver the Project. Consequently a full standardised Book of Reference is not being supplied as part of the Application as it is not considered necessary given the circumstances i.e. the fact that the Applicant has an interest in all the land required and no compulsory acquisition is proposed. The [*Land Ownership and Interests Schedule*] summarises details of Category 1 and Category 2 persons for the purposes of sections 42(1)(d), 44, 56(2)(d) and 57 of the 2008 Act.

3 Nationally Significant Infrastructure Project

- 3.1 The draft Order will provide consent for both the Existing Facility and the proposed new landfill void, Schedule 1 to the Order contains a list of numbered works comprising the NSIP.
- 3.2 These authorised works fall within the definition of an NSIP for the purposes of section 14(1)(p), 30(1) and 30(3) because they comprise:
- Work No. 1 - The continuation of the filling of the existing landfill void (currently consented by the Original Order) and the construction of a new landfill void. This facility will have a capacity of 150,000tpa, exceeding the 100,000tpa threshold in section 30(1), and
 - Work No. 2 - An alteration to the waste treatment and recovery facility, which will increase the capacity from 200,000tpa consented under the Original Order to 250,000tpa, an increase greater than 30,000tpa in accordance with section 30(3).

4 Associated development

- 4.1 Pursuant to section 115 of the 2008 Act, development consent can be granted for both the NSIP and associated development.
- 4.2 The Secretary of State for Communities and Local Government has issued guidance entitled *Guidance on associated development applications for major infrastructure projects*, (April 2013), which sets out the defining characteristics of, and illustrates the types of development that may qualify as associated development. In summary, associated development must not be an aim in itself; it must be subordinate to and necessary for the effective operation of the NSIP, and may include measures that support construction or operation of the NSIP, or measures that are necessary to mitigate the effects of the primary development. Associated development should generally be proportionate to the nature and scale of the NSIP. The guidance clarified that it is for an applicant to decide whether to include something that could be considered as associated development in an application for development consent or whether to apply for consent for it by other means.
- 4.3 Associated development forming part of the authorised development is proposed to include:
- works to the site reception area which will include works on the site access and surfaced access road; laboratory; canteen and offices; car parking area; weighbridge; wheel washing facilities; cess pit; and bunded fuel storage tanks,
 - alteration of an open watercourse with associated ecological works,
 - the diversion of an overhead electricity cable, and
 - additional works including monitoring boreholes; leachate storage tanks; bunded fuel storage tanks; security cameras; boundary fencing; lighting; internal site roads; hardstanding and bunding; surface water collection ponds; surface and foul water

drainage; the restoration of the land including the creation of footpaths and tracks for public access and retention of the car parking area; and aftercare.

The Draft Order

5 Preliminary Provisions

- 5.1 The preamble to the Order sets out some key legislative provisions and if made, will explain that an application under section 37 of the 2008 Act has been made to the Secretary of State for an order granting development consent, and that the application has been examined by a single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010. If made, the Order will go on to explain that the Secretary of State has considered the examining authority's report and recommendation, has taken into account the environmental information submitted with the application in accordance with regulation 3 of the 2017 EIA Regulations, and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act (which include the National Policy Statements and a Local Impact report that will be prepared by the relevant planning authority) in deciding to make the Order.

Articles 1 and 2 of the Order contain preliminary provisions.

Article 1 (*Citation and commencement*) provides for the commencement and citation of the Order. It includes the date on which the Order comes into force, which may or may not be the date on which the Order is made.

Article 2 (*Interpretation*) provides for the interpretation of the Order and sets out specific definitions relating to the Project and its associated development. The "authorised development" is defined as the development and the associated development, the components of which are listed in Schedule 1 of the Order, It should be noted that Schedule 2 also contains some further definitions of certain terms that relate specifically to the requirements, and Schedule 2 contains further definitions of certain terms that relate specifically to the procedure for discharge of requirements.

Article 2 (2) clarifies that any rights over land that are granted by the Order include references to rights to do or to place and maintain anything in, on or under land, or in the air-space above its surface.

Article 2 (3) clarifies that references in the Order to numbered requirements are to those requirements numbered in Schedule 2.

Article 2 (4) provides that all distances, directions and lengths referred to in the Order are approximate, which allows for some flexibility in the event that it transpires there will be marginal differences in any of the dimensions and ensures they are permitted under the terms of the Order. This approach has been adopted in the Wheelabrator Kemsley K3 Generating Station Order 2021.

Article 2 (5) clarifies that any reference to a work number in the Order

is to be construed by reference to that work number as set out in Schedule 1.

Article 2 (6) provides that the term "includes" is non-limiting.

6 Operative Provisions

Articles 3 to 21 of the Order contain provisions for and relating to the authorised project, and miscellaneous and general provisions.

Part 2 **Principal Powers**

Article 3 (*Development consent etc. granted by the Order*) would grant development consent for the authorised development within the Order limits, thereby authorising the construction of the main development, associated development and ancillary works. The authorised development means the development described in Schedule 1 (*Authorised development*). This includes further works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement. Article 3 is based on the Model Provisions and follows the approach taken for the Original Order.

Article 4 (*Effect of the order on the original order*) revokes the Original Order upon service of a notice confirming that the undertaker is starting to operate under the draft Order. Work No 1 (the existing landfill void) must not be operated under the draft Order until such a notice has been served.

A similar provision was included in the Original Order and the Wheelabrator Kemsley K3 Generating Station Order 2021 (article 4)

Article 5 (*Limits of deviation*) would allow for lateral deviation within the limits shown on the Works plans for each separate Work.

Vertical deviation of the works must not exceed [2] metres upwards, but may be to any extent downwards as required to construct the Proposed Development.

An element of flexibility in deviation is required so that any construction can respond to ground conditions when the works are carried out. It is sought to provide the necessary (but proportionate degree of) flexibility when constructing that part of the authorised development, reducing the risk that the project as approved cannot later be implemented for unforeseen engineering or geological reasons.

Article 5 is based on the approach taken for the Tees Combined Cycle Power Plant Order 2019 (article 6) and the Southampton to London Pipeline Development Consent Order 2020 (article 6).

Article 6 (*Benefit of the Order*)

Article 6 overrides section 156(1) of the 2008 Act (as permitted by section 156(2)) to give the benefit of the Order to the Applicant rather than anyone with an interest in the land. It would be impracticable for a variety of landowners to implement parts of the proposed development in an uncoordinated manner, which might be the case if section 156(1) were to remain.

The purpose of paragraph (2) is to clarify the exceptions where the provisions of the Order will self-evidently benefit others. Absent this provision, there would be a contradiction since strictly speaking only the Applicant could benefit from these works.

Article 6 is based on the approach taken for the Southampton to London Pipeline Development Consent Order 2020 (article 7).

Article 7 (Consent to transfer benefit of Order)

This article provides for the transfer of the whole or part of the benefit of the Order with the consent of the Secretary of State, subject to certain exceptions.

Article 7 is based on the approach taken for the Southampton to London Pipeline Development Consent Order 2020 (article 8).

Article 8 (Power to construct and maintain authorised project) makes provision for the construction and maintenance of the authorised project and follows the Model Provisions.

This article was in the Original Order and has been modified to allow power to "construct" as well as maintain the authorised project.

Article 9 (Maintenance of drainage works)

Article 9 is based on the approach taken for the Southampton to London Pipeline Development Consent Order 2020 (article 5).

Part 3 **Supplemental powers**

Article 10 (Access to works) authorises accesses to and from public highways, with the approval of the planning authority after consulting the highway authority. It therefore streamlines matters for the undertaker to require only one approval from the relevant authority. This Article broadly follows the approach taken in the Model Provisions, but more closely follows the approach taken in the Southampton to London Pipeline Development Consent Order 2020 (article 15).

Article 11 (Discharge of water) enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised project with the approval and superintendence (if provided) of the authority to which the watercourse, public sewer or drain belongs (such approval not to be unreasonably withheld) and subject to other conditions. This element of the Article follows the Model Provisions and the White Moss Landfill Development

Consent Order 2015 (article 9).

Article 12 (*Authority to survey and investigate the land onshore*) confers upon the undertaker a power to survey and investigate land, including the ability to make trial holes or bore holes, to use and leave apparatus on the land in question and to enter onto land. The Article also makes provision in relation to the payment of compensation and the notice period that must be given to owners and occupiers of land ahead of any surveys. The Article follows the Model Provisions but with modifications which follow the approach taken in the Norfolk Vanguard Development Consent Order 2020 (article 16). In addition, the purpose for which a survey or investigation might be carried out also includes purposes required by the assessment carried out in the Environmental Statement for the authorised project.

Article 13 (*Felling or lopping of trees and removal of hedgerows*) enables the undertaker to fell or lop trees and shrubs for the purposes of preventing obstruction or interference with the authorised project and danger to the authorised project. Provision is included for the payment of compensation for loss and damage. The Article broadly follows the Model Provisions but more closely follows the approach in The Norfolk Vanguard Development Consent Order 2020 (article 35).

Part 4 ***Miscellaneous and General***

Article 14 (*Application of landlord and tenant law*) overrides the application of landlord and tenant law in so far as it may prejudice the operation of any agreement for leasing the whole or part of the authorised project or the right to operate the same and any agreement for the construction, maintenance, use or operation of the authorised project or any part of it entered into by the undertaker. This is a Model Provision and mirrors the approach taken in the White Moss Landfill Development Consent Order 2015 (article 19).

Article 15 (*Protective provisions*) gives effect to the protective provisions in Schedule 3 (*Protective provisions*).

Article 16 (*Planning permission*) confirms that any planning permission issued subsequent to the Order will not constitute a breach of this Order. This is a standard article and mirrors the approach taken in the Southampton to London Pipeline Development Consent Order 2020 (article 40).

Article 17 (*Defence to proceedings in respect of statutory nuisance*) provides that no-one shall be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of various nuisances listed in section 79(1), if the nuisance is created in the course of carrying out or maintenance of the authorised project and for which notice has been given under section 60 or consent obtained under section 61 or 65 of the Control of Pollution Act 1974 or if the nuisance is unavoidable. It is not considered that any properties will be affected

beyond statutory nuisance thresholds, as mitigation measures will be used to control relevant emissions. However, the Applicant considers that this Article should be included in the event that proceedings are brought under Section 82 of the Environmental Protection Act 1990. This approach follows the Model Provisions and was used in the Original Order (article 6).

Article 18 (*Certification of plans etc*) requires the undertaker to submit copies of the documents, plans and sections referred to in the Order to the decision maker, for certification as true copies following the making of the Order. This is a Model Provision and has been included in the Norfolk Vanguard Development Consent Order 2020 (article 37).

Article 19 (*Service of notices*)
Taken from the Southampton to London Pipeline Development Consent Order 2020 (article 46).

Article 20 (*Arbitration*) makes provision for any dispute arising under the provisions of the Order and, unless otherwise provided for, to be settled by arbitration. These will include circumstances where the agreement of the relevant local authority is needed but cannot be reached. It will not apply to any appeals against approval or non-determination of requirements. The concept derives from the Model Provisions.

7 Schedules

Schedule 1 (*Authorised Project*) Schedule 1 specifies the authorised development comprising the scheduled works.

Schedule 2 (*Requirements*)

Requirement 2 (*Time limits*) specifies the time limit for commencing the authorised development as 5 years from the date of the Order, as provided for in Regulation 3 of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010.

Requirement 3 (*Phasing*) requires the relevant planning authority to approve a phasing plan before any of the new works commence.

Requirement 4 (*Detailed approval*) lists the plans and schemes submitted with the application which contain approved details which must be complied with and are not secured under another requirement.

Requirement 5 (*Landscaping and restoration*) secures the submission of a written landscaping and restoration scheme in accordance with the principles in the ecological management and aftercare plan and the restoration scheme for those phases of the authorised development which have not yet commenced or commenced less than 24 months ago.

Sub paragraph (4) requires any planting that dies or is removed within 10 years of planting to be replaced.

Sub paragraph (5) requires the site to be restored by 31 December 2046 at the latest and that all landscaping and restoration is carried out in accordance with the approved landscaping and restoration scheme and to a reasonable standard in line with British Standards or other codes of good practice.

Requirement 6 (Stockpiles) secures management of the stockpiles in accordance with the stockpiles principles.

Requirement 7 (Disposal of waste) restricts the types of waste which may be disposed of at the site to hazardous waste and low level waste.

Requirement 8 (Quantities of waste) restricts the rates at which waste may be imported to the site.

Requirement 9 (Archaeological Mitigation Strategy) secures compliance with the Archaeological Mitigation Strategy for the new landfill void and requires the submission of a written scheme of investigation for approval before works start on the new landfill void.

Requirement 10 (Vehicular access) restricts vehicular access to the site.

Requirement 11 (Control of vehicular movements) restricts the vehicular movements to and from the site.

Requirement 12 (Site security) secures the necessary site security measures.

Requirement 13 (Wheel cleaning) secures on site wheel cleaning facilities.

Requirement 14 (Hours of operation) restricts the hours of operation to 07.00 and 18.00 on Mondays to Fridays and 07.00 and 13.00 on Saturdays and restricts the operations on public holidays.

Requirement 15 (Gas flare structures) secures a 1.8m fence around the gas flare and restricts the height of the gas flare and any associated buildings, plant or machinery.

Requirement 16 (Floodlighting) requires all floodlighting to be pointed towards the ground to minimise light spillage and prohibits any additional lighting to be installed without the approval of a written scheme of management and mitigation.

Requirement 17 (Cessation of development) requires the landfilling of waste and operation of the waste treatment and recovery facility to cease by 31 December 2046.

Requirement 18 (Removal of plant and machinery) Requires the removal of all plant and machinery once the operation of the facility ceases

Requirement 19 (Amendments to approved details) Allows subsequent amendments to approved details

Schedule 3

(Protective provisions) sets out protective provisions for statutory

undertakers affected by the authorised development. The protective provisions are for the benefit of Western Power Distribution, Anglian Water and National Grid.

Schedule 1

Comparison table of the Requirements of the Draft Order with the Requirements in the Original Order

Original Req No	Requirement in Original Order	Included in draft Order	Reason
2	Time Limits	Y Requirement 2	The time limit for implementation will be five years from the grant of the Order
3	Commencement	N	Replaced by Article 4, so no longer needed
4	Detailed approval	Y Requirement 4	The details secured in the approved plans and schemes listed in the Original Order will be superseded and replaced with the revised plans and schemes listed in this requirement
5	Provision of landscaping and restoration	Y Requirement 5	This requirement has been replicated, but amended to require a landscaping and restoration scheme for each phase to be submitted for approval within 24 months of each phase commencing. [Details for those phases which are completed or nearing completion (1 to 6 and 10) have been submitted as part of the application.]
6	Implementation and maintenance of landscaping and restoration works	Y Requirement 5	This requirement has been incorporated into requirement 5 of the draft Order.
7	Ecological management plan and aftercare	N	An ecological management and aftercare plan has been submitted as part of the application so this requirement is no longer needed.
8	Stockpiles	Y Requirement 6	This requirement has been replicated in the draft Order, but the principles will be set out in a standalone document called the stockpile principles document.
9	Disposal of waste	Y Requirement 7	This requirement has been replicated in the draft Order
10	Quantities of waste	Y Requirement 8	This requirement has been replicated in the draft Order, but the quantities have been updated to reflect the capacity of the extended site
11	Vehicular access	Y Requirement 10	This requirement has been replicated in the draft Order

12	Control of vehicular movements	Y Requirement 11	This requirement has been replicated in the draft Order
13	Traffic management	N	The Existing Facility has not caused an unacceptable impact on the public highway and the extension to the site is not expected to increase traffic movements, so this requirement is no longer necessary
14	Site security	Y Requirement 12	This requirement has been replicated in the draft Order
15	Wheel cleaning	Y Requirement 13	This requirement has been replicated in the draft Order
16	Hours of operation	Y Requirement 14	This requirement has been replicated in the draft Order. In sub-paragraph (3)(a) of requirement 14 an increase from 'up to 10 loads a day' of air pollution control residues on bank holidays to 'up to 15 loads a day' is included. This increase is needed as the numbers of facilities which produce APCR which is managed at the site have increased since the previous application was made. Each facility operated 7 days a week and has the capacity to store the APCR which continues to be generated over normal weekends but not where these extend into extra bank holidays.
17	Gas flare structures	Y Requirement 15	This requirement has been replicated in the draft Order
18	Floodlighting	Y Requirement 16	This requirement has been replicated in the draft Order
19	Monitoring reports	N	This is not deemed necessary as the monitoring requirements including reporting periods are specified in the Environmental Permits for the site. Monitoring data is received and reviewed by the Environment Agency.
20	Display order on site	N	This was a condition in the original planning permission granted under the Town and Country Planning Act 1990 and was therefore included in the Original Order. It is no longer considered necessary as copies of all granted development consent orders can be reviewed readily on the internet.

21	Information on waste	N	There is a requirement in the Environmental Permits for the site to provide regular returns to the Environment Agency on the types and quantities of waste received at the site. This does not need to be duplicated in the draft Order.
22	Cessation of development	Y Requirement 17	This requirement has been replicated in the draft Order, but the timescales have been extended
23	Review of void consumption	N	It is expected the landfill will be filled by the cessation date, so this is not deemed necessary
24	Removal of plant and machinery	Y Requirement 18	This requirement has been replicated in the draft Order
25	Requirement of written approval	N	This is now covered in Part 2 of Schedule 2
26	Amendments to approved details	Y Requirement 19	This requirement has been replicated in the draft Order

202* No.[]**

INFRASTRUCTURE PLANNING

The East Northants Resource Management Facility Order 20**

Made - - - - - ***

Coming into force - - - - - ***

CONTENTS

PART 1

PRELIMINARY

- | | | |
|----|---------------------------|---|
| 1. | Citation and commencement | 2 |
| 2. | Interpretation | 3 |

PART 2

PRINCIPAL POWERS

- | | | |
|----|--|---|
| 3. | Development consent etc. granted by the Order | 5 |
| 4. | Effect of the Order on the original order | 5 |
| 5. | Limits of deviation | 5 |
| 6. | Benefit of the Order | 5 |
| 7. | Consent to transfer benefit of Order | 5 |
| 8. | Power to construct and maintain the authorised project | 6 |
| 9. | Maintenance of drainage works | 6 |

PART 3

SUPPLEMENTAL POWERS

- | | | |
|-----|--|---|
| 10. | Access to works | 6 |
| 11. | Discharge of water | 6 |
| 12. | Authority to survey and investigate the land | 7 |
| 13. | Felling or lopping of trees and removal of hedgerows | 8 |

PART 4

MISCELLANEOUS AND GENERAL

- | | | |
|-----|---|---|
| 14. | Application of landlord and tenant law | 9 |
| 15. | Protective Provisions | 9 |
| 16. | Planning permission | 9 |
| 17. | Defence to proceedings in respect of statutory nuisance | 9 |

18.	Certification of plans etc	10
19.	Service of Notices	11
20.	Arbitration	12

SCHEDULES

SCHEDULE 1	— Authorised Project	12
SCHEDULE 2	— Requirements	14
SCHEDULE 3	— Procedure For Approvals Under Requirements	17
SCHEDULE 4	— Removal of hedgerows	20
SCHEDULE 5	— Protective Provisions	20
PART 1	— For The Protection Of Electricity, Gas And Water Undertakers	20

An application has been made to the Infrastructure Planning Commission, in accordance with the Infrastructure Planning (Applications and Prescribed Forms and Procedure) Regulations 2009(a), for an order granting development consent.

The application was examined by a single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act(b) 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 single appointed person, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 83(1) of the 2008 Act, made a report and recommendation to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the Planning Act 2008, makes the following Order:

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as The East Northants Resource Management Facility Order 202X and shall come into force on the XXXX.

(a) S.I. 2009/2264, amended by S.I. 2010/602, 2012/635, 2012/2732, 2013/522.
(b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Part 6 of Chapter 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20). Following the abolition of the Infrastructure Commission on 1st April 2012 the single person appointed under section 61(2) of the 2008 Act is treated as if appointed by the Secretary of State by virtue of a direction given by the Secretary of State under section 129 of the Localism Act 2011.
(c) S.I. 2010/103, amended by S.I. 2012/635.

Interpretation

2.—(1) In this Order—

“the 1980 Act” means the Highways Act 1980(a);

“the 1990 Act” means the Town and Country Planning Act 1990(b);

“the 2008 Act” means the Planning Act 2008;

“access plan” means the plan certified as the access plan by the Secretary of State for the purposes of this Order;

“address” includes any number or address for the purposes of electronic transmission;

“apparatus”, unless otherwise provided for, has the same meaning as in Part 3 of the 1991 Act;

“ancillary works” means the ancillary works described in Schedule 1 (authorised project) and any other works authorised by this Order and which are not development(c);

“archaeological mitigation strategy” means the document certified as the archaeological mitigation strategy by the Secretary of State for the purposes of this Order;

“authorised development” means the development and associated development(d) described in Schedule 1 (authorised project) and any other development authorised by this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business days” means Monday to Friday excluding Bank Holidays and other public holidays or days on which general or local elections are held;

“commence” means the carrying out of a material operation (as defined in section 56(4) of the 1990 Act) excluding any operations relating to ecological enhancement works, planting, soil investigations or works in respect of land contamination, archaeological investigations, site clearance, diversion of services, receipt and erection of construction plant and equipment, the erection of temporary fencing, hoardings and erection of site compound buildings and “commence” and “commenced” shall be construed accordingly;

“ecological management and aftercare plan” means the document certified as the ecological management and aftercare plan by the Secretary of State for the purposes of this Order;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“elevation plans” means the plan certified as the elevation plans by the Secretary of State for the purposes of this Order;

“the environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“general arrangement plans” means the plan certified as the general arrangement plans by the Secretary of State for the purposes of this Order;

“hazardous waste” means waste defined as such in regulation 6 of the Hazardous Waste (England and Wales) Regulations 2005(e) and as may be amended from time to time in these or equivalent regulations;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

(a) 1980 c. 66.

(b) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. There are other amendments to the 1990 Act not relevant to this Order.

(c) For the definition of “development” see section 32 of the 2008 Act.

(d) For the definition of “associated development” see section 115 of the 2008 Act.

(e) S.I. 2005/894, amended by S.I. 2011/988. There are other amendments not relevant to this Order.

“limits of deviation” means the limits of deviation referred to in article 4 (limits of deviation) and shown on the works plan;

“landscaping and restoration scheme (constructed phases)” means the document certified as the landscaping and restoration scheme (constructed phases) by the Secretary of State for the purposes of this Order;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

“low level waste” means radioactive waste comprising solid low level radioactive waste typically with a specific activity of up to 200Bq/g;

“maintain” includes maintain, inspect, repair, remove, clear, refurbish, reconstruct, decommission, demolish, replace and improve and “maintenance” shall be construed accordingly;

“noise management and monitoring scheme” means the document certified as the noise management and monitoring scheme by the Secretary of State for the purposes of this Order;

“the Order limits” means the limits shown on the works plan within which the authorised project may be carried out;

“original order” means the East Northamptonshire Resource Management Facility Order 2013 as amended by the East Northamptonshire Resource Management Facility (Amendment) Order 2018;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981 (interpretation)(a);

“relevant planning authority” means the local planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“Requirements” means the requirements listed in Part 1 of Schedule 2 (requirements), and any reference to a numbered requirement is to be construed accordingly;

“restored landform profile plan” means the plan certified as the restored landform profile plan by the Secretary of State for the purposes of this Order;

“restoration scheme” means the plan certified as the restoration scheme by the Secretary of State for the purposes of this Order;

“the site” means land within the Order limits;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), of the 2008 Act (statutory undertakers’ land) and includes a public communications provider as defined in section 151(1) of the Communications Act 2003(b);

“stockpile principles” means the document certified as the stockpile principles by the Secretary of State for the purposes of this Order.

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“the undertaker” means Augean South Limited (Company No. 04636789) or such other person as has the benefit of this Order under section 156(1) of the 2008 Act;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order.

(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 air-space above its surface.

(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c.34). There are other amendments to section 7 which are not relevant to the Order.

(b) 2003 c. 21.

(3) References in this Order to numbered requirements are to the requirements with those numbers in Schedule 2.

(4) All distances, directions and lengths referred to in this Order are approximate.

(5) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by Schedule 1 of this Order.

(6) The expression “includes” shall be construed without limitation.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3. Subject to the provisions of this Order and to the requirements in Schedule 2 (requirements) attached to this Order the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Effect of the Order on the original order

4.—(1) The undertaker must not start operational use of Work No. 1A or Work No.3 under this Order until notice has been served on the relevant planning authority that the undertaker is ceasing to operate those works under the original order.

(2) Upon service of the notice under paragraph (1) the original order will cease to have effect.

Limits of deviation

5.—(1) In carrying out, maintaining or diverting the authorised development, the undertaker may—

- (a) construct any such work within the limits of deviation or extents of work shown on the works plans for the relevant work;
- (b) deviate the works vertically upwards to a limit of [2] metres;
- (c) deviate the works vertically downwards to any extent as may be found necessary to construct the authorised development.

(2) The maximum limits of deviation specified in sub-paragraphs (1)(a), (1)(b) and (1)(c) do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

Benefit of the Order

6.—(1) Subject to paragraph (2) and article 7 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

7.—(1) The undertaker may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), includes 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 not required under this article where the transfer or grant is made to Western Power Distribution for the purposes of undertaking Work No. 6.

Power to construct and maintain the authorised project

8. The undertaker may at any time construct and maintain the authorised project, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

9.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(a).

PART 3

SUPPLEMENTAL POWERS

Access to works

10.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the consent of the street authority (such consent not to be unreasonably withheld or delayed) following consultation by the street authority with the relevant planning authority, form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Schedule 1 (authorised development).

Discharge of water

11.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project 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.

(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 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(a) 1991 c. 59.

(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; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but is not to be unreasonably withheld.

(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 such approval is not to be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) 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.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010.

(8) In this article—

- (a) “public drain” means a drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991^(b) have the same meaning as in that Act.

Authority to survey and investigate the land

12.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without prejudice 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 and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; 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 and bore holes.

(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 or occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes or bore holes may be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or

(a) 1991 c. 56. Section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to this section which are not relevant to this Order.

(b) 1991 c. 57.

(b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) 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.

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of a highway authority; or

(b) under paragraph (4)(b) in the case of a street authority; that authority is deemed to have granted consent.

(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.

Felling or lopping of trees and removal of hedgerows

13.—(1) The undertaker may fell or lop or cut back any roots of any tree or shrub near any part of the authorised project, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development —

(a) remove the important hedgerows as are within the Order limits and specified in Schedule 8 (removal of hedgerows); and

(b) without limitation on the scope of sub-paragraph (a), and with the consent of the local authority in whose area the hedgerow is located, remove or translocate any hedgerow within the Order limits.

(5) The grant of consent of a local authority in terms of paragraph (4)(b) must not be unreasonably withheld.

(6) If a local authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(b) the local authority is deemed to have granted consent.

(7) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997(a).

(a) S.I. 1997/1160, as amended by S.I. 2003/2155, S.I. 2015/1997, S.I. 2015/377, S.I. 2009/1307 and S.I. 2013/755.

PART 4
MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

14.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project 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 project, 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 is to prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law is to apply 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.

Protective Provisions

15. Schedule 4 (protective provisions) of this Order has effect.

Planning permission

16. If planning permission is issued under the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

Defence to proceedings in respect of statutory nuisance

17.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraphs (a), (c), (d), (e), (g) or (ga) of section 79(1) of that Act no order shall be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—

(a) 1990 c. 43, amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16). There are other amendments to the Environmental Protection Act 1990 not relevant to this Order.

- (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974^(a); or
 - (ii) is a consequence of the construction or maintenance of the authorised project 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 project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with a scheme of monitoring and attenuation agreed with the relevant planning authority and environmental agency as described in requirement 4; or
 - (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where any consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

Certification of plans etc

18.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the following plans and documents—

- (a) [the land plan;
- (b) the works plan;
- (c) the general arrangement plans;
- (d) the access plan;
- (e) the elevation plans;
- (f) the restored landform profile plan;
- (g) the ecological management and aftercare plan;
- (h) the restoration scheme;
- (i) landscaping and restoration scheme (constructed phases);
- (j) the archaeological mitigation strategy;
- (k) the noise management and monitoring scheme;
- (l) the stockpile principles;]
- (m) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

^(a) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 25). There are other amendments to the Control of Pollution Act 1974 not relevant to this Order.

Service of Notices

19.—(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 (5) 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.

(3) For the purposes of section 7 (references to services 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 the 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 any 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 name or 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 a 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 will 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) the notice or document is 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 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given 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 will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(a) 1978 c. 30.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

20. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration, 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.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

	<i>Name</i>
Address	Secretary of State for Housing, Communities and Local Government
Date	Department for Housing, Communities and Local Government

SCHEDULES

SCHEDULE 1

Article 2

Authorised Project

A nationally significant infrastructure project as defined in section 14(1)(p) and 30 of the 2008 Act comprising—

Work No.1 – A hazardous waste landfill facility for the disposal at a direct input rate of up to 150,000 tonnes per annum of hazardous waste and low level waste on the areas identified on the works plan comprising-

Work No. 1A – the creation and filling of a landfill void including -

- (a) extraction and stockpiling of soil, clay and other suitable materials for engineering and restoration purposes and the exportation of some clay and other suitable materials,
- (b) all other associated engineering works to construct the landfill phases including a leachate collection system,
- (c) a landfill gas pump and gas flare,
- (d) surface water management and pumping systems including ponds as needed.

Work No. 1B – the creation and filling of a landfill void including -

- (a) extraction and stockpiling of soil, clay and other suitable materials for engineering and restoration purposes and the exportation of some clay and other suitable materials,
- (b) all other associated engineering works to construct the landfill phases including a leachate collection system,
- (c) surface water management and pumping systems including ponds as needed.

Work No.2 – A hazardous waste facility, namely the alteration of an existing waste treatment and recovery facility associated with the waste treatment and recovery plant with an increase from the currently consented capacity of 200,000tpa to 250,000tpa of contaminated materials comprising predominantly hazardous wastes including -

- (a) a modular plant located on a concrete pad with associated surface water drainage and collection,
- (b) stocking areas and stocking bays with concrete A frame walls,
- (c) process, reagent, acid waste, water or other liquid storage tanks,
- (d) storage silos,
- (e) feed hoppers,
- (f) screens,
- (g) conveyors,
- (h) washing units,
- (i) separators,
- (j) mixing vessels,
- (k) sedimentation units,
- (l) bioremediation area,
- (m) a mobile crusher on a campaign basis,
- (n) open concrete lined settlement tanks,
- (o) a process control office and staff welfare facilities,
- (p) bunded fuel storage tanks and an electricity generator in an insulated container.

Work No. 3 – the site reception area which will include -

- (a) site access and surfaced access road,
- (b) laboratory,
- (c) canteen and offices,
- (d) car parking area,
- (e) weighbridge,
- (f) wheel washing facilities,
- (g) cess pit, and
- (h) bunded fuel storage tanks.

Work No. 4 – an open watercourse with associated ecological works

Work No. 5 – the diversion of an overhead electricity cable

And in connection with such works and to the extent that they do not otherwise form part of any such work, further associated development and/or ancillary works shown on the plans referred to in the requirements including—

- (a) monitoring boreholes;
- (b) leachate storage tanks;
- (c) bunded fuel storage tanks;
- (d) security cameras;
- (e) boundary fencing;
- (f) lighting;
- (g) internal site roads;
- (h) hardstanding and bunding;
- (i) surface water collection ponds;
- (j) surface and foul water drainage;
- (k) the restoration of the land including the creation of footpaths and tracks for public access and retention of the car parking area; and

- (l) aftercare.

SCHEDULE 2 Requirements

Article 2

Interpretation

1. In this Schedule—

“new works” means Work Nos. 1B, 4 and 5 which are still to be constructed at the date this Order takes effect.

“operational site” means Work Nos. 1A, 2 and 3 which are already constructed and operational at the date this Order takes effect.

“phase” means the relevant phase shown on the phasing plan approved under requirement 3.

Time limits

2. The authorised development must commence within 5 years of the coming into force of this Order.

Phasing

3. No part of the new works may commence until a phasing plan has been submitted to and approved in writing by the relevant planning authority.

Detailed approval

4. The authorised development must be carried out in accordance with the following approved plans and schemes listed in this requirement (except for minor amendments as approved in writing by the relevant planning authority)—

- (a) the access plan;
- (b) the works plan;
- (c) the general arrangement plans;
- (d) the restored landform profile plan;
- (e) the elevation plans;
- (f) the noise management and monitoring scheme.

Landscaping and restoration

5.—(1) Phases 1 to 6 and 10 of the authorised development must be restored in accordance with the landscaping and restoration scheme (constructed phases).

(2) Within 24 months of commencing any of phases 7 to 9 and 11 onwards the undertaker must submit a landscaping and restoration scheme for that phase in accordance with the principles set out in the ecological management and aftercare plan and the restoration scheme to the relevant planning authority for approval.

(3) The landscaping and restoration scheme submitted must include details of all proposed hard and soft landscaping works, ecological mitigation and enhancement measures including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) details of proposed finished ground level contours in accordance with the plan Proposed post settlement restoration contours ;

- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (g) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;
- (h) details of existing trees to be retained, with measures for their protection during the operations;
- (i) implementation timetables for the phased restoration of the land including all landscaping, restoration and aftercare works; and
- (j) the location of fuel storage and leachate tanks and any other infrastructure required for the aftercare works.

(4) Any tree or shrub planted as part of an approved landscaping and restoration scheme that, within a period of 10 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

(5) The undertaker must restore the site by 31 December 2046 at the latest and all landscaping, restoration and aftercare works must be carried out in accordance with the landscaping and restoration scheme and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

Stockpiles

6. The stockpiles shown on the elevation plans must be managed in accordance with the details set out in the stockpile principles document during the operation of the authorised development.

Disposal of waste

7. No waste materials may be disposed of at the site other than hazardous wastes and low level waste together with suitable waste materials used for restoration purposes.

Quantities of waste

8. The maximum quantities of waste that will be imported to the waste treatment and recovery facility per annum will be 250,000 tonnes and directly to the landfill will be 150,000 tonnes. The combined total amount of waste that can be imported to the site per annum shall not exceed 300,000 tonnes. The total quantity of low level waste disposed of at the site in the period up to 31 December 2046 (or its earlier closure) shall not exceed [448,000 tonnes].

Archaeological Mitigation Strategy

9.—(1) The authorised development must be carried out, operated and maintained in accordance with the archaeological mitigation strategy

(2) Development of the new site must not commence until a written scheme of investigation has been submitted to and approved by the relevant planning authority and the investigation of the new site must be carried out in accordance with the approved written scheme of investigation.

Vehicular access

10. The only vehicular access for the authorised project permitted is by way of the existing access to the site on to the Stamford Road shown on the access plan.

Control of vehicular movements

11. Vehicular traffic associated with this authorised project must be controlled as follows:

- (a) The undertaker must direct that all heavy goods vehicles entering and leaving the site shall travel direct to and from the A47 Trunk Road via Stamford Road north of the access point with no such vehicles travelling along Stamford Road towards King's Cliffe village south of the site access point.
- (b) Signs informing vehicle drivers of the requirements in paragraph (a) above shall be maintained in a visible location near to the egress on site.
- (c) Facilities shall be provided for site operatives within the site to observe the direction of vehicle entry to and exit from the site.

Site security

12. The site security measures including the 1.8m palisade fence around the gas compound shall be maintained throughout the life of the operations at the site and beyond until the relevant planning authority, in consultation with the Environment Agency, determines and confirms in writing that the site security measures are no longer required and thereafter, any fences shall be removed within a period of 3 months.

Wheel cleaning

13. Wheel cleaning facilities shall be provided on the site with appropriate drainage and thereafter maintained to the satisfaction of the relevant planning authority. The wheels of all vehicles leaving the site shall be cleansed of mud and other debris to prevent mud being carried onto the public highway. All vehicles transporting materials in connection with the authorised development shall be adequately sheeted to the satisfaction of the relevant planning authority.

Hours of operation

14.—(1) Except as may otherwise be approved in writing by the relevant planning authority in temporary limited circumstances, all waste treatment, waste disposal, site preparation, levelling and restoration operations and any associated activities shall be restricted to between the hours of 07.00 and 18.00 on Mondays to Fridays and 07.00 and 13.00 on Saturdays, and subject to subparagraph (2), no such operations may be carried out on the site on Sundays or public holidays.

(2) On a public holiday between the hours of 07.00 and 18.00, the following activities may be carried out—

- (a) the delivery of up to [10] loads a day of air pollution control residues;
- (b) the processing in the stabilisation plant of those residues; and
- (c) the stockpiling and management of the processed residues within the soil treatment facility.

(3) For the purposes of this paragraph “public holiday” means Christmas Day, Good Friday or a day which under section 1 of the Banking and Financial Dealings Act 1971^(a) is a bank holiday in England.

Gas flare structures

15. Except in respect of minor amendments approved in writing by the relevant planning authority the height of—

- (a) the gas compound fencing shall not exceed 1.8m above existing ground level;

(a) 1971 c. 80.

- (b) any building, plant, machinery, foundation, hardstanding, roadway, bunding, structure or erection in the nature of plant or machinery used in connection with the gas flare and pumping station shall not exceed 2m above existing ground level;
- (c) any gas flare flue shall not exceed 10m above existing ground level.

Floodlighting

16.—(1) All floodlighting including mobile units shall be directed towards the ground to minimise light spillage from the site and except for emergencies will only be operating within the hours of operation specified in requirement 14.

(2) No additional permanent or temporary floodlighting shall be installed at the site, until after consultation with the relevant planning authority, and a written scheme for the management and mitigation of artificial light emissions has been submitted to and approved by the relevant planning authority.

Cessation of development

17. The landfilling of waste and the operation of the soil treatment plant hereby permitted shall cease not later than 31 December 2046 by which time the land and the access shall be restored or reinstated in accordance with the requirements of this Order.

Removal of plant and machinery

18. Except to the extent required for aftercare purposes as approved pursuant to the scheme under requirement 5, any building, plant, machinery, foundation, hardstanding, roadway, structure or erection in the nature of plant or machinery used in connection with the authorised project shall be removed from the site when they are respectively no longer required for the purpose for which they were installed and in any case not later than 31 December 2046 upon completion of the aftercare of the land.

Amendments to approved details

19. Where any requirement requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority.

SCHEDULE 3

Ref

Procedure For Approvals Under Requirements

Applications made under Requirements

1. This Schedule applies to an application made by the undertaker to a discharging authority for any consent, agreement or approval under a Requirement.

Decision Period

2.—(1) The discharging authority must give written notice to the undertaker of its decision on the application before the end of the decision period.

(2) In sub-paragraph (1), “the decision period” means—

- (a) where the discharging authority does not give written notice under paragraph 3(1) or 3(2) requiring further information, the period of eight weeks from the later of

- (i) the day immediately following the day on which the authority receives the application, and
- (ii) the day on which the authority receives the fee payable under paragraph 4; or
- (b) where the discharging authority gives written notice under paragraph 3(1) or 3(2) requiring further information, the period of eight weeks from the day immediately following the day on which the undertaker provides the further information; or
- (c) such longer period as may be agreed in writing by the undertaker and the discharging authority.

Further Information

3.—(1) If the discharging authority considers that it requires further information to make a decision on the application, it must give written notice to the undertaker specifying the further information required within seven business days from the day on which it receives the application.

(2) If the relevant requirement requires that discharging authority to consult a person (referred to in this Schedule as a “consultee”) in relation to the application—

- (a) the discharging authority must consult the consultee within five business days from the day on which it receives the application;
- (b) if the consultee considers that it requires further information to respond to the consultation, it must so notify the discharging authority, specifying what further information is required, within 18 business days from the day on which the discharging authority received the application; and
- (c) within five business days from the day on which it receives any such notification from the consultee, the discharging authority must give written notice to the undertaker specifying the further information required by the consultee.

(3) If the discharging authority, after consultation with any consultee, considers that further information provided by the undertaker in response to a written notice from the discharging authority under sub-paragraph (1) or (2) is not sufficient to allow it to make a decision on the application, it must give written notice to the undertaker specifying what further information is still required, within seven business days from the day on which the undertaker provided the information.

(4) If the discharging authority does not give written notice in accordance with sub-paragraph (1), (2) or (3), it is not entitled to request any additional information in relation to the application without the prior agreement in writing of the undertaker.

Fees

4.—(1) The undertaker must pay the authority a fee of £116, or such greater fee as for the time being is payable to the authority in respect of an application for the discharge of a condition imposed on a grant of planning permission, in respect of each application.

(2) The authority must refund the fee paid under sub-paragraph (1) to the undertaker, within the relevant period, if it—

- (a) rejects the application as being invalidly made;
- (b) fails to give the written notice required by paragraph 2(1).

(3) Sub-paragraph (2) does not apply if, within the relevant period, the undertaker agrees in writing that the authority may retain the fee paid and credit it in respect of a future application.

(4) In sub-paragraphs (2) and (3) “the relevant period” means the period of eight weeks from, as the case may be—

- (a) the day on which the authority rejects the application as being invalidly made;
- (b) the day after the day on which the decision period expires.

Appeal to the Secretary of State (procedure)

- 5.—(1) The undertaker may appeal to the Secretary of State against—
- (a) the discharging authority’s refusal of an application;
 - (b) the discharging authority’s grant subject to conditions of an application;
 - (c) the discharging authority’s failure to give the written notice required by paragraph 2(1);
 - (d) a written notice given by the discharging authority under paragraph 3(1), 3(2) or 3(3).
- (2) In order to appeal, the undertaker must, within 10 business days from the relevant day, send the Secretary of State the following documents—
- (a) its grounds of appeal;
 - (b) a copy of the application submitted to the authority;
 - (c) any supporting documentation which it wishes to provide.
- (3) In sub-paragraph (2), “the relevant day” means—
- (a) in the case of an appeal under sub-paragraph (1)(a) or (1)(b), the day on which the undertaker is notified by the authority of its decision;
 - (b) in the case of an appeal under sub-paragraph (c), the day after the day on which the decision period expires;
 - (c) in the case of an appeal under sub-paragraph (1)(d), the day on which the undertaker receives the authority’s notice.
- (4) At the same time as it sends the documents mentioned in sub-paragraph (2) to the Secretary of State, the undertaker must send copies of those documents to the authority and any consultee.
- (5) As soon as reasonably practicable following receipt of the documents mentioned in sub-paragraph (2), the Secretary of State must—
- (a) appoint a person (referred to in this Schedule as “the appointed person”) to determine the appeal on his behalf;
 - (b) give written notice to the undertaker, the authority and any consultee of the appointment and of the appointed person’s address for correspondence in relation to the appeal.
- (6) Within 20 business days from the day on which the Secretary of State gives notice under sub-paragraph (5)(b), the authority and any consultee—
- (a) may submit written representations in respect of the appeal to the appointed person; and
 - (b) must, at the same time, send a copy of any such representations to the undertaker and (if applicable) to each other.
- (7) Within 10 business days from the last day on which representations are submitted to the appointed person under sub-paragraph (6), any party—
- (a) may make further representations to the appointed person in response to the representations of another party; and
 - (b) must, at the same time, send a copy of any such further representations to each other party.

Appeal to the Secretary of State (powers of the appointed person)

- 6.—(1) The appointed person may—
- (a) allow or dismiss the appeal;
 - (b) reverse or vary any part of the authority’s decision, irrespective of whether the appeal relates to that part;
 - (c) make a decision on the application as if it had been made to the appointed person in the first instance.
- (2) The appointed person—

- (a) if he considers that he requires further information to make a decision on the appeal, may by written notice require any party to provide such further information to him and to each other party by a specified date;
- (b) if he gives such a notice, must—
 - (i) at the same time send a copy of it to each other party, and
 - (ii) allow each party to make further representations in relation to any further information provided in response to the notice, within 10 business days from the day on which it is provided.

(3) The appointed person may waive or extend any time limit (including after it has expired) for the provision of representations or information in relation to an appeal.

Appeal to the Secretary of State (supplementary)

7.—(1) The decision of the appointed person on an appeal may not be challenged except by proceedings for judicial review.

(2) If the appointed person grants approval of an application, that approval is to be taken as if it were an approval granted by the authority in relation to the application.

(3) Subject to sub-paragraph (4), the undertaker must pay the reasonable costs of the appointed person incurred in deciding the appeal.

(4) On written application by the authority or the undertaker, the appointed person may make a direction as to the costs of the parties to the appeal and of the appointed person, including imposing an obligation on any party to pay all or part of such costs to the party which incurred them.

(5) In considering an application under sub-paragraph (4) the appointed person must have regard to the National Planning Practice Guidance: Advice on planning appeals and the award costs or any circular or guidance which may from time to time replace it.

SCHEDULE 4

Ref

Removal of hedgerows

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
H1 to H2 shown on the Hedgerow Plans	Partial removal	Work Nos. *****

SCHEDULE 5

Ref

Protective Provisions

PART 1

For The Protection Of Electricity, Gas And Water Undertakers

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no 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 that utility undertaker;
- (b) in that case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply; and
- (c) in the case of water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply.

and 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;

“plan” 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 the works to be executed; and

“utility undertaker” means—

- (d) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (e) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (f) a water undertaker within the meaning of the Water Industry Act 1991; and

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.

On street apparatus

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 the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article [●] (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker whose apparatus is in the street 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 the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article [●] (temporary alteration, diversion and restriction of use of streets), a utility undertaker 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.

(a) 1989 C. 29. The definition of “electricity plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c.27).

(b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8 to the Utilities Act 2000 (c. 27), sections 1459(1) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 5 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. 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

7.—(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 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 must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(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 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 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 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 the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 20 (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 20 (arbitration), 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 the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of 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.

Facilities and rights for alternative apparatus

8.—(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 the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 20 (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.

Retained apparatus

9.—(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 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under subparagraph (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) are to 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 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 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(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 (5) 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 of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 10 metres measured in any direction of any electricity apparatus, or involve embankment works within 10 metres of any electricity apparatus, the plan to be submitted to the utility undertaker under subparagraph (1) must be detailed, include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably 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 7(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph [●], 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 20 (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) 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 must not 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 must 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.

11.—(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 5 or 7(2) 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 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) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(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 act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) 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 and, if such

consent is withheld, has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

Cooperation

12.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, 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 the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

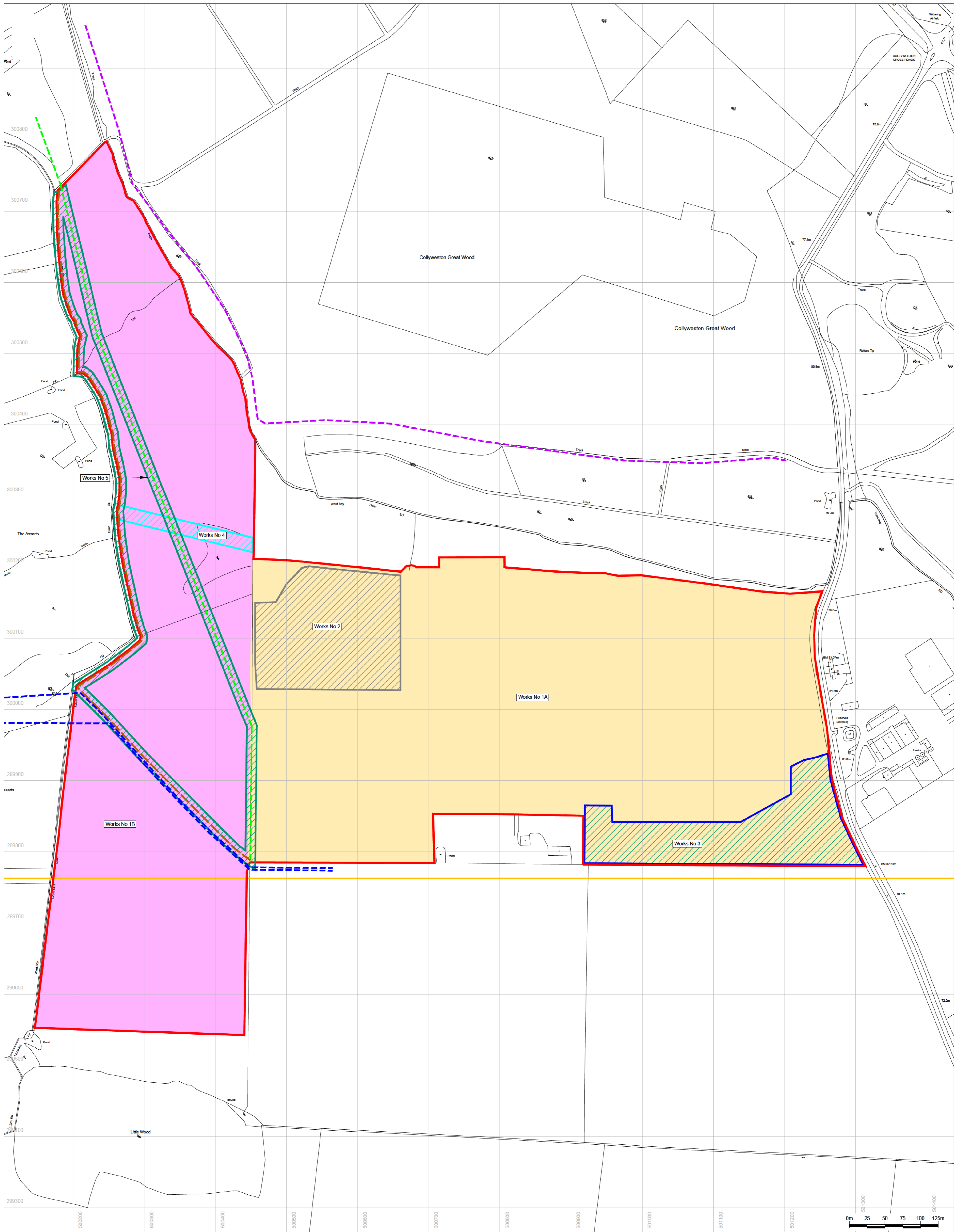
(2) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises Augean South Limited to alter the existing facilities and construct new facilities for the recovery and disposal of hazardous waste and the disposal of low level radioactive waste at the East Northants Resource Management Facility, Stamford Road, Kings Cliffe, Northamptonshire. The Order also authorises ancillary works and provides a defence in proceedings in respect of statutory nuisance. The Order imposes requirements in connection with the development for which it grants development consent.

A copy of the plans and documents referred to in this Order and certified in accordance with article 18 of this Order may be inspected free of charge during working hours at the offices of North Northamptonshire County Council, [One Angel Square, Northampton, NN1 1ED].



Key / Notes

- Boundary of the area of the subject of the application for the Development Consent Order
- Approximate route of water pipelines
- Approximate route of an oil pipeline
- Approximate route of overhead electricity cable
- Approximate location of a high pressure gas pipeline
- Proposed route of the diverted electricity cable

Regulation (5)(2)(j)

Notes:
 Details for each works are provided on general arrangement plans.
 [Cross references to be added]
 To be added - Limits of deviation

Rev	Draft for discussion	KR	SPS	LH	16/04/21
Client	EAST NORTHANTS RESOURCE MANAGEMENT FACILITY				
Drawn	ALURCH104.21/22372				
Scale	1:2,500@A1				

DRAFT FOR DISCUSSION

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DATED 14th January **2013**

NORTHAMPTONSHIRE COUNTY COUNCIL

- and -

AUGEAN SOUTH LIMITED

**pursuant to Section 106 of the Town and Country Planning Act 1990
relating to land at the East Northants Resource Management Facility, Stamford Road,
Northamptonshire**

IPC document reference: WS010001/ENRMF/S106/Rev1

QUENTIN BAKER
Director of Legal Services
P O Box 104
County Hall
Northampton
NN1 1AW
(L/DCH/H-006718)

THIS AGREEMENT is made the 14th day of January 2013

BETWEEN:

NORTHAMPTONSHIRE COUNTY COUNCIL of County Hall Northampton NN1 1DN (hereinafter called "the Council") of the first part; and

AUGEAN SOUTH LIMITED whose registered office is at 4 Rudgate Court, Walton, Wetherby, LS23 7BF (hereinafter called "The Owner") of the second part.

WHEREAS

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following terms and expressions have the respective meanings given to them unless the context otherwise requires:

"the 1990 Act" means the Town and County Planning Act 1990 and any amending or replacing legislation for the time being in force

"the 2008 Act" means the Planning Act 2008 and any amending or replacing legislation for the time being in force

"the Application" means the application for the DCO to authorise the Development on the Land made under Section 30 of the 2008 Act by the Owner on 7 March 2012

"Commence" means the carrying out of a material operation (as defined in Section 56(4) of the 1990 Act) excluding any operations relating to soil investigations or works in respect of land contamination archaeological investigations site clearance division of services receipt and erection of construction plant and equipment the erection of temporary fencing hoardings and erection of site compound buildings and "Commence" and "Commenced" shall be construed accordingly.

"Community Fund" means the fund established by the Council pursuant to the Section 106 Agreement dated 5TH November 2010 and to be used only for the Specified Purposes

"the Development"	means the development at the ENRMF on the Land and described in Schedule [A] of the DCO
"DCO"	means the development consent order to be made under the 2008 Act pursuant to the Application
"the ENRMF"	means the East Northants Resource Management Facility, Stamford Road, Kings Cliffe, Peterborough, PE8 6XX
"the Existing Planning Permissions"	means the existing planning permissions on the Land namely 12/00029/WAS, 12/00030/WAS and 12/00031/WAS
"the Existing Section 106 Agreement"	means the Section 106 Agreement dated 16 th October 2012 and entered into by Augean South Limited and Northamptonshire County Council in respect of planning application references 12/00029/WAS, 12/00030/WAS and 12/00031/WAS
"the Highways Contribution"	means a contribution of five thousand pounds (£5,000) per year for the Highway Purposes
"the Highway Purposes"	means highway maintenance and improvement of Stamford Road to the north of the Land
"the NID"	means the National Infrastructure Directorate or any other body which supersedes it
"the Land"	means the area shown edged red on the plan attached to this Agreement
"LLW"	means solid radioactive waste up to a maximum specific activity of 200 becquerels per gram (Bq/g)

"the Previous Planning Permission"

means the planning permission on the Land for the disposal of LLW in respect of planning application reference EN/09/01269/NCC as granted by the Secretary of State on 24th May 2011 (APP/K2800/A/10/2126938)

"Specified Purposes"

means the approved objects listed in regulation 33(2) (c), (d), (da), (e) and (f) of the Landfill Tax Regulations 1996 (as may be amended from time to time) and all or any reasonable costs (including salaries and reasonable expenses) associated with facilitating and running any such projects under regulation 33(2) (c), (d), (da) or (e)

1.2 In this Agreement (unless the context otherwise requires):

- 1.2.1 the words "including" and "include" and words of similar effect shall not be deemed to limit the general effect of the words which precede them
- 1.2.2 obligations undertaken by a party which comprises more than one person shall be deemed to be made by them jointly and severally
- 1.2.3 words importing persons shall include firms, companies and bodies corporate and vice versa
- 1.2.4 words importing the singular shall include the plural and vice versa
- 1.2.5 words importing the masculine gender include the feminine gender and vice versa and words importing the neuter gender include the masculine and/or feminine gender
- 1.2.6 the headings and page numbers throughout this Agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement
- 1.2.7 references to a numbered clause, schedule, paragraph or appendix are references to the clause, schedule, paragraph or appendix to this Agreement so numbered

- 1.2.8 any reference to any statutory provision shall be deemed to include any subsequent re-enactment or amending provision
- 1.2.9 an obligation to do something includes an obligation to procure it to be done
- 1.2.10 an obligation not to do something includes an obligation not to allow it to be done
- 1.2.11 where in any other part of this Agreement an expression or word is defined or expressed to have a particular meaning in such part the word or expression so defined shall have the same meaning throughout this Agreement unless the contrary intention is expressly stated.
- 1.2.12 No failure or delay by the Council to exercise any right power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right or power of the relevant Council officers.

2. RECITALS

- 2.1 The Council is the local planning authority for the Development by whom the planning obligations contained within Schedule 1 hereto are enforceable.
- 2.2 The Owner is the freehold owner of the Land free from encumbrances.
- 2.3 The Owner has submitted the Application to the NID for consent to carry out the Development on the Land.
- 2.4 Policy CMD 14 of the Northamptonshire Minerals and Waste Development Framework, Control and Management of Development, Development Plan Document (June 2011) provides that where there are issues that cannot be resolved through the imposition of planning conditions, the planning authority will seek to negotiate planning obligations and enter into legal agreements with developers in order to provide benefits to compensate the local community affected by the development (where appropriate).
- 2.5 Whereas the Council acknowledges that the technical evidence demonstrates that the risks to health or the environment as a result of the controlled and properly regulated disposal of LLW on the Land are small and tolerable, there may remain perceptions in the local community that there are associated potential impacts. The Community Fund provides

positive financial support for various social and economic projects in the local community in order to counter-balance any perceived impacts of the Development together with any negative perceptions within the local community from the presence of LLW on the Land.

2.6 Nothing in this Agreement constitutes an obligation to grant the DCO.

NOW THIS AGREEMENT made in pursuance of Section 106 of the Act (as amended) Section 111 of the Local Government Act 1972 and all other enabling powers **WITNESSES** as follows:

3 STATUTORY PROVISIONS

3.1 This Agreement is executed as a Deed and the planning obligations contained in this Agreement are planning obligations for the purposes of Section 106 of the Act and this Agreement is made pursuant to Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and in pursuance of all other powers enabling the parties hereto respectively

3.2 The planning obligations contained in this Agreement shall be enforceable by the Council

3.3 The planning obligations are intended to run with the Land so as to bind successive owners of every part of the Land

4 COMMENCEMENT AND CONTINUANCE

4.1 Without prejudice to the position of the Owner or the Council on the Application the covenants and obligations contained in this Agreement (with the exception of the clause 8 which shall take effect on the completion of this Agreement) shall be conditional and shall not have effect unless and until:

4.1.1 the DCO is made; and

4.1.2 the service of a written notice upon the Council by the Owner that the Development is to be commenced pursuant to the DCO on the Land.

4.2 The planning obligations in this Agreement shall lapse and cease to be binding upon the Owner for the time being of the Land if the DCO shall lapse without being implemented or be quashed or revoked.

4.3 Upon this Agreement having effect pursuant to clause 4.1 above and PROVIDED THAT a period of at least six weeks has expired without any party lodging proceedings by a claim for judicial review pursuant to Section 118 of the 2008 Act challenging the granting of the DCO:

4.3.1 The Existing Planning Permissions shall be revoked by the Council pursuant to its powers under Section 97 of the 1990 Act; and

4.3.2 all of the obligations in the Existing Section 106 Agreement will be superseded by the obligations in this Agreement and the Council shall ensure that any entry made in the Register of Local Land Charges is cancelled or otherwise record the fact that the Existing Section 106 Agreement has come to an end and no longer affect the site.

4.4 In the event that a claim for judicial review is lodged pursuant to Section 118 of the Act challenging the granting of the DCO and following the completion of those proceedings the DCO is not quashed clauses 4.3.1 and 4.3.2 shall then take effect.

4.5 In the event that the Council seeks to revoke the Existing Planning Permissions pursuant to clause 4.3.1 above the Owner shall give notice pursuant to Section 99(1) (b) of the 1990 Act that they do not object to an order revoking the Existing Planning Permissions and further the Owner covenants that it will not make any claim for compensation consequent on such revocation pursuant to Section 107 of the 1990 Act.

5 COVENANTS

5.1 The Owner covenants to perform and observe the Planning Obligations set out in Schedule 1.

5.2 The Council covenants to perform and observe the obligations set out in Schedule 2.

6 DISPOSAL OF INTEREST IN LAND

The Owner and all subsequent owners of the Land shall cease to be bound by the provisions of this Agreement forthwith upon disposal of their respective interest in the Land or any part thereof and shall not be liable for any breach of this Agreement occurring whilst it or they shall have no interest in the Land or the part thereof in respect of which such breach occurs.

7 LOCAL LAND CHARGE

7.1 The Owner acknowledges that this Agreement may be registered as a local land charge in the Register of Local Land Charges maintained by the District Council.

7.2 Where the Agreement comes to an end under Clause 4.2 above or otherwise ceases to have effect, any entry made in the Register of Local Land Charges shall be cancelled or otherwise record the fact that it has come to an end and no longer affects the site

8 PAYMENT OF THE COUNTY COUNCIL'S STANDARD FEE

On the execution hereof the Owner shall pay to the Council the Council's standard legal charge in this matter amounting to the sum of £1,500.00.

9 FURTHER PLANNING PERMISSIONS AND DEVELOPMENT CONSENTS

Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission or consent other than the DCO made (whether or not on appeal or by any other means) after the date of this Agreement

10 VARIATION OF THIS AGREEMENT

10.1 This Agreement may be varied only by deed between the parties hereto or their respective successors in title and assigns.

10.2 For the purposes of (inter alia) the Contracts (Rights of Third Parties) Act 1999 it is hereby **AGREED AND DECLARED** that the parties to this Agreement (and their respective successors in title) may rescind or vary this agreement without the consent of any third party.

11 APPROVALS, CONSENTS, ETC

11.1 All approvals certificates consents agreements satisfactions confirmations or calculations (or anything of a similar nature) that may be requested by the Owner and/or given by the Council or its officers in accordance with this Agreement shall be in addition to any other approvals consents agreements or confirmations that may be required by the Act or by any other statute or regulations.

11.2 All such approvals consents agreements satisfactions confirmations or calculations shall not be unreasonably withheld or delayed by the Council or its relevant officers.

12 BALANCE OF AGREEMENT HAVING EFFECT

In the event that any part of this Agreement may be subject to challenge review deletion or otherwise rendered null/void or voidable the balance of the said Agreement shall remain in full force and effect

13 NOTICES

Notices required to be given or served under this Agreement shall be addressed to the parties at their addresses referred to in the Commencement of this Agreement

14 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

For the purposes of (inter alia) the Contracts (Rights of Third Parties) Act 1999 nothing in this Agreement is intended to confer any benefit upon or create rights in favour of any party other than the parties executing this Agreement and their respective successors in title

15 PAYMENT

15.1 Unless otherwise provided the date for payment (the "Due Date") of any sum payable under any provision of this Agreement shall be the date on which payment becomes due under such provision or (in the case only where payment does not have to be made except following a demand or notification by the Council of the sum payable) the date 7 days after the making of such demand or notification

15.2 Where payment of any sum payable as aforesaid is made after the Due Date interest shall be payable from the Due Date until the date of actual payment and shall be added to and form part of such sum at the rate of four per cent above the base rate for the time being of the Bank of England

16 RESOLUTION OF DISPUTES (OTHER THAN MEANING OR CONSTRUCTION)

16.1 In the event of any dispute or difference arising between the parties hereto touching or concerning any matter or thing arising out of this Agreement (other than a dispute or difference touching or concerning the meaning or construction of this Agreement) such dispute or difference shall be referred to some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert and his decision shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.

16.2 In the absence of agreement between the parties to the dispute or difference as to the professional qualifications of the person to be appointed pursuant to sub clause 16.1 above or as to the appropriate professional body within fourteen days after any party has given to the other parties to the dispute or difference a written request to concur in the professional

qualifications of the person to be appointed pursuant to sub clause 16.1 above then the question of the appropriate qualifications or professional body shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of any party to the dispute or difference and such solicitor shall act as an expert and his decision as to the professional qualifications of such person or as to the appropriate professional body shall be final and binding on the parties to the dispute or difference and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.

IN WITNESS of the above the parties have executed this Deed as a deed and the same has been delivered by them or on their behalf on the above date

THE COMMON SEAL of
NORTHAMPTONSHIRE COUNTY
COUNCIL
presence

)
)

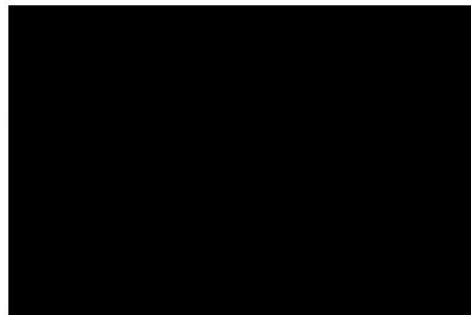


Authorised Signatory
(the Officer appointed for that purpose)

SIGNED AS A DEED by AUGEAN
SOUTH LIMITED in the presence of:-

Director

Director/Secretary



SCHEDULE 1

OBLIGATIONS

LLW COMMUNITY FUND CONTRIBUTION

1. Subject to the provisions of paragraph 2 below, for each tonne of LLW accepted on the Land the Owner will pay five pounds (£5) to the Council for immediate deposit in to the Community Fund.
2. The Owner will only be obliged to make one annual payment to the Council for deposit in the Community Fund which will be payable on the 1st April to satisfy the obligation in paragraph 1 above which shall be calculated by reference to the total tonnage of LLW that has been accepted in that preceding calendar year.
3. If the Council requests the Owner to do so, the Owner shall provide a quarterly report to the Council setting out information on the amount of LLW received in that preceding quarter.
4. For the avoidance of doubt the first payment to be made pursuant to paragraph 2 of this Schedule 1 shall be in respect of all LLW accepted on the Land pursuant to either the Previous Planning Permission, the Existing Planning Permissions or the DCO during the preceding calendar year before that payment falls due.

HIGHWAY CONTRIBUTION

5. The Owner shall pay to the Council the Highway Contribution annually on 29 June taking effect pursuant to clause 4.1 of this Agreement with a final payment to be made in the year 2026

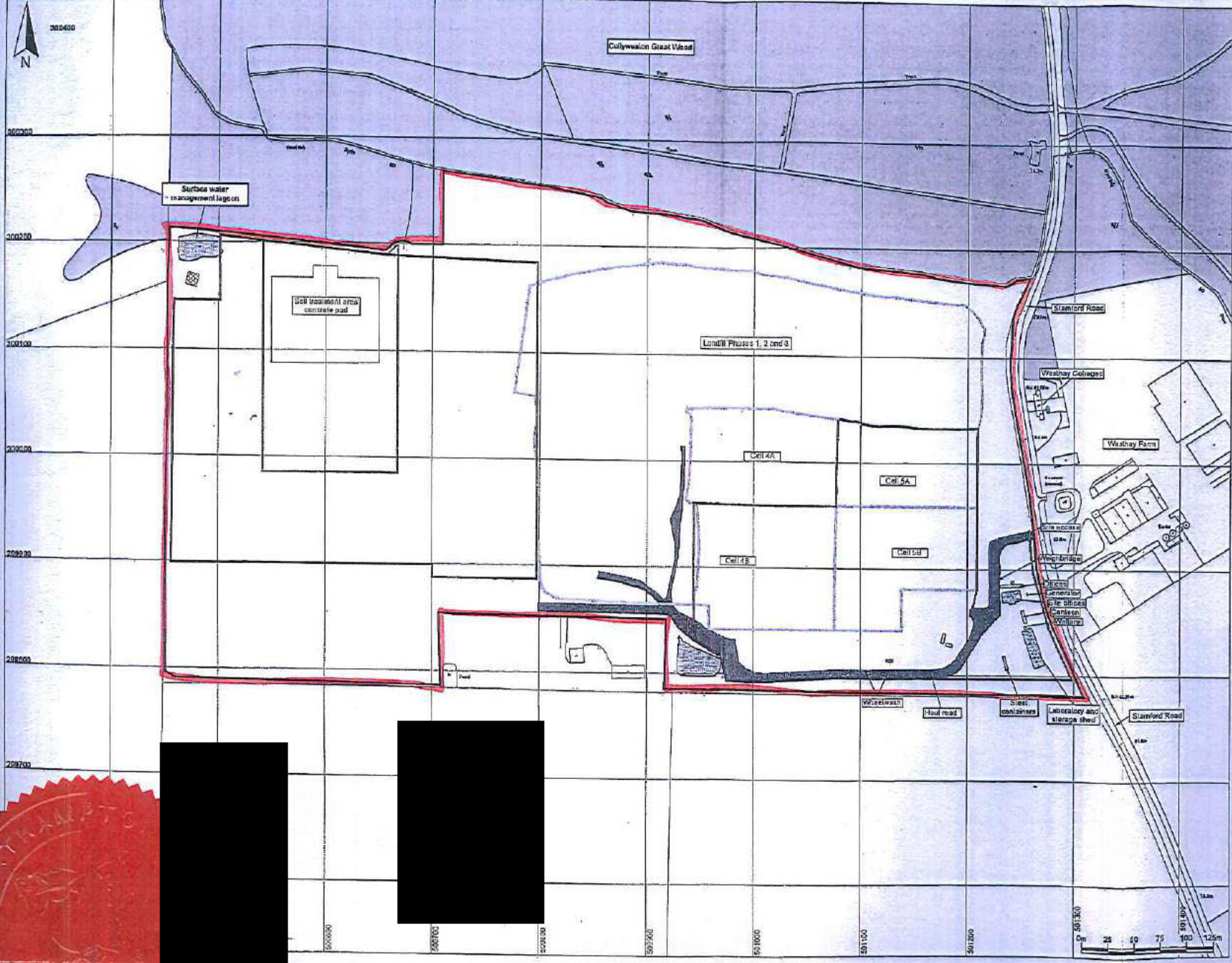
SCHEDULE 2

LLW COMMUNITY FUND










1. The Council shall continue to carry out all the necessary steps required to administer the Community Fund and shall secure prior approval from the Owner, such approval not to be unreasonably delayed or withheld, as to the appropriate set up and administration of the Community Fund PROVIDED THAT both the Owner and the Council shall be required to be a signatory for the release of any and all monies from the Community Fund.
2. The Council shall be responsible for the day to day administration of the Community Fund.
3. The Council shall only be entitled to use the monies in the Community Fund for the Specified Purposes AND PROVIDED THAT the project concerned must lie within a maximum 10 mile radius of the Land.
4. In respect of each project that the Council allocates monies to in accordance with paragraph 3 above the Council shall prepare and send a letter to the project coordinator confirming that the Owner is responsible for donating the relevant monies to that particular project.
5. The Council shall provide an annual report to the Owner setting out details of the relevant projects that monies have been allocated to from the Community Fund.
6. The Council shall allow the Owner to carry out an annual open book audit of the accounts for the Community Fund upon receipt of 21 days written notice of such request.

HIGHWAY CONTRIBUTION

7. The Council shall only use the Highway Contribution for the Highway Purposes.
8. In the event that all or any part of the Highway Contribution has not been expended by the Council in accordance with the provisions of paragraph 7 of this Schedule on completion of the Development such sums as remain unexpended shall be returned by the Council to the Owner together with interest thereon calculated at the rate of 2% above the base rate of Barclays Bank plc from the date of payment by the Owner.



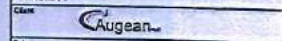
Key / Notes

-  Boundary of the East Northants Resource Management Facility (planning permission reference EN/04/1264/C) and approximate boundary of Permit Number EPR/179430G/W for the hazardous waste landfill
-  Boundary of the soil treatment facility (planning permission reference 07/008/04/VAS and 02/01630/N/C/C)
-  Boundary of the LLW disposal area (Appeal reference APP/02300/A/10/215335/N/AV and planning permission reference 06/02053/VAS) and approximate boundary of Permit Number CD86/G for LLW disposal
-  Approximate location of the currently consented landfill cell boundaries
-  Approximate boundary of Permit Number YP1340/B for the soil treatment facility
-  Current hard roads
-  Woodland
-  Surface water collection areas
-  Existing gas flare compound

NOT TO SCALE

Rev	Status	Rev	App	Chk	Date
Final	KR	SPS	UJ		10/04/12

for EAST NORTHANTS RESOURCE MANAGEMENT FACILITY

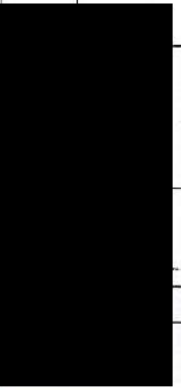


The current site layout and the current planning permission boundaries

Figure 662	Rev	12.500/0A2
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Drawn by: ALI/MC/04/12/0764
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MJCA Maple Valley Colliery Office,
 1000 Road, Bentley, Ashby-de-la-Zouch, Leicestershire, CV8 3LE.
 Telephone: 01532 711700
 Fax: 01532 711802



ENRMF. DCO application preparation update

29 April 2021

Topics to be discussed

- **Main responses to the PEIR consultation**
- **Development of phasing of operations and restoration scheme**
- **Development of surface water management plan**

Main responses to the PEIR consultation

- Around 125 responses
- Extension of the consultation period several times
- Concerns regarding disruption of connectivity between Collyweston and Fineshade Woods
- Suggestions to extend to south not west
- Very positive responses to restoration proposals with biodiversity enhancement and woodland connection
- Ongoing discussions on detail of restoration planting
- Changes to order and rate of restoration of phases
- Request for inclusion of retained car park
- Request for photomontages to be provided





From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Augean ENRMF DCO application
Date: 08 June 2021 15:45:45
Attachments: [AU_KCWp26629_NNC_meeting_notes_29_April_FV.docx](#)
[Letter to M.Chant dated 8 June 2021.pdf](#)
[image001.jpg](#)

8 June 2021

Dear Mark

Augean ENRMF DCO application

Further to our meeting and discussions on 29 April 2021 we attach draft notes of the meeting. We would be grateful for any comments so that the notes can be agreed and finalised. As discussed at the meeting we would be grateful if you would provide the contact details for the Local Lead Flood Authority for the site area so that the draft surface water management plan can be discussed with them. It would be helpful also to know whether there are any new landscape specialists in NNC with whom we should be consulting further.

Due to the restructuring of the local planning authorities, the ENRMF DCO application now falls within the authority area of the newly formed North Northamptonshire Council. Because of this North Northamptonshire Council is classed as a Section 43 consultee for the purposes of section 42(1)(b) of the Planning Act 2008 (2008 Act). As an applicant has a duty to consult "*each local authority that is within section 43*" before submission of a DCO application, we attach a formal letter and the Notice to ensure that we have complied with the requirements of Section 42 of the 2008 Act. We would be grateful to receive your formal response to this letter even if it is just to confirm that your response to the consultation is the same as that of the former Northamptonshire County Council.

We shall respond separately to the consultation response from the former Northamptonshire County Council.

Regards

Leslie Heasman

Attachments

www.mjca.co.uk

Our ref: AU/KCW/LZH/1724/01/26629

AU_KCWp26629_NNC cov FV

Baddesley Colliery Offices
Main Road
Baxterley
Atherstone
Warwickshire
CV9 2LE

Telephone: (01827) 717891

Fax: (01827) 718507



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Schedule 1 to the email dated 8 June 2021**DRAFT Notes of the meeting on 29 April 2021 between North Northamptonshire Council and Augean to discuss the proposed DCO application for the western extension at ENRMF**

Present: Mark Chant (MC), Head of Planning Services, Minerals and Waste Planning Service for Northamptonshire, North Northamptonshire Council
Phil Watson (PW), Development Control Manager, Minerals and Waste Planning Service for Northamptonshire, North Northamptonshire Council
Gene Wilson (GW), Augean
Pete Oldfield (PO), Augean
Leslie Heasman (LH), MJCA

1. Brief discussion on the restructuring of the Council. MC/PW (both formerly of Northamptonshire County Council) confirmed that the new North Northamptonshire Council (NNC) will speak with one voice and the lead will be taken by them in their roles in the Minerals and Waste Planning Service for Northamptonshire. If the application was not an NSIP, the application would have been submitted to and managed by their team. LH confirmed that previous discussions and consultation had taken place also with East Northants District Council and that the other former borough councils also had been consulted. PW confirmed that all communication going forward should be with the Planning Service and they will involve others as needed. In due course PW/MC will draft the Local Impact Statement in consultation with others.

2. LH provided an update on progress with the application including in particular the main issues raised in the responses to the pre-application consultation, the development of the phasing of the proposed operations and restoration, and the development of the surface water

management plan. PW agreed to provide the contact details for the Local Lead Flood Authority for the site area so that the draft surface water management plan can be discussed with them.

3. The need for a domed profile for the restored site was discussed and it was agreed that cross sections through the site and surrounding land would be helpful to show the extent of the altered topography in the context of the landscape. MC/PW proposed to enquire as to whether there are any landscape specialists in the new NNC organisation or whether they may have the facility to call on external expertise. MC/PW will update LH once the enquiries have been made.

4. The benefits of natural regeneration as well as initial woodland planting in order to maximise biodiversity were discussed. PW/MC noted that for this approach to be successful and aftercare period of much longer than 5 years would be needed. GW acknowledged this and confirmed that an appropriate period was being discussed with Natural England together with the development of a long term management plan.

5. The proposals for footpaths and a small car park were discussed. The footpaths have the potential to be joined to other rights of way. GW explained that the footpaths on the restored site would be permissive, at least while the site was still the subject of an Environmental Permit as Augean would need routine access to the site for maintenance and monitoring.

6. The surface improvements on Stamford Road carried out by the former NCC highways team were discussed. PO reiterated that Augean were committed to contributing to the costs of a proposed speed limiting sign which the Parish Council and local residents have requested. PO confirmed that the access widening works were ready to proceed as soon as the S278 agreement was received. The wider access will allow 2 HGVs to pass.

7. A draft of the DCO and Explanatory Memorandum were discussed. PW/MC agreed to provide any comments within 4 to 6 weeks. LH explained that the draft documents had been submitted to PINS for review and their comments were expected in early June.

8. The proposed approach to the Section 106 Agreement was discussed. It was agreed that the principles of the current S106 would be carried forward. PW commented that it needed to be clear whether the long term land management commitments would be controlled through the DCO or the S106 Agreement. LH noted that it was most likely to be in the DCO, as it is now. It was agreed that a draft of the S106 Agreement would be circulated to NNC for comment once it had been drafted.

9. MC questioned whether the contribution to the Community Fund should be increased; GW noted that when increases in the Landfill Tax contribution were taken into account the overall contribution per tonne of LLW had increased above the rate of inflation. GW confirmed that the explanation for this would be set out in the response to the NCC consultation comments and that a summary of the contributions made to the community to date was provided in the PEIR.

10. LH reported that as the consultation period had been extended a number of times following requests from members of the public, the anticipated submission date for the DCO application had been moved from April 2021 to July 2021.

11. The continuing Liaison Meetings were discussed and PW confirmed that he would continue to attend and Chair the meetings. PW confirmed that he was happy for Augean to organise the meetings and carry out the associated administration. It was agreed that a site visit would be helpful when pandemic restrictions allow. PW stated that it would be particularly useful at around the time when the Local Impact Report had to be prepared.



8 June 2021
Our ref: AU/KCW/LZH/1724/01
PINS ref: WS010005

M Chant
Head of Planning Services
Minerals and Waste Planning Service for Northamptonshire
North Northamptonshire Council
Northampton Office
One Angel Square,
Angel Street,
Northampton
NN1 1ED

BY EMAIL ONLY TO [REDACTED]@northnorthants.gov.uk

Dear Mark

East Northants Resource Management Facility Western Extension. Development Consent Order Project reference WS010005.

Pre-application consultation. Section 42 Statutory Notice

Following the restructuring of the local planning authorities merging Wellingborough, Kettering, Corby and East Northants Councils into one unitary authority named North Northamptonshire Council on 1 April 2021, the East Northants Resource Management Facility Development Consent Order Application now falls within the authority area of the newly formed North Northamptonshire Council. Because of this North Northamptonshire Council is classed as a Section 43 consultee for the purposes of Section 42(1)(b) of the Planning Act 2008 (2008 Act). As an applicant has a duty to consult "*each local authority that is within section 43*" before submission of a Development Consent Order application, we are formally consulting North Northamptonshire Council on the proposed application to ensure that we have complied with the requirements of Section 42 of the 2008 Act.

The Notice prepared in compliance with Section 48 and published in October 2020 is enclosed herewith which sets out details of the proposal and how to submit representations. However please note the revised deadline for responses is **11.59pm on 9 July 2021**. All of the consultation documents remain available on the Augean web site <https://www.augeanplc.com/enrmf-planning/> and are available for inspection at the site office at Stamford Road, Kings Cliffe, PE6 6XX by prior arrangement. There have been some minor changes to the DCO boundary since October, but these changes do not alter our assessment as set out in the PEIR.

Notices have previously been sent to Northamptonshire County Council, Wellingborough Borough Council, Kettering Borough Council, Corby Borough Council and East Northamptonshire District Council and where we have received consultation responses from

Augean South Ltd | East Northants Resource Management Facility | Stamford Road | Kings Cliffe | PE8 6XX
Tel 01780 444 900
www.augeanplc.com



these authorities, these will be duly taken into account. If North Northamptonshire Council have any additional comments on the proposed development, we would be grateful if these could be sent to us as soon as possible and in any event by **9 July 2021**. If you do not intend to make any additional comments, we would be grateful if you could acknowledge receipt of this notice and confirm this in writing.

Yours sincerely

[Redacted Signature]
Gene Wilson
Director of Environmental Planning

cc P Watson, North Northamptonshire Council

L Heasman, MJCA

Encs Section 48 Notice

Augean South Ltd | East Northants Resource Management Facility | Stamford Road | Kings Cliffe | PE8 6XX
Tel 01780 444 900
www.augeanplc.com

SECTION 48 PLANNING ACT 2008

**REGULATION 4 INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE)
REGULATIONS 2009**

EAST NORTHANTS RESOURCE MANAGEMENT FACILITY ORDER

NOTICE PUBLICISING A PROPOSED APPLICATION FOR A DEVELOPMENT CONSENT ORDER (DCO)

Notice is hereby given that Augean South Limited (the "Applicant") of 4 Rudgate Court, Walton, Wetherby, West Yorkshire. LS23 7BF proposes to apply to the Secretary of State under section 37 of the Planning Act 2008 for the above mentioned Order (the "Proposed Application").

The Proposed Application seeks consent for an extension in the area and life of the East Northants Resource Management Facility (ENRMF) including an extension to the west of the existing landfill site and increasing the throughput of the waste treatment facility ("Proposed Development") at the East Northants Resource Management Facility, Stamford Road, Kings Cliffe. PE6 6XX.

The Proposed Application will seek a DCO that will include authorisation for the following elements:

- The construction of new landfill void for the disposal of hazardous wastes and Low Level Radioactive waste (LLW) with a capacity of greater than 100,000 tonnes per annum (tpa) supported by the existing site infrastructure. The new landfill area will comprise a number of operational phases.
- The continuation of filling of the existing ENRMF landfill with hazardous waste and LLW the subject of the current Development Consent Order and the creation of new void at the existing site in order to tie the restoration profile into the extension area.
- The winning and working of minerals in order to create the landfill void including the use of extracted materials on site and the exportation of clay and overburden for use in engineering, restoration and general fill at other sites.
- The stockpiling of clay, overburden and soils for use in the construction of the engineered containment system at the site and restoration of the site.
- The direct input of waste into the landfill will continue at a rate of up to 150,000tpa.
- An increase to the waste throughput of the waste treatment facility to 250,000tpa which comprises an increase of 50,000tpa compared with the rate consented currently.
- A combined waste importation rate limit to the waste treatment facility and landfill of 300,000tpa which is an increase of 50,000tpa compared with the currently consented total input rate.
- The LLW which is and will continue to be disposed of at the ENRMF will be limited to that at the lower activity end of the range of wastes classified as LLW which typically has a level of radioactivity of up to 200 Bq/g.
- The diversion of services that cross the western extension to alternative routes within the application area.
- Restoration to a generally domed restoration profile in the extension area and amendment to the approved restoration profile of the existing ENRMF site to create a coherent restored landform over the whole application site.
- Restoration of the site to nature conservation interest using the soils available at the site as well as suitable imported materials.
- Completion of the landfilling and restoration operations by December 2046. This is a provisional completion date that will be updated as part of the ongoing detailed design works.

The Applicant is consulting on the Proposed Application. The Applicant has notified the Secretary of State that the Proposed Application is "EIA development" for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and therefore the Proposed Application will be accompanied by an Environmental Statement (ES). Accordingly, the Applicant has made preliminary environmental information available before completion of the ES.

A copy of the details of the proposals, preliminary environmental information and a shorter non-technical summary, statement of community consultation, plans, maps and other documents describing the Proposed Development will be available from 26 October 2020 online at www.augeanplc.com/enrmf-planning/ and will remain available after the consultation period has ended. They can be provided by contacting ENRMF@augeanconsultation.co.uk or the telephone helpline 01904 654989. Any requests for materials in formats appropriate to the needs of people with accessibility issues, disabilities or in other languages will be considered. Copies may be inspected free of charge using online facilities only at the following locations and during the hours set out below from 26 October 2020 until 14 December 2020. The opening times of these venues are governed by independent organisations and may be subject to change.

Oundle Public Library Glaphorn Road Oundle PE8 4JA	Opening hours Monday, Wednesday, Friday 10 am – 4 pm Saturday 10am – 2 pm
Stamford Public Library High Street Stamford PE9 2BB	Opening hours Monday - Friday 10 am - 4pm Saturday 10 am – 3 pm

Any representations on the Proposed Application should be made in writing to the ENRMF Project Office, 52 The Tannery, Lawrence Street, York YO10 3WH or by email: ENRMF@augeanconsultation.co.uk Comments can also be submitted via the website or the telephone helpline 01904 654989.

The Applicant requests that responses state the grounds of representation, indicate who is making it, and provide an address to which any correspondence relating to the representation may be sent. The deadline for responses is **11.59pm on 14 December 2020**.

Please note that responses and other representations will be made public, although personal information will be withheld. Personal information details will be held securely by the Applicant and any appointed agent of the Applicant in accordance with the relevant data protection legislation and will be used solely in connection with the consultation process and all applicable and relevant DCO application(s). For information on how the Applicant processes personal information and your data protection rights, please visit its privacy notice at www.augeanplc.com/online-privacy-notice/.

Womble Bond Dickinson (UK) LLP Solicitors to the Applicant
23 October 2020

From: [REDACTED]
To: [REDACTED]
Subject: FW: Augean ENRMF DCO application
Date: 09 June 2021 15:29:58
Attachments: [image004.jpg](#)
[image003.png](#)

From: Mark Chant <Mark.Chant@northnorthants.gov.uk>
Sent: 09 June 2021 14:59
To: Leslie Heasman <LeslieHeasman@mjca.co.uk>
Cc: 'genewilson@augeanplc.com' <genewilson@augeanplc.com>; 'PeterOldfield@augeanplc.com' <PeterOldfield@augeanplc.com>; Phil Watson <Phil.Watson@northnorthants.gov.uk>
Subject: RE: Augean ENRMF DCO application

Leslie

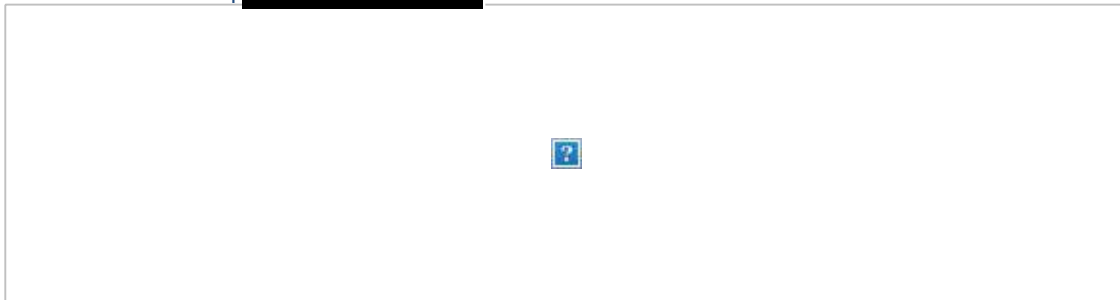
I refer to your letter of 8 June 2021.

This is to confirm that North Northamptonshire Council has no further comments to make and its formal response is therefore as those made by the former authorities of Northamptonshire County Council and East Northamptonshire District Council.

If you require any clarification please come back to me.

Regards
Mark

Mark Chant | Head of Planning Services (Minerals and Waste)
Minerals and Waste Planning Service for Northamptonshire
North Northamptonshire Council
Northampton Office
One Angel Square, Angel Street, Northampton NN1 1ED
T: 01604 366014 | [REDACTED]



From: Leslie Heasman <[REDACTED]>
Sent: 08 June 2021 15:45
To: Mark Chant <[REDACTED]>

[REDACTED]
[REDACTED]
Subject: Augean ENRMF DCO application

8 June 2021

Dear Mark

Augean ENRMF DCO application

Further to our meeting and discussions on 29 April 2021 we attach draft notes of the meeting. We would be grateful for any comments so that the notes can be agreed and finalised. As discussed at the meeting we would be grateful if you would provide the contact details for the Local Lead Flood Authority for the site area so that the draft surface water management plan can be discussed with them. It would be helpful also to know whether there are any new landscape specialists in NNC with whom we should be consulting further.

Due to the restructuring of the local planning authorities, the ENRMF DCO application now falls within the authority area of the newly formed North Northamptonshire Council. Because of this North Northamptonshire Council is classed as a Section 43 consultee for the purposes of section 42(1)(b) of the Planning Act 2008 (2008 Act). As an applicant has a duty to consult "*each local authority that is within section 43*" before submission of a DCO application, we attach a formal letter and the Notice to ensure that we have complied with the requirements of Section 42 of the 2008 Act. We would be grateful to receive your formal response to this letter even if it is just to confirm that your response to the consultation is the same as that of the former Northamptonshire County Council.

We shall respond separately to the consultation response from the former Northamptonshire County Council.

Regards

Leslie Heasman

Attachments

www.mjca.co.uk

Our ref: AU/KCW/LZH/1724/01/26629

AU_KCWp26629 NNC cov FV



Baddesley Colliery Offices
Main Road
Baxterley
Atherstone
Warwickshire
CV9 2LE

Telephone: (01827) 717891

Fax: (01827) 718507

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From: [REDACTED]
Subject: FW: Augean ENRMF DCO application
Date: 09 June 2021 15:30:15
Attachments: [image001.jpg](#)

From: Mark Chant [REDACTED]
Sent: 09 June 2021 15:00
To: Leslie Heasman [REDACTED] k>

[REDACTED]
[REDACTED] >
Subject: RE: Augean ENRMF DCO application

Leslie

I refer to your letter of 8 June 2021.

As a new neighbouring planning authority to the one in which your DCO application is sited I assume that you would also wish for there to be a formal response from the West Northamptonshire Council.

The response that was made by Northamptonshire County Council was in effect a countywide response even though it had far more relevance to the northern part of the county which is now in the area of the North Northamptonshire Council. This is therefore to confirm that the response of the previous Northamptonshire County Council can also be regarded as the response of West Northamptonshire Council.

Regards

Mark

From: Leslie Heasman [REDACTED]
Sent: 08 June 2021 15:45
To: Mark Chant <[REDACTED]>

[REDACTED]
[REDACTED]
Subject: Augean ENRMF DCO application

8 June 2021

Dear Mark

Augean ENRMF DCO application

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Regards

Leslie Heasman

Attachments

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Our ref: AU/KCW/LZH/1724/01/26629

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