



**APPLICANT'S RESPONSE TO THE DEADLINE 2
SUBMISSIONS**

**FOR THE DEVELOPMENT CONSENT ORDER
APPLICATION FOR THE ALTERATION AND
CONSTRUCTION OF HAZARDOUS WASTE AND LOW
LEVEL RADIOACTIVE WASTE FACILITIES AT THE EAST
NORTHANTS RESOURCE MANAGEMENT FACILITY,
STAMFORD ROAD, NORTHAMPTONSHIRE**

PINS project reference: WS010005

PINS document reference: 10.2

March 2022



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Introduction

This document provides the response of the Applicant to the Deadline 2 submissions made by interested parties. In this document comments are provided only on the submissions and paragraphs where it is considered that clarification is necessary or that further information will be of assistance to the Examining Authority.

Comments are provided by the Applicant on the following documents in Tables 1 to 5:

Table 1. North Northamptonshire Council Local Impact Report (REP2-027)

Table 2. The Environment Agency Response to ExQ1 (REP2-028)

Table 3. Anglian Water Services Response to ExQ1 (REP2-029)

Table 4. Natural England Response to ExQ1 (REP2-030)

Table 5. Written Submissions on behalf of the Cecil Estate Family Trust (REP2-033)

Table 1
North Northamptonshire Council Local Impact Report (REP2-027)

Paragraph number	Submission	Comments from the Applicant
6.50	<p>A period of after-care after restoration is complete is necessary to ensure that the restoration and landscaping scheme with all the biodiversity elements are appropriately managed to ensure that they establish and succeed. The Town and Country Planning Act 1990, Schedule 5, specifies that a five-year aftercare period for mineral and waste disposal operations can be imposed for after- uses of agriculture, forestry, and amenity. The 1990 Act does not specify biodiversity. The current application is made under the Planning Act 2008, rather than the 1990 Act and it is understood that the 2008 Act allows a longer after-care period to be specified. It is noted that the draft DCO refers to a ten- year period for maintenance of landscaping. It is understood from discussions with the applicant that a twenty-year aftercare-period, post final restoration, is proposed and given that there will be phased restoration some areas will receive up to a further ten years on top of this. The DCO will require further amendments to clarify the twenty-year aftercare period, and to ensure that this covers all aspects of management of the restoration scheme, particularly the biodiversity enhancements. It is considered that Examining Authority should satisfy itself that the after-care proposals and timeframe are all appropriately covered in the DCO requirements, and if not these should be included in the Section 106 Legal Agreement.</p>	<p>As the Town and Country Planning Act 1990 is not applicable to NSIPs and the application is determined under the Planning Act 2008, it is appropriate to secure the aftercare requirements through the requirements in the DCO.</p> <p>The 20 year aftercare period for the proposed development is specified in the Ecological Management, Monitoring and Aftercare Plan at paragraph 1.3.3 (EMMAP) (Appendix DEC E. APP-110) but for clarity express wording has been added to Requirement 4 of the revised dDCO submitted at Deadline D3.</p> <p>In addition to the commitments in the DCO, Augean will continue to be responsible for the obligations of the Environmental Permit and the management of the site until the Environmental Permits are surrendered which, for the hazardous waste landfill permit, is at least 60 years following completion of landfilling.</p>
6.51	<p>Policy RC3 of the King's Cliffe Neighbourhood Plan seeks that where appropriate, development proposals should deliver overall quality and accessibility enhancements to the Public Rights of Way network. The restoration and after-use proposals will achieve this, albeit the public access may be through permitted paths rather than a formal right of way. The delivery of public access to the site can not be achieved by a DCO requirement and should be included in the proposed Section 106 legal agreement. It is also considered that this should be a long-term commitment.</p>	<p>Permissive access to the restored site is secured through the restoration scheme which is subject to the requirements of the DCO for a period of 20 years following closure of the site. Requirement 4 of the dDCO has been amended to make it clear that public access to the restored site will be permitted for the 20 year aftercare period.</p> <p>There is a need to balance the protection of newly restored areas until vegetation and habitats have developed to a suitably robust stage which will withstand public access without significant detriment to the planned continued development of biodiversity. Accordingly it will be necessary to have the flexibility to consider the phased introduction of public access to different areas of the restored site. It is proposed that the balance between allowing habitats to become sufficiently established and allowing public access to restored areas will be determined and implemented through agreement of the phasing, landscaping and restoration scheme and the regular updates identified in Requirement 4(3). Clarification of this approach has been added to R4(6) of the revised dDCO.</p>

Table 2
The Environment Agency Response to ExQ1 (REP2-028)

Question number	Submission	Comments from the Applicant												
Q1.1.3	<p>Please provide information on any instances of non-compliance and/or difficulties with compliance with the existing EPs.</p> <p>Please note that non-compliance is scored on potential impact, so a record of non-compliance does not necessarily mean that environmental harm occurred as a result.</p> <table border="1" data-bbox="433 596 1240 898"> <thead> <tr> <th colspan="2">Definitions</th> </tr> </thead> <tbody> <tr> <td></td> <td>Non-compliance ...</td> </tr> <tr> <td>Category 4</td> <td>... with no potential environmental effect</td> </tr> <tr> <td>Category 3</td> <td>... which could have a minor environmental effect.</td> </tr> <tr> <td>Category 2</td> <td>... which could have a significant environmental effect.</td> </tr> <tr> <td>Category 1</td> <td>... which could have a major environmental effect.</td> </tr> </tbody> </table> <p>The majority of the non-compliances recorded are rated Category 3 (non-compliance which could have a minor environmental effect).</p>	Definitions			Non-compliance ...	Category 4	... with no potential environmental effect	Category 3	... which could have a minor environmental effect.	Category 2	... which could have a significant environmental effect.	Category 1	... which could have a major environmental effect.	<p>A summary and description of the compliance of the site operations with the Environmental Permits over the past 5 years was provided by the Applicant with the submissions for Deadline 2 in response to ExQ 1.1.3 (PINS document reference 9.2. REP2-006).</p>
Definitions														
	Non-compliance ...													
Category 4	... with no potential environmental effect													
Category 3	... which could have a minor environmental effect.													
Category 2	... which could have a significant environmental effect.													
Category 1	... which could have a major environmental effect.													
Q1.1.5	<p>ES Section 8.3 sets out the proposals for site and environmental monitoring at the Proposed Development. Please comment on the scope and effectiveness of these proposals as they relate to your areas of responsibility.</p> <p>The scope and effectiveness of environmental monitoring will be considered during the determination of the Environmental Permit.</p>	<p>The Applicant confirms that appropriate monitoring proposals that satisfy the Environment Agency similar to those which are in place currently will be included in the Environmental Permits as the permits will only be issued by the Environment Agency when they are satisfied with the proposals.</p>												
Q1.3.2	<p>Appendix ES5.1 [APP-083] sets out the design principles for stand-off distances to be adopted in the Proposed Development for various features. Please comment on these principles for the features in which you have an interest.</p> <p>Having reviewed the Surface Water Management Plan (SWMP) we would have concerns about replacing the culvert with an open watercourse during the operational phase of the site. With the proposed 20 metre buffer zone each side of the proposed landfill cells there would be the potential to create an open pathway to the swallow hole. During the operation phase of the landfill and soil treatment plant there is the potential that contaminated water could enter the swallow hole. It is not possible to say that only clean surface water would be discharged from the site as there is always a risk of accidents/unforeseen events.</p>	<p>As stated in paragraph 13.6.3 of the Environmental Statement the culverted drain will not be converted to form an open watercourse until landfilling and restoration in the area in the north of the proposed western extension (Phases 12, 13 and 14) is completed therefore there will be no need to cross the watercourse with operational vehicles. The watercourse will be formed between the two rows of double hedges planted on raised bunds prior to commencement of the works as specified in the EMMAP (Appendix DEC E to PINS document reference 6.5. APP-110) and the timing of the opening up of the watercourse will be controlled through the Phasing Landscaping and Restoration Scheme (Requirement 4 of the dDCO). The robust surface water controls necessary to provide reassurance that the risks of surface water overflow from the operational area into the watercourse are managed will be agreed with the Environment Agency as part of the operational surface water management scheme under the Environmental Permit.</p>												
Q2.3.4	<p>Please comment on the Applicant's contention (ES paragraph 21.5.2) that no controls over dust and particulate matter are necessary in the DCO.</p> <p>We will consider controls over dust and particulate matter as part of the Environmental Permit. The Planning Inspectorate may wish to examine the</p>	<p>A Dust Management Scheme is provided at Appendix DEC H to PINS document reference 6.5 (APP-110) which is a certified plan and is implemented from the date that notice of commencement is served as set out in Article 4(2) of the dDCO. The Dust Management Scheme includes controls over soil stripping and placement, extraction, movement and stockpiling of clay and overburden, landfill engineering works and the movement of HGVs, plant and machinery.</p>												

	preparation for engineered containment and any windblown dust from soil as part of the DCO.	The Environmental Permits will continue to include requirements for monitoring dust at the site boundaries and will continue to include a threshold limit for concentrations of dust and particulates at the site boundary therefore regardless of the source of any dust that is generated, in particular any dust generated as a result of the excavation of the clay and overburden to form the landfill cells, the effectiveness of the management of that dust will be controlled through the EPs.
Q4.3.2	<p>Schedule 1 Please comment on the need or otherwise for the terms 'predominantly' (hazardous waste) and 'small quantities' (of low level waste) as used in the descriptions of Work No 1 and Work No 2 to be defined by reference to specific quantities.</p> <p>We have no concern with the use of the term 'predominantly' in Schedule 1, as it is correct that the majority of the waste will be defined as hazardous. However, we would suggest that 'small quantities' could be defined i.e. 'up to X tonnes per annum' for the avoidance of doubt. This would clarify the percentage of waste that would be defined as 'low level waste'.</p>	The proportion of waste that will comprise LLW is quantified in the dDCO; a maximum limit of 448,000tonnes of LLW for Work No 1A and 700,000tonnes of LLW for Work No 1B is specified in Requirement 8(2) of the dDCO.
Q9.1.3	<p>Are you satisfied that the submitted landfill engineering and containment design (ES Section 5.5 [APP-049]) and restoration proposals [APP-063] for the site would render it suitable for use as open space following restoration?</p> <p>The proposed basal and capping engineering designs are exactly the same that have been agreed for the previous extension of the site and have been agreed in principal for this extension area. However, the modelling will be reassessed as part of the Environmental Permitting process and is very likely to remain the same as the model input parameters will be very similar if not the same.</p>	<p>The approved restoration scheme for the currently consented site includes the provision of footpaths which would be accessed by the public therefore this afteruse has already been assessed and determined as suitable for open space use following restoration. The principles of the design of the capping layers above the landfill site will not change for the proposed western extension to the landfill site.</p> <p>As explained in Section 12 of the Environmental Statement and shown in Tables ES11.1 and ES11.2, the potential exposure pathways for people using the site for recreational purposes following capping and restoration have been assessed and it is demonstrated that there are no unacceptable exposure pathways for users of the site for public access and recreation.</p>

Table 3
Anglian Water Services Response to ExQ1 (REP2-029)

Question number	Submission	Comments from the Applicant
Q1.3.2 and Q4.5.3	<p>Q1.3.2 Appendix ES5.1 [APP-083] sets out the design principles for stand-off distances to be adopted in the Proposed Development for various features. Please comment on these principles for the features in which you have an interest.</p> <p>Q4.5.3 Please provide an update on any discussions on the Protective Provisions following the submission of the application and in the light of [RR-001] (National Grid and [RR-012] (Western Power Distribution).</p> <p><i>Anglian Water and Augean are in discussion on standoff distances, risks to Anglian Water's water mains pipelines and protective provisions. Anglian Water will review Augean's updated Environmental Safety Case when this is submitted to the ExA and the EA. Anglian Water will then consider the assessment with regards to the four questions of stability, contamination, safe Anglian Water access and crossing of the pipelines.</i></p>	<p>As stated in the response of the Applicant to ExQ1.1.4 the variation application for the LLW Permit has not yet been submitted. It will not be submitted to the EA until after the Examination closes. The updated Environmental Safety Case forms part of the variation application for the Environmental Permit for the landfill disposal of LLW and will be submitted to and reviewed by the Environment Agency.</p> <p>The assessments accompanying the proposed variation application will follow the same principles applied in the approach to the current LLW landfill permit. The varied Environmental Permit will define the limits to the total radiological capacity that can be accepted at the current and extended landfill site in order to maintain radiological emissions to below the dose criteria which are protective of human health and are used to determine the environmental impact as explained in section 11 of the Environmental Statement and as set out in Table ES11.3 [PINS document reference 5.2. APP-049]. This is the same approach as was used for the extant DCO.</p>

Table 4
Natural England Response to ExQ1 (REP2-030)

Question number	Submission	Comments from the Applicant
Q3.2.1	<p>ES paragraphs 9.3.7 and 9.3.8 advise that NE and others would like to see the restoration scheme planting linking the wooded areas around the site. The ES considers that planting grassland with pockets of trees would provide more biodiversity over time than new woodland planting. Please comment on how this approach to planting would link with the adjoining woodland, particularly having regard to the mowing regime for the grassland (see ES paragraph 9.3.6) and the objective of providing public access to the restored site.</p> <p><i>Further details on the management plan are necessary. Ideally, we would like to see the restoration plan before commenting. The pockets of trees will provide the landscape with habitat steppingstones. Seasonal mowing is acceptable management, though grazing may be preferable.</i></p>	<p>The Concept Restoration Scheme is included as part of the application (PINS document reference 2.8 (APP-011)). Further details on the proposed management of the habitats at the site is provided in Appendix DEC E (Ecological Management, Monitoring and Aftercare Plan) of the DCO Environmental Commitments Document (PINS document reference 6.5. APP-110).</p> <p>Clarification on the mowing regime was provided in the Applicant's response to ExQ3.2.1 (REP2-006) as follows.</p> <p><i>'Buffer zones around the patches of planted woodland will be managed as edge habitat, creating a transition from woodland, to a scrub interface and then a taller tussocky grassland left in situ over-winter. The mowing regime will progressively allow the diameter of this buffer through succession to increase and encroach year on year as each transition in 'layer' of habitat type develops. There will be no public access whilst the site is operational, allowing habitats in the existing ENRMF and the northern area of the western extension time to establish well, and a network of public access pathways to be designed and constructed.'</i></p>
Q3.2.3	<p>It is proposed to remove two 'important' hedgerows (Hedgerow Removal Plan [APP-013]) and replace them as part of the restoration scheme. Please comment on the effectiveness and timescale for the replacement hedgerows to provide a comparable level of connectivity for reptiles (ES paragraph 13.5.3) to the existing hedgerows</p> <p><i>Important hedgerows may relate more closely to the remit of the Local Authority; NE is interested in seeing the restoration scheme and believes this may, however have implications for species licensing (see paragraph 3.4.1).</i></p>	<p>We understand from our discussions with Natural England that the Licensing Team have not yet had the opportunity to review the application documents including the Ecological Management, Monitoring and Aftercare Plan therefore the Licensing Team views and comments have not yet been taken into account in the response from Natural England.</p> <p>As part of the approved mitigation activities associated with the current consented operations at the existing ENRMF a number of protected species licences have been granted by Natural England.</p> <p>History of the licensing on the site</p>
Q1.2.2 & Q3.4.1	<p>Q1.2.2 Please comment on the methodological approaches used in the ES which are relevant to your areas of responsibility.</p> <p><i>Methodology is good, we have no specific concerns though cannot comment on protected species (see comments under 3.4.1).</i></p> <p>Q.3.4.1 Noting Q3.3.1 with regard to GCN, are any other protected species licences required to implement the Proposed Development? If so, would NE please comment on any letters of no impediment.</p> <p><i>Natural England has advised the applicant to assess whether any offences are likely to be committed by the scheme, and thus whether a licence will be needed to proceed. Natural England's Licensing Service for bespoke licences have not been informed of the outcome of any such assessment and assume that the applicant has made a decision that does not require a bespoke licence. We understand that the Applicant intends to utilise a District Level Licensing approach and is in contact with NatureScape who are delivering the scheme in the area.</i></p> <p><i>It is a scheme's responsibility to determine whether a licence or needed, and Natural England's Wildlife Licensing Service (NEWLS), is unable to advise on this. It is noted that the scheme has been considering whether they should apply for a standard or</i></p>	<p>In November 2007 Natural England granted to Faber Maunsell (on behalf of the Applicant) European Protected Species Licence (EPSL) WLF025812 for the destruction of five breeding ponds and terrestrial habitat for Great Crested Newts (GCN) in order to facilitate contaminated material storage on the existing ENRMF.</p> <p>In Spring 2010, Augean appointed ESL (Ecological Services Limited) as the project ecologists. In November 2010, Natural England granted ESL EPSM2010-2589A for the destruction of six waterbodies and terrestrial habitats for GCN in order to facilitate the creation of new landfill cells in the existing ENRMF.</p> <p>In both cases the effects on GCN were successfully mitigated. Annual monitoring and management undertaken by ESL on behalf of the Applicant between 2010 to 2020 indicates that the purpose-built receptor area supports a healthy population of GCN and thus the population is being maintained at a favourable conservation status (FCS).</p> <p>Summary of the discussions to date with Natural England regarding the licensing for the proposed western extension</p> <p>In order to agree the necessary GCN mitigation, an application to engage Natural England under their Pre-submission screening (PSS) service was made on 22 June 2021. In their response, dated 3 December 2021 NE stated that they were receptive to a PSS application being made. In the meantime, ESL explored</p>

Question number	Submission	Comments from the Applicant
	<p><i>District Level Licence for GCN. This remains the responsibility of the scheme to decide, but the scheme should be aware that if an application for an EPS licence is required, we would encourage the submission of a full draft licence application as soon as possible. This will ensure NEWLS and the applicant can negotiate appropriate timeframes for timely feedback as necessary and a LONI from Natural England where appropriate.</i></p>	<p>the alternative option of using District Level Licensing (newly available in Northamptonshire), and had numerous conversations with the provider, Naturespace. However, this option was later discounted as it was clear that as the potential impact on GCN as a result of the proposed development was so limited it did not merit the resource intensive DLL approach.</p> <p>Statement regarding the fact that there is no reason why the site will not be licensable</p> <p>In determining whether or not to grant an EPSL for the proposed western extension, Natural England will apply the requirements of Regulation 55 of The Conservation of Habitats and Species Regulations 2017 and in particular, the three tests set out in sub-paragraphs (2)(e), (9)(a) and (9)(b):</p> <ul style="list-style-type: none"> • Regulation 55(2)(e) states: a licence can be granted for the purposes of ‘<i>preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment</i>’. • Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied ‘<i>that there is no satisfactory alternative</i>’. • Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied ‘<i>that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range</i>’. <p>The first two tests are met by establishing the planning need. The grant of a Development Consent Order for the proposed western extension would establish the planning need. Current Natural England advice with regards to meeting the Favourable Conservation Status (FCS) test is that there ‘<i>should be no net loss in the local population status of the species concerned, taking into account factors such as population size, viability and connectivity. Hence, when it is unavoidable that an activity will affect an EPS population, the mitigation should aim to maintain a population of equivalent status on or near the original site</i>’ (Natural England, 2013). This is often interpreted that as a minimum, the affected population will be no worse off as a result of the development, although good practice dictates that GCN mitigation should always seek to achieve a net gain.</p> <p>As licences were granted for the two previous schemes, they clearly met the rigorous requirements of the ‘<i>three tests</i>’. However, unlike these previous schemes (which required the combined destruction of 13 ponds and a sizable area of terrestrial habitat), the proposed western extension does not require the destruction of any ponds and the loss of GCN terrestrial habitat is minimal. Furthermore, the amount of new GCN habitat (both ponds and terrestrial) delivered by the restoration scheme will be more than sufficient to maintain the population at a favourable conservation status and thus meet the requirement of Regulation 55(9)(b). As such, there is a more than reasonable expectation that an EPSL would be granted for the proposed development.</p> <p>Approach to the licensing application for the western extension</p> <p>A PSS application to Natural England is currently in preparation with the aim of securing a LONI. Given that the predicted impacts on GCN are minimal, and are likely to be significantly outweighed by the biodiversity net gains during the operation and restoration of the site, the draft EPSL application is expected to be simple.</p> <p>The proposed western extension has been designed to avoid the loss of any ponds and retain as much GCN habitat as possible. In summary, temporary amphibian fence (TAF) will be installed on the edge of the buffer strip. A 10m buffer strip of GCN habitat will be retained between the TAF and the adjacent woodland edge (this will also provide habitat continuity for badgers, reptiles and invertebrates). Due to the duration of work, the TAF will comprise ESL’s polycoated steel sheets, which are virtually maintenance free</p>

Question number	Submission	Comments from the Applicant
		and provide a long-term barrier to movement. The TAF will not prevent GCN moving between ponds or foraging/hibernation areas, nor result in habitat fragmentation. Any GCN present within the impact area will be translocated to a place of safety during a programme of intensive pitfall trapping and refugia search. The TAF will be removed once the restoration is completed. New ponds and terrestrial habitats will be monitored and managed for GCN as per the Ecological Management, Monitoring and Aftercare Plan (Appendix DEC E, PINS document reference 6.5, APP-110).
Q4.4.4	<p><i>R4 Clause 4 requires the restoration of the site to be carried out in accordance with the latest phasing, landscaping and restoration scheme. Please comment on the need or otherwise for this R to include a provision requiring interim phases to be constructed in accordance with the latest phasing, landscaping and restoration scheme approved at the time.</i></p> <p><i>Yes, there is a need for this R to include a provision requiring the interim phases to be constructed in accordance with the latest phasing, landscaping and restoration scheme approved at the time.</i></p>	The design of the construction of each of the phases will be approved by the Environment Agency under the Environmental Permit. All cells/phases at the site will be restored and landscaped in accordance with the latest phasing, landscaping and restoration scheme. R4 has been updated to refer to the Ecological Management, Monitoring and Aftercare Scheme and the phasing sequence table prior to the approval of the phasing, landscaping and aftercare scheme. R4 (5) of the draft DCO has been updated to provide further clarity with respect to the aftercare period.

Table 5

Written Submissions on behalf of the Cecil Estate Family Trust (REP2-033)

Section number	Submission	Comments from the Applicant
<p>1 Introduction</p> <p>i.</p> <p>ii.</p> <p>iii.</p> <p>iv.</p>	<p>These representations are submitted on behalf of the Cecil Estate Family Trust ('the Trust') in relation to the application to extend the hazardous waste facilities at the East Northants Resource Management Facility.</p> <p>The Trust owns land adjacent to the existing Resource Management Facility and also land adjacent to the proposed western extension. The Trust is also the owner of part of the swallow hole that forms part of the application site for the extended facility and water discharging into the swallow hole runs across the land owned by the Trust.</p> <p>Appendix 1 comprises a plan of the Trust's ownership edged in red and a further plan identifying the location of the swallow hole.</p> <p>These submissions respond to the Initial Assessment of Principal Issues prepared by the Examining Authority.</p>	<p>The Applicant notes that the second plan provided at Appendix 1 to the CEFT Written Representation shows that the substantial majority of the whole area of the swallow hole depression is located on land owned by Howard Farms Ltd and under option for purchase by Augean South Ltd. Inspection of the boundary of the Trust land adjacent to the swallow hole shows that while part of the depression surrounding the swallow hole is within the Trust's landholding the actual point of discharge to groundwater is within the land owned by Howard Farms Ltd and under option for purchase by Augean South Ltd.</p>
<p>2 Air Quality and emissions</p>	<p>The Trust is able to confirm that the existing waste site emits odours from time to time that are detectable on the Trust's land. The odours will affect those who will in future be occupying the commercial unit known as A47 storage depot, immediately to the north. This depot is currently vacant but the Trust has planning permission to convert it to a storage/commercial use and intends to do so shortly. Accordingly, a more effective odour control system is required in respect of the proposed extension area.</p>	<p>The complaints records relating to odour for the site for the last 5 years have been reviewed as part of the Environmental Impact Assessment (Section 21 of the Environmental Statement). No complaints regarding odour emissions from the site are recorded. The nearest sensitive receptors to the site with respect to odour are the residents of Westhay Cottages located approximately 25m to the east of the application boundary. The proposed storage depot is approximately 175m from the proposed development site boundary at the closest point.</p> <p>In a letter to the Applicant dated 14 December 2020 an agent for the CEFT (Strutt and Parker) stated that there was a '<i>distinct odour from the current facility and that the cumulative effects of the western extension to this nuisance need to be properly assessed and sufficient mitigation measures put forward as part of the application.</i>' During later correspondence with Strutt and Parker, the Applicant requested any evidence of the odour experienced during the visit to the site so that it could be incorporated into the odour assessment and it was reported by Strutt and Parker in a letter dated 30 April 2021 that '<i>whilst we have not undertaken any specific survey work, there is a noticeable and often unpleasant odour to the human nose when in close proximity to the northern boundary of your facility.</i>' The assessment reported in Section 21 of the Environmental Statement did not identify any unacceptable risks of odour to sensitive receptors at or beyond the boundary of the site.</p> <p>The planning permission granted for the cleared area in the centre of the woodlands which was used formerly by the Ministry of Defence for storage associated with the Wittering Airfield was taken into account in the assessments. This area was granted planning permission in 2009 for development for '<i>general storage and distribution use</i>' but is unused currently.</p> <p>Odour emissions may be generated from the importation and landfilling or treatment of odorous wastes. The hazardous wastes, LLW and wastes for treatment which are received at the site contain minimal quantities of putrescible material which mean it is unlikely that significant odorous emissions will be generated by the biodegradation of organic matter in the imported wastes. Some industrial wastes may contain odorous chemical contaminants and Augean implement an odour assessment as part of their pre-acceptance waste checks and waste with significant odour potential will not be accepted for delivery to the site.</p>


Section number	Submission	Comments from the Applicant
		All the waste management activities are regulated through Environmental Permits. The identification and management of potential sources of odour is regulated by the Environment Agency through the pollution control framework.
3 Biodiversity	Immediately to the east of the proposed extension lies Collyweston Great Wood, which is owned by the Trust. This is part of the historic Rockingham Forest and comprises a unique ancient lime woodland. The area is rich in wildlife and the Wood is a SSSI, with the area of the SSSI being shown on the plan at Appendix 2. Also at Appendix 2 is the SSSI citation. Some of the more unusual woodland plants found here are toothwort, wood spurge, lily-of-the-valley, heath speedwell, wild service tree, mountain melick and great wood-rush. Resident birds include lesser and great spotted woodpeckers, and treecreeper. Kites and buzzard are also regularly seen in the woods.	The boundary of the SSSI which incorporates Collyweston Great Wood is shown on Figure ES1.2 (PINS document reference 5.3.1.2. APP-051) and a summary description is provided at Appendix ES3.1 (PINS document reference 5.4.3.1. APP-082).
	This biodiverse area will be susceptible to any pollution from the operations at the site. The Trust also has concerns as to how the bund that is proposed around the site will affect the habitat of the woodland edge of the land adjoining the proposed extension.	<p>The potential impact of the development on all ecological receptors including in particular those in the statutorily protected sites is the subject of extensive review and assessment in the Environmental Statement and the appended Ecological Impact assessment (Appendix ES13.1, PINS document reference 5.4.13.1. APP-087). The scope and findings and conclusions of the impact assessments have been discussed and agreed with Natural England and with North Northamptonshire Council. Neither body have identified any concerns with respect to the potential impact of the proposed development on the SSSI which incorporates Collyweston Great Wood.</p> <p>The Applicant does not understand the reference to '<i>the bund that is proposed around the site.</i>' No bund is proposed around the site as part of the proposed development.</p>
	Whilst the Environmental Statement in support of the application suggests a high level of biodiversity net gain, those gains will not be provided until each phase of the development is filled and completed, which will be many years away. It is considered that more immediate biodiversity gains should be provided by the Applicant to compensate for the early negative effects of the development.	<p>The Proposed Development will deliver biodiversity gain before the operations commence as well as throughout the phased operations and following the restoration of the site. Although there is currently no policy requirement to provide biodiversity net gain for NSIPs the restoration scheme for the site has been designed to meet the objective of achieving Biodiversity Net Gain. The biodiversity net gain has been calculated using the recently issued DEFRA Biodiversity Metric 3.0. The proposed measures will provide a biodiversity net gain of over 110% for habitats and 550% for hedgerows. There will also be a net gain in watercourses through the creation of Swallow Brook. This is substantially above the target of 10% for NSIP projects in the Environment Act 2021.</p> <p>Importantly, the graph shown in paragraph 13.5.12 of the Environmental Statement shows that significant biodiversity improvements to habitats at the site will be achieved from the very early stages of the works. In Table 4 and Table 5 of the Biodiversity Net Gain Assessment (Appendix 3 of Appendix ES13.1 (PINS document reference 5.4.13.1) (APP-087)) the biodiversity net gain prior to the commencement of the operations in the proposed western extension and at each phase is presented. As is clearly shown, biodiversity gain will be achieved before the operations commence and throughout the phased operations. The works necessary to achieve these gains are set out in the EMMAP at Appendix DEC E to the DEC (PINS document 6.5. APP-110) which will be implemented through Article 4(2) and Requirement 4 of the dDCO.</p>
4 Draft Development Consent Order	4.1 The Trust considers that the Draft Development Consent Order is deficient because it is based upon the incorrect premise that the Applicant has the right to discharge a significant amount of the surface water from the facility as extended into the swallow hole on the Trust's land and then under the Trust's land. This is not the case and the Draft Development Consent Order seeks no powers to allow such discharges to happen. The following paragraphs set out the legal situation regarding the rights the site has to discharge surface water:	4.1 and 4.2: As stated above, the substantial majority of the area of the swallow hole depression is located on land owned by Howard Farms Ltd and under option for purchase by Augean South Ltd. No rights are required over this area of land. In the event that any water does encroach onto the small proportion of land owned by CEFT, the Applicant has the benefit of prescriptive rights to drain into the swallow hole, as a result of the land draining in this way for over 40 years. The scheme and surface water drainage strategy have been designed by a BSc and MSc qualified hydrogeologist who is also a Chartered Geologist and has 24 years of experience so that there is no material intensification of the current drainage arrangements.

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	<p>4.2 Whilst no discharge rights have been proven to exist, it is clear that even if the Applicant has any existing rights to discharge surface water from the Site to the swallow hole and from there through the Trust's land that the proposals contained in the Application go far beyond those existing rights.</p> <p>4.3 At present the existing facility has a discharge point in the south eastern corner of the site, which has the benefit of an environmental permit. At present none of the existing facility should be discharging surface water into the swallow hole.</p> <p>4.4 Additionally, it has not been shown that surface water from the western extension site flows into the swallow hole in the manner described in the environmental statement nor in respect of the various catchments shown in the proposed surface water drainage strategy. Indeed, the Environment Agency Catchment Data Explorer website shows a very different situation.</p> <p>4.5 It appears that all surface water which currently percolates through the site of the proposed extension will cease to do so once it is operational and instead of percolating through the site this surface water will all be collected in basins before being discharged via the swallow hole.</p> <p>4.6 Whatever rights, if any, the Applicant has to discharge surface water from the extension site into the swallow hole and through the Trust's land relates to the existing agricultural use of the extension site and would not, in any event, permit the significantly increased usage which will arise as a result of the development proposals, if permitted. Whilst the Applicant claims that the future discharges will be no greater than existing that cannot be case in view of the additional areas of the extension site that will discharge to the swallow hole, the lack of percolation in the future and the additional discharges that are proposed from the current operational site.</p> <p>4.7 Accordingly, the application for the Draft Development Consent Order is based upon a flawed premise and fails to include all of the necessary rights that the Applicant requires in order to operate the facility and provide for the discharge of surface water. As a result, the Requirements lack the powers needed to deliver the some of the mitigation measures required by the Environmental Statement, namely the surface water drainage strategy.</p>	<p>4.3 It is correct that clean surface water from the existing ENRMF facility currently is only discharged from the site at the south eastern corner. This does not reflect the original catchment patterns for this land as shown on Figures 2 and 3 in the Surface Water Management Plan (SWMP) presented as Appendix ES18.2 [APP-095] to the Environmental Statement. In the approved surface water management plan for the current restored site it is intended that clean surface water runoff from the restored northern area of the site is discharged to the swallow hole in reflection of the pre-development catchment pattern.</p> <p>4.4 The existing drainage catchments relating to the site including the western extension area are shown on Figure 3 of the SWMP. The off-site areas of land upstream of the proposed western extension that drain across the site to the area of the swallow hole are shown as well as those for the application site. The pre-development and post-development catchment areas draining to the swallow hole including the proposed western extension area are shown in the SWMP. Based on the information presented in the SWMP there is no material difference between the total pre-development area (both off site and on site) draining currently to the swallow hole compared with the total post-development area (both off site and on site). The proposals contained in the Application do not "go far beyond those existing rights" but are in fact very similar.</p> <p>The Environment Agency defined catchments are presented on Figures 1, 2 and 3 of the SWMP. More detailed topography of the site and surrounding area compared with the Environment Agency defined catchments are presented on Figures 2 and 3. Figure 3 shows the catchment areas of the SWMP based on the detailed topography. As can be seen on Figure 3 the topography falls to the area of scrubby woodland in the central area of the western extension area and the swallow hole on the eastern boundary of the extension area. This area comprises topographical lows where surface water flows into the swallow hole or infiltrates into the ground via pathways through the limited cover materials in this area to the underlying Lincolnshire Limestone Formation aquifer. As set out in section 3.6 of the SWMP, surface water entering the swallow hole at the site enters groundwater beneath the site which it is likely feeds tributaries of the Willow Brook and the Willow Brook to the south. The surface water entering the groundwater system at this location cannot be part of the Wittering Brook catchment as inferred by CEFT. This is clearly set out in section 17.3.10 of the Environmental Statement which states that:</p> <p><i>"Information on the surface water catchments at the site on the Environment Agency catchment data explorer website indicates that the majority of the proposed western extension is within the catchment of the Wittering Brook consistent with the majority of the current ENRMF site. The information shows the southern part of the proposed western extension and the southern part of the current ENRMF site only are within the catchment of Willow Brook. However, contrary to what is shown on the Environment Agency catchment data explorer website, it is known from site observations that runoff from the southern part of the northern section of the proposed western extension and the central area of the proposed western extension drains via field drains and drainage ditches to the swallow hole located approximately 10m to the north of the north western corner of the existing ENRMF site boundary. A number of drainage ditches from the west of the proposed western extension drain into the perimeter drainage ditches round the proposed western extension with a drainage ditch from the south culverted under the central part of the proposed western extension towards the swallow hole. A culvert approximately 175m north of the southern culvert is located under the central part of the proposed western extension draining from the west towards the swallow hole. As it is likely that groundwater at the site feeds tributaries of the Willow Brook and the Willow Brook (see hydrogeology section below), for the purpose of this ES it is considered that the majority of the proposed western extension and the existing ENRMF are within the catchment of the Willow Brook."</i></p> <p>4.5 & 4.6 The CEFT assume that surface water in the extension area "percolates" through the site. It is correct that rainfall incident to the site may infiltrate the soils or run off to perimeter drainage ditches and/or towards the topographical low points. During rainfall events water will infiltrate the soils until the soil becomes saturated then the water will enter field drains within the subsoil or will run off towards the</p>

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		<p>topographical low points or to perimeter drainage ditches thence the topographical low points. The soils across the extension area are recorded as between 0.3m and 1.2m thick (section 15.3.1 of the Environmental Statement) and are underlain by clay which forms a barrier to water infiltrating the soils at the site.</p> <p>Once the landfill is completed at the site the nature of infiltration will be similar to that at the site currently (ie pre-development) as the restoration soils will be underlain by the low permeability cap. The main difference from the pre-development situation will be the slope gradients. The restoration soils will be a minimum of 1m thick (section 12.7.1 of the Environmental Statement). Due to the development of steeper slopes which may result in faster rates of runoff, the post-development surface water management will include attenuation basins to limit the rates of discharge from the site to that of pre-development runoff rates so there is no intensification of the rates of discharge to the existing discharge points including the swallow hole.</p> <p>The proposed development will not materially affect the areas of the catchments or the volumes of surface water which naturally drain into and through the site. The only difference will be the way in which the water drains within the site but not away from the site. The drainage strategy has been carefully designed such that the drainage mimics that of green field runoff or 2 litres/second/hectare in accordance with the relevant guidance (see below).</p> <p><i>Northamptonshire Lead Local Flood Authority. 2017. Local Standards and Guidance for Surface Water Drainage in Northamptonshire. Version 1.3 dated August 2016 and updated in September 2017 (Reference 2 in the SWMP) (this document references the SUDs manual below)</i></p> <p><i>Environment Agency guidance "Rainfall runoff management for developments", SC030219 (2013) and the SuDS Manual C753 (CIRIA, 2015) (Referenced in Appendix D of the SWMP).</i></p> <p><i>Restricting post development discharge to pre development greenfield runoff rates is also referenced in: Department for Environment, Food and Rural Affairs. 2015. Sustainable Drainage Systems. Non-statutory technical standards for sustainable drainage systems. Dated March 2015. (Reference 4 in the SWMP)</i></p> <p><i>Landfill Guidance Group Industry Code of Practice no. LGG 116. 2018. Sizing of surface water management systems at landfill sites. Dated February 2018. (Reference 5 in the SWMP) (this document references all the documents above with the exception of the area specific LLFA document)</i></p> <p>4.7 The Applicant is confident it has all necessary rights over land to deliver the proposed development and the mitigation measures proposed.</p>
<p>5 Environmental Impact Assessment</p>	<p>As the Environment Agency states in its "Approach to groundwater protection" (February 2018 Version 1.2)</p> <p><i>Groundwater can be at serious risk of pollution unless landfills are located in the right place and subject to the right operational controls. The nature of the hazard to groundwater from landfill will depend on the types and quantities of pollutants in the waste disposed. Unless the whole of the waste mass is inert, landfills represent a store of pollutants, some of which will inevitably find their way into the environment.</i></p>	<p>The first paragraph refers to groundwater protection and the second paragraph refers to surface water management. The Environment Agency confirm in its response to ExQ9.1.3 (REP2-028) that it is satisfied with the principles of the containment engineering design of the landfill site with respect to the protection of groundwater quality, with the detailed final specification subject to the outcome of the final review of the Environmental Permit variation application. The Environment Agency confirm in its response to ExQ14.1.3 (REP2-028) that it is satisfied with the principles of the Surface Water Management Plan for the site.</p> <p>North Northamptonshire Council, as the Lead Local Flood Authority, confirm in paragraph 6.34 of the Local Impact Report (REP2-027) that they are satisfied with the principles of the Surface Water Management</p>

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	<p>It is impossible to assess the effectiveness and delivery of the operational controls, namely the proposed surface water mitigation measures, as what is proposed is based upon the Applicant discharging surface water onto the Trust's land without the necessary rights to do so and therefore this will either amount to a trespass or nuisance. In either case if the Trust is forced to take legal action to prevent this trespass or nuisance the Applicant will have to adopt an alternative strategy for the disposal of surface water, which is not currently provided for in the Environmental Statement. Accordingly, the Environmental Statement as currently drafted fails to deal adequately with the mitigation of surface water arising on the site.</p>	<p>Plan and that the detailed design will be subject to provision and approval by the planning authority prior to the commencement of development as controlled through Requirement 3 of the dDCO.</p> <p>The issue of rights is addressed above</p>
<p>6 Legislation and policy</p>	<p>6.1 The Trust has concerns regarding the fitness of the Applicant to manage the Resource Management Facility, following a common nuisance incident in Spring 2020 when the surface water catchment system at the existing Facility flooded and as a result contaminated water flowed on to the Trust's land at Collyweston Great Wood, causing pollution. The concern is heightened by the presence of a SSSI on the Trust's land immediately to the east of the extension area, which could be susceptible to future pollution incidents. The extent of the SSSI is shown on the plan at Appendix 2.</p> <p>6.2 In Spring 2020 a pollution incident arose as a result of the flooding of the existing surface water catchment system in respect of the currently consented waste facility. Contaminated water flowed onto the Trust's land affecting the area shown edged in pink on the first plan at Appendix 3. The contaminated water was high in chloride levels and has resulted in the denuding of vegetation in the affected area. Also at Appendix 3 is the Applicant's own sampling results taken in August 2021 showing at Table 3.1 amongst other things the chloride levels in both February 2021 and August 2021. As can be seen these levels had increased in the period. Appendix 3 also contains photographs taken in September 2020 showing the effect that the pollution had on the vegetation in the area.</p> <p>6.3 Since the incident in Spring 2020 the Applicant has not sought to clean up or remediate the pollution caused by the incident and instead they simply have proposed leaving the area to recover over time. Given the inaction of the Applicant since the incident and the proximity of the SSSI on the Trust's land the Trust has significant concerns about the suitability of the Applicant to operate an extended hazardous waste facility.</p>	<p>6.1 Under Paragraph 13 of Schedule 5 to the Environmental Permitting (England and Wales) Regulations 2016 (as amended), the Environment Agency can only grant an Environmental Permit to an operator who is considered by them to be able to 'operate the facility in accordance with the environmental permit'. The assessment of the competence of an operator is carried out in accordance with Government guidance and includes consideration of the management, financial and technical competence of the operator as well as any previous convictions for relevant offences. If the Environment Agency determines that the operator is not competent based on their assessment they can refuse to issue a permit or revoke an existing permit. The assessment and review of the competence of an operator is therefore an integral part of the pollution control regulatory framework.</p> <p>The incident in early 2020 is described in the Environmental Statement at paragraphs 17.4.9 and 18.3.9 where it is explained that the incident was fully investigated and that corrective and preventative actions were taken in consultation with the Environment Agency including implementing improved surface water containment measures taking into account long-term climate change. Further details are provided in the response of the Applicant to ExQ14.1.1 (PINS document reference 9.2. REP2-006). The incident is the subject of review by the Environment Agency and any response considered to be appropriate by them will be taken through the pollution control regulatory framework.</p> <p>6.2 The October 2021 soil sampling report prepared by Augean and included at Appendix 3 to the submission on behalf of CEFT has been provided to the Environment Agency. The report includes the following conclusions which are summarised from paragraphs 4.3 to 4.7:</p> <ul style="list-style-type: none"> ● None of the soil samples had concentrations of determinands that were above those identified in generic assessment criteria as safe for land being used for public open space. ● The mean concentrations of soil determinands analysed in August 2021 were broadly similar to those recorded in February 2021. ● Observations identified significant regrowth in the area and signs of regeneration of ground flora between February and August 2021. ● Early indications are that the affected areas are recovering naturally and remediation in the form of topsoil removal should not be required but further ecological surveys are required to confirm this. ● The soil data demonstrates variable concentrations of some parameters over the sampling area but these are unlikely to present an unacceptable risk to human health and the ecological effects of the incident are localised and reducing with time. <p>Paragraph 6 refers to photographs taken by CEFT in September 2020 which it is stated show "the effect that the pollution had on the vegetation in the area." No explanation of what each photograph is intended to illustrate is provided without which the photographs could be misleading. Therefore, to assist the Examination the Applicant has provided a description of what each photograph shows. For the avoidance of doubt the Applicant does not dispute that the incident occurred and that there has been an impact on the</p>

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		<p>vegetation of the scrub and grassland on a limited area immediately north of the site as described in the response to ExQ 14.1.1 however caution should be exercised interpreting the photographs without an explanation. Comments are provided on the photographs provided by CEFT at Appendix 3 to their response at the end of this table.</p> <p>6.3 Concern is raised by the Trust that <i>'the Applicant has not sought to clean up or remediate the pollution and instead they have simply proposed leaving the area to recover over time.'</i> Augean proposed a monitoring programme to investigate the extent of the impacts and to determine appropriate mitigation in an email to representatives of the Trust on 15 December 2020. In that email it is stated that:</p> <p><i>'It is proposed that a preliminary mitigation plan is formulated following the proposed ecological monitoring and soil sampling undertaken in the Spring. As appropriate the mitigation plan will be implemented and refined during the year informed and refined by the programme of monitoring attached to this e-mail. We anticipate that following the mitigation works there will be on-going monitoring for several years to confirm that the mitigation measures undertaken are effective. Proposals for future monitoring will be set out in the mitigation plan.'</i></p> <p><i>We have discussed the pace of implementation for mitigation measures and would like to assure you we are not against short term action; however our ecologists have maintained the view that the better option to simply replacing trees would be to see how the ecological reacts to the current situation and then make decisions. They also point out that others such as Natural England would likely want to be consulted and would want to see how the ecology is coping. Beyond this point alone, we are also considering if measures could be taken to generally improve the ecology of the area, beyond that prior to the incident. I make the points not as an excuse for inaction, but more to clarify that we took the concerns you expressed on our last call and did discuss them with our ecologists who believe we are following the most appropriate action until we are better informed.'</i></p> <p>Since the email of 15 December 2020, Augean has requested in correspondence to be allowed to undertake ecological surveys to facilitate determination of the appropriate mitigation on 8/3/21, 19/3/21, 27/4/21, 29/4/21, 14/5/21, 24/6/21, 27/7/21, 13/10/21, 9/11/21. Explanation of the purpose of the surveys was given in several of the emails. To date the Trust has not issued a licence for Augean to undertake the surveys. The correspondence will be appended to the Statement of Common Ground to be agreed with the Trust.</p>
	<p>On a separate point, it is noted that a section 106 agreement is proposed that requires the payment of £5 per tonne of waste to a community fund that can be applied towards a range of community projects. Whilst this may be in line with an existing section 106 agreement that relates to the site the Supreme Court has since ruled that such contributions are not "proposed as a means of pursuing any proper planning purpose". In the light of the Supreme Court's decision in <i>R (on the application of Wright) (Respondent) v Resilient Energy Severndale Ltd and Forest of Dean District Council</i> the local planning authority is not entitled to treat such contributions as a 'material consideration' when granting planning permission. The same must apply to a DCO.</p>	<p>The Applicant currently makes a contribution of £5 per tonne of LLW landfilled at the site to a Community Fund set up and controlled by North Northamptonshire Council (NNC). This is used to support local projects. It is acknowledged by Augean and agreed with NNC that, as the environmental assessments show, based on the controls that are and will continue to be in place there is no risk of harm associated with the landfill disposal of LLW at the site, therefore there is no need for further mitigation.</p> <p>Accordingly this fund is not required as mitigation but it provides local benefits which may help to offset perceptions of harm. Recognition of the benefits to the local community are agreed by NNC in paragraph 6.45 of the Local Impact Report (REP2-027). Augean proposes to continue this payment as set out in the proposed Section 106 Agreement. It is agreed that these contributions are not a material consideration that should be considered by the ExA in the balance of issues when determining whether the DCO should be granted.</p>
7 Noise and vibration	The Trust has planning permission for and is seeking to convert a former military bomb store on its land to commercial storage use. This is the area edged in blue and	It is understood that planning permission 09/01000/FUL was granted for the former military bomb store site for general storage and distribution use (Use Class B8) in 2009. Planning application reference



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	<p>coloured white in the centre of the wood on the plan at Appendix 1. The Trust has a revised planning application pending a decision at the moment to remove some of the buildings. Once this is granted the Trust will look to secure a tenant and start using the site for storage. The alarm noises from reversing vehicles as well as vibrations on the Resource Management Facility could cause a disturbance both to those working in the converted bomb store and the fauna of the woodland, so appropriate noise mitigation measures need to be put in place.</p>	<p>NE/21/01459/FUL for the demolition of the existing buildings and structures at the site was submitted to North Northamptonshire Council in September 2021. The application has yet to be determined.</p>  <p><u>Separation Distance</u></p> <p>As shown above at its closest point the proposed storage facility is located 175 m from the nearest operations within the proposed western extension. Much of the proposed storage facility is located at a greater distance than this with some areas of the proposed storage facility located in excess of 700m from the proposed western extension area at its closest point.</p> <p>Noise reduction from sound power levels of plant and equipment over 175 m from point sources on the ground (e.g. tracked excavators and dozers) equates to 53 dB based on distance alone. Attenuation from air absorption, ground effects and topographic screening would provide additional reduction in noise levels from the proposed western extension and the existing ENRMF. The equivalent noise reduction over 700 m is 65 dB. Overall the proposed storage facility benefits from a good separation distance at which noise impacts from the proposed development will be minimal.</p> <p>The exposure to noise from the ENRMF to those working in the converted bomb store facility will be further reduced by the façade constructions of any new buildings themselves. Internal levels will be below those likely to be generated from operations at the proposed storage facility thus rendering noise from the ENRMF inaudible. Those working in external areas around the proposed storage buildings are likely to experience a masking effect due to noise from road traffic using the nearby A47.</p> <p><u>Receptor Sensitivity</u></p> <p>Noise sensitive receptors are typically defined as dwellings, places of worship, educational establishments, hospitals or similar institutions. The sensitivity of industrial/commercial premises to the impacts of noise are significantly lower than those receptors detailed above and many can be a source of noise in their own</p>



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		<p>right. Furthermore the site would not be used for sleeping purposes and any potential for disturbance during the night-time period does not require consideration. Any potential impacts would be restricted to daytime hours only when there is a lower likelihood of adverse impact.</p> <p>The noise-sensitive assessment locations identified within the DCO application were agreed with the Local Authority and the Environment Agency.</p> <p><u>Working Scheme</u></p> <p>The design of the proposed western extension means that extraction operations, construction of the engineered void, landfilling, construction of the engineered cap and restoration will be sequential and take place concurrently in different phases of the site as the development proceeds.</p> <p>Operations in Phase 13 of the proposed development would bring operations closest to the proposed storage facility (Approximately 175m at the nearest approach). Due to the phased approach to the development such operations will be temporary, intermittent and relatively short-lived within the context of the wider site operations. Other phases within the proposed western extension area are at much greater distances including Phase 17 (at 800m), Phase 16 (at 900m) and Phase 15 which is located in excess of 1km from the proposed storage facility.</p> <p><u>Noise Management and Control</u></p> <p>Activities associated with the development of the proposed western extension, including the continuation of operations at the existing site, have been reviewed and a range of best practice noise control measures have been identified to ensure that noise emissions from the site are minimised where possible. These are detailed in the DCO application.</p> <p>The existing Noise Monitoring and Management Scheme in place for current operations has been reviewed and fully updated for the purposes of the DCO application. A Noise and Vibration Management Plan is presented at Appendix DEC L of the DCO Environmental Commitments (PINS document reference 6.5, APP-110) part of the DCO application.</p> <p>It is concluded therefore that appropriate noise mitigation measures have been put in place.</p> <p><u>Vibration</u></p> <p>Ground vibration decreases readily over short distances from mobile plant operations. The levels of vibration experienced at the nearest part of the proposed storage facility will be imperceptible.</p>
8 Safety	We have referred at section 6 (above) to the previous pollution incident which has so far gone unexplained. The Trust is concerned that the poor management shown in the existing site could be repeated in the extension site and therefore there remains the risk of further significant pollution incidents as a result of the proposed development.	<p>The Applicant's responses regarding this incident are provided above and are not repeated here.</p> <p>There is no evidence or suggestion identified through any of the extensive investigations or reviews carried out by or on behalf of Augean or in the responses or actions of the regulatory authorities that the incident resulted in any unacceptable risks to safety.</p>
9 Water quality and resources	We have already commented in section 4 that the Applicant has not explained the nature of what they believe their rights to be to discharge surface water from the existing site or the extended site into the swallow hole and thereafter under the Trust's land. It is incumbent upon them to show that they have such rights. In the absence of such rights the proposed surface water strategy for the site will not work.	<p>The comments in this section replicate the views expressed in sections 4 and 5 above. The Applicant's responses are not repeated here.</p>



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	<p>The swallow hole that forms part of the proposed application site sits partly on land belonging to the Trust and water flowing into the swallow hole then travels through the Trust's land.</p> <p>The proposed surface water management plan for the extended facility is set out at Appendix ES18.2 to the Applicant's environmental statement (PINS document reference 5.4.18.2). The proposed strategy for dealing with surface water in respect of the restored site is described in Section 5 of this document. The Trust considers that the Applicant does not have the rights to deliver that plan.</p> <p>At paragraph 5.1 of the proposed surface water management plan it explains that there will be seven surface water catchments within the extended site. In respect of catchments 2, 3, 4 and 7 <u>all</u> of the surface water within those catchments is proposed to discharge to the swallow hole and then under the Trust's land. In respect of catchments 3, 4 and 7 this will discharge via a new west to east crossing drainage ditch. The details of the proposed west to east watercourse have yet to be prepared and it is stated require further investigation. The Trust considers that these details should be available now, before any consent is issued.</p> <p>The Applicant has no expressly granted rights to discharge surface water from either the current or the extended facility into the swallow hole and then under the Trust's land. Whatever rights they have, if any, will have arisen by prescription in respect of the historic discharge of surface water relating to the existing use of the land.</p> <p>Historically a certain amount of surface water will undoubtedly have percolated directly into the ground water rather than flowing through drains or ditches and thereafter into either the ground water or surface water network. As a result it cannot be said that 100% of the surface water from any part of the application site (as proposed to be extended) has ever gone into the swallow hole. It appears that no water will percolate through the extended site once it is operational. This is explained at paragraph 4.5 of the proposed surface water management plan (Appendix ES18.2) which comments as follows:</p> <p><i>A portion of the surface water discharge from the restored landform will be routed to the swallow hole consistent with pre-development conditions at the site. It is assumed that further infiltration based approaches for surface water attenuation in other areas of the site generally will not be appropriate following restoration due to the significant thickness of low permeability strata above the underlying aquifer.</i></p> <p>At paragraph 3.6 of the proposed surface water management plan (Appendix ES18.2) it explains how the Applicant believes surface water currently drains from that part of the site that comprises the western extension site:</p> <p><i>Consistent with the existing ENRMF site, the proposed western extension is on a surface water divide. The north eastern half of the northern area of the proposed western extension drains to the east to the drainage ditch which runs along the western and southern boundaries of Collyweston Great Wood eventually joining a tributary of the Wittering Brook. The remainder of the northern section and the central area of the proposed western extension to the landfill drains via field drains and drainage</i></p>	



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	<p><i>ditches to a swallow hole located approximately 10m to the north of the north western corner of the existing ENRMF site boundary. Surface water entering the swallow hole at the site enters groundwater beneath the site which it is likely feeds tributaries of the Willow Brook and the Willow Brook to the south. The southern section of the proposed western extension area drains to the south and south east to the drainage ditch that runs from west to east approximately 50m south of the site and continues eastwards to the east of Stamford Road and then south eastwards to where it joins a tributary of Willow Brook.</i></p> <p>However this is not how the Environment Agency’s records suggest that the western extension site drains. The Environmental Statement in support of the Application explains this as follows at paragraph 17.3.10:</p> <p><i>Information on the surface water catchments at the site on the Environment Agency catchment data explorer website indicates that the majority of the proposed western extension is within the catchment of the Wittering Brook consistent with the majority of the current ENRMF site. The information shows the southern part of the proposed western extension and the southern part of the current ENRMF site only are within the catchment of Willow Brook. However, contrary to what is shown on the Environment Agency catchment data explorer website, it is known from site observations that runoff from the southern part of the northern section of the proposed western extension and the central area of the proposed western extension drains via field drains and drainage ditches to the swallow hole located approximately 10m to the north of the north western corner of the existing ENRMF site boundary. A number of drainage ditches from the west of the proposed western extension drain into the perimeter drainage ditches round the proposed western extension with a drainage ditch from the south culverted under the central part of the proposed western extension towards the swallow hole. A culvert approximately 175m north of the southern culvert is located under the central part of the proposed western extension draining from the west towards the swallow hole. As it is likely that groundwater at the site feeds tributaries of the Willow Brook and the Willow Brook (see hydrogeology section below), for the purpose of this ES it is considered that the majority of the proposed western extension and the existing ENRMF are within the catchment of the Willow Brook.</i></p> <p>We comment on this statement below.</p> <p>With regard to the drainage of the current waste management facility this is explained at Paragraph 17.3.6 of the Environmental Statement and at paragraph 4.5 of Appendix ES18.2. Paragraph 17.3.6 of the Environmental Statement states:</p> <p><i>The operational surface water management system for the existing ENRMF is designed to retain all potentially contaminated surface water on site where it is stored in ponds and used for dust suppression, in the wheel wash and in place of mains water in the treatment facility. As the completed areas of the site develop, the surface water management system at the existing</i></p>	



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	<p><i>ENRMF is progressing towards the approved post restoration surface water management plan for the existing ENRMF which allows for the drainage of surface water from the capped phases to a drainage point at the south eastern corner of the existing ENRMF. This discharge point is the subject of consent under the Environmental Permit for the existing ENRMF landfill. Surface water discharge from the site commenced in January 2021. The ditch to which site runoff is discharged flows generally to the south and after joining a stream outfalls to the Willow Brook approximately 2.5km south of the current ENRMF site. The Willow Brook joins the River Nene approximately 9km south east of the site.</i></p> <p>Paragraph 4.5 of Appendix ES18.2 states as follows: <i>The current outlet for the discharge of water from the surface water management system will be maintained so that water can drain by gravity and in a controlled manner to the permitted discharge point at the southern east corner of the existing ENRMF site. Suitable outlets for the discharge of water from the surface water management system will be created so that water can drain by gravity and in a controlled manner to the swallow hole, to the eastern drainage ditch round Collyweston Great Wood which joins a tributary of the Wittering Brook and to the southern drainage ditch which joins a tributary of the Willow Brook.</i></p> <p>Accordingly, none of the surface water from the existing waste management site drains into the swallow hole and nor is it permitted to do so. Existing surface water is either (a) stored in ponds on site or (b) drains to the south-east. Nothing is discharged through the Trust's land.</p>	
10 Conclusion	<p>The Trust opposes the extension of the hazardous waste management site as the proposal is based upon a surface water disposal strategy that relies upon a significant part of the site discharging surface water into the swallow hole that sits on the boundary and through the Trust's land. For the reasons set out, the Applicant has not demonstrated what legal rights they have to dispose of the surface water in this way:</p> <p>They have no express right to do so</p> <p>It is disputed that they have a prescribed right to do this: their own documents demonstrate that surface water does not currently discharge in the manner suggested that it will when the site is developed;</p> <p>The Applicant has not sought any compulsory rights to discharge surface water in the DCO;</p> <p>The Applicant has not approached the Trust to acquire such rights.</p> <p>The Environmental Statement and the Surface Water Strategy are therefore both based upon a method of disposal of surface water that cannot happen.</p> <p>In addition, in the light of the Spring 2020 pollution incident, which has not yet been</p>	



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	<p>remediated by the Applicant, the fitness of the Applicant to hold such a consent is questioned, particularly given the proximity of the extension site to a SSSI on the Trust's land.</p> <p>Lastly the Applicant is proposing an inappropriate financial "sweetener" for the local residents, which the Supreme Court has ruled ought not to be taken into account when considering such applications. Meanwhile the promised biodiversity net gains will not be provided for many years.</p>	
Appendix 3 of CEFT – Photographs of the inspection taken on 4 September 2020		
		<p>1. The photograph shows a ditch course to the left, that runs west to east, and an area of bare ground. The ditch courses in the woodland generally are not vegetated due to frequent inundation. The bare ground could be due to the incident or due to inundation or a combination of both. Loose vegetation and leaf litter was cleared from the ground shortly after the incident which also may contribute to the lack of vegetation.</p>
		<p>2. The photograph appears to be the edge of a doline depression. Many of these do not support vegetation as they are regularly inundated.</p>



Section number	Submission	Comments from the Applicant
		<p>3. It is unclear what the photograph illustrates. The trunk of a tree. One fallen tree in the midground. The fallen tree is extremely unlikely to be the result of the incident which occurred only 6 months previously.</p>
		<p>4. This photograph appears to be adjacent to photograph 2.</p>


Section number	Submission	Comments from the Applicant
		<p>5. The photograph shows a doline depression. The ground is commonly bare in the vicinity of the doline depressions that are subject to inundation and under the tree canopy (see Photographs A to C below)</p>
		<p>6. The photograph shows an area of unaffected woodland presumably for comparison purposes. The area that was affected by the incident is scrub and grassland not woodland with differing ground flora, topography and drainage, hence is not comparable. The main ground flora illustrated is bracken which does not grow in areas subject to inundation.</p>

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		<p>7. Similar to photograph 6.</p>
		<p>8. It is understood that this is a pheasant rearing pen. It is considered that the incident did not reach this area.</p>

Section number	Submission	Comments from the Applicant
		<p>9. The photograph shows a drainage channel. The ditch courses and drainage channels in the woodland and scrub are commonly unvegetated. (See Photograph D below)</p>
		<p>10. The photograph shows drainage channels. See comment on photograph 9. (See Photograph D below)</p>

Section number	Submission	Comments from the Applicant
		11. The purpose of this photograph is unclear.
		12. The same photograph as 11.
		For comparative purposes a series of photographs taken by the Applicant of land to the west of the proposed western extension (this is land not owned by the CEFT or affected by the incident) in March 2022 are provided below:

Section number	Submission	Comments from the Applicant
		<p data-bbox="1486 321 2778 390">Photograph A - Doline depression in the spinney to the west of the swallow hole showing a lack of vegetation in the depression</p>  <p data-bbox="1486 1003 2778 1073">Photograph B – Doline depression in the woods to the west of the proposed western extension area showing a lack of vegetation in the depression.</p> 

Section number	Submission	Comments from the Applicant
		<p data-bbox="1486 394 2778 457">Photograph C – Doline depression in the woods to the west of the proposed western extension showing a lack of vegetation in the depression.</p>  <p data-bbox="1486 1108 2778 1171">Photograph D – Drainage channel in woodland to the west of the proposed western extension area showing a lack of vegetation.</p> 