



Ministry of Housing,  
Communities &  
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Our ref: APP/E0535/W/19/3225123  
Your ref:

15 June 2020

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY AMEYCESPA (EAST) LIMITED  
LAND AT LEVITT'S FIELD, WATERBEACH WASTE MANAGEMENT PARK, ELY  
ROAD, CAMBRIDGESHIRE  
APPLICATION REF: S/3372/17/CW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Woolcock BNatRes(Hons) MURP DipLaw MRTPI, who held a public local inquiry on 5-8, 12-15 and 19-20 November 2019 into your client's appeal against the decision of Cambridgeshire County Council to refuse your client's application for planning permission for a waste recovery facility (Waterbeach Waste Recovery Facility – WWRF) comprising the erection and operation of an energy from waste facility to treat up to 250,000 tonnes of residual waste per annum, air cooled condensers and associated infrastructure, including the development of an internal access road; office/welfare accommodation; workshop; car, cycle and coach parking; perimeter fencing; electricity sub-stations; weighbridges; weighbridge office; water tank; silos; lighting; heat offtake pipe; surface water management system; hard standings; earthworks; landscaping and bridge crossings, in accordance with application ref: S/3372/17/CW, dated 21 September 2018.
2. On 3 June 2019, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the further environmental information submitted in April 2018 and July 2018 before the inquiry opened. Having taken account of the Inspector's comments at IR4 and IR437 the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Procedural matters**

6. At the inquiry the appellant requested the description of the proposed development be amended (IR11). For the reasons given in IR440-446, and given that he has decided to dismiss the appeal, the Secretary of State does not consider that omitting reference to "up to 250,000 tonnes ...per annum" (IR440) raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

## **Matters arising since the close of the inquiry**

7. Following the close of the inquiry, the Secretary of State received a number of post-inquiry representations, drawing his attention to newly published research around health effects of air pollution on health and pollution arising from waste incineration.
8. Given he has decided to refuse this application based on the evidence heard at Inquiry, the Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

## **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of the Minerals and Waste Core Strategy (MWCS) 2011 and the South Cambridgeshire Local Plan (SCLP) 2018, along with the adopted Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document February 2012 (MWSSP). The Secretary of State considers that relevant development plan policies include those set out at IR16 and Annex B of the Inspector's Report.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), the National Planning Policy for Waste 2014, the National Policy Statements set out in IR23, and the Supplementary Planning Documents listed at IR19.

12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
13. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

#### *Emerging plan*

14. The emerging plan comprises the Cambridgeshire and Peterborough Draft Minerals and Waste Local Plan, which was submitted for examination in March 2020 (with hearings expected to commence in Autumn). The emerging plan proposes no allocations for waste management development over the plan period as it is considered the plan area has, on the whole, sufficient capacity to manage the forecast waste arising.
15. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Given the relatively early stage of preparation of the plan, and in advance of Examination, the Secretary of State considers that emerging plan policies should carry only limited weight.

#### **Main issues**

16. The Secretary of State agrees with the Inspector that the main issues with regard to the determination of this case are those set out at IR451.

#### *Most important policies*

17. For the reasons given in IR571-576 and IR579, the Secretary of State agrees with the Inspector that the most important policies for determining this appeal are those listed at IR580. The Secretary of State further agrees with the Inspector for the reasons given at IR581-586, that taken as a whole, these 16 policies are not to be regarded as out-of-date for the purposes of deciding this appeal. The Secretary of State therefore concludes that paragraph 11 (d) of the Framework is not engaged.

#### *Character and appearance*

18. The Secretary of State notes at IR12-13 that landscape experts for the appellant and County Council used slightly different parameters and methodologies in their landscape assessments and that small differences in the models result in considerable variation between the predicted Zones of Theoretical Visibility.
19. For the reasons given in IR455-488, the Secretary of State agrees with the Inspector at IR489 that the proposed development would have an adverse effect on the character and appearance of the area, and that this brings the proposal into conflict with SCLP Policies NH/2, HQ/1, and objective b. of SCLP Policy S/2. He further agrees that the proposal

would also conflict with the Waste SPD and be at odds with the objective of SCDC's Landscape in New Developments SPD March 2010.

20. The Secretary of State finds that the adverse effect in the short and long term on National Character Area 46, Regional Character Type 22, County Area 8 and Local Character Area E, The Fen Edge, is of substantial significance and should carry substantial weight in the planning balance. He finds the adverse effects on some northern parts of National Character Area 88, Regional Character Type 13 and the north-eastern corner of County Area 3 to be of moderate significance, and to carry moderate weight in the planning balance (IR470).
21. In terms of visual impact and considering the Inspector's detailed assessment at IR474-488, the Secretary of State considers the proposals would have a harmful effect on the visual amenity of the area, with impacts ranging between moderate and substantial significance (IR488).

#### *Heritage assets*

22. The Secretary of State has carefully considered the Inspector's assessment of the effect of the proposal on heritage assets at IR490-IR505. He agrees at IR491 that the landscape setting continues to make an important contribution to the significance of the Denny Abbey Complex (DAC) Scheduled Ancient Monument (SAM). He further agrees with the Inspector for the reasons given in IR504, that the heritage mitigation measures, whilst potentially public benefits, would not lessen the harm to the setting of designated heritage assets and the contribution that this setting makes to the significance of the assets. He further agrees with the Inspector for the reasons given at IR592, that the heritage mitigation measures should attract only slight weight as benefits.
23. For the reasons given in IR496-504, the Secretary of State agrees with the Inspector that the proposed development would harm the setting of important designated heritage assets that comprise the DAC, and this would significantly reduce the contribution that this setting makes to the significance of the assets (IR505). He further agrees that this harm would be towards the higher end of the scale of 'less than substantial' harm for the purposes of applying the NPPF, and that the proposal would be at odds with SCLP Policies S/2 (objective b) and would not gain support from SCLP Policy NH/14. The Secretary of State attributes substantial weight to this harm (IR506).

#### *Local amenity and living conditions*

24. The Secretary of State has considered the Inspector's assessment of this matter at IR508-522. He agrees with the Inspector at IR519 that anxiety about pollution and possible adverse health effects is a material consideration of minor significance sufficient to bring the proposal into slight conflict with SCLP Policy SC/2. The Secretary of State agrees with the Inspector's conclusions at IR522 and attributes slight weight to this harm, and agrees that subject to the imposition of appropriate planning conditions, and effective pollution controls, he finds no conflict with SCLP Policies SC/10, SC/12 and SC/14 or

Policy HQ/1.n concerning development that would be overbearing or create an unacceptable impact from noise, odour, emissions or dust.

### *Highway Safety*

25. For the reasons given in IR523-526, the Secretary of State agrees with the Inspector and finds no reason to dismiss the appeal on highway safety grounds. He further agrees that this is a consideration that has a neutral effect in the planning balance.

### *Other considerations*

#### *Biodiversity*

26. For the reasons given in IR527, the Secretary of State agrees with the Inspector that the scheme would have a negligible net impact on local biodiversity for the appeal site and its immediate surroundings (IR527). He further agrees with the Inspector for the reasons given in IR528-533 that the Flue Gas Treatment is an integral part of the proposed development and not mitigation for the purposes of applying the Habitats Regulations (IR530), and that there is no reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, is not likely to have a significant effect on a European site (IR533). He therefore concludes that there would be no adverse effect on the integrity of the SAC, and that an Appropriate Assessment is not required in this case. He agrees with the inspector that in these circumstances the WWRF would, overall, have a neutral effect on biodiversity, and would not conflict with MWCS Policy CS35 or SCLP Policy NH/4 (IR537)7.

#### *Hydrology*

27. For the reasons given in IR538, the Secretary of State agrees with the Inspector that there are no hydrological grounds to find against the proposal, and like the inspector he finds no conflict with MWCS Policy CS39 or SCLP Policies CC/4, CC/7, CC/8 and CC/9.

#### *Other issues*

28. The Secretary of State agrees with the Inspector for the reasons given at IR539-543 that the proposal for an NSIP EfW facility at Wisbech would be a matter for the market, which should not be influential in considering this appeal (IR539), and that there is no conflict with local policies of the Framework in respect of the loss of BMV agricultural land (IR540). He further agrees that dismissal of the appeal on the grounds of prematurity could not be justified (IR541), and that there is no convincing evidence that the proposal would result in an unacceptable fire risk that would preclude granting planning permission (IR542).

### *Employment and the economy*

29. The Secretary of State notes at IR544 that the proposal would benefit the local economy through the creation of 32 FTE permanent jobs and 300 jobs during construction. While he recognises that this is a modest contribution to the 22,000 additional jobs cited in SCLP Policy S/5, the WWRF would contribute to the local economy both directly and indirectly, through supply chain requirements, and promotion of businesses associated with the operation. The Secretary of State agrees with the Inspector for the reasons

given at IR545-547 that landfill tax reduction is not considered a factor that can be given much weight, nor could the lack of reliance on public funding be a material consideration.

30. The Secretary of State agrees with the Inspector that the proposal also gains support from Government policies and guidance that encourage business investment, and that aim to build a strong, responsive and competitive economy, and to drive productivity improvements by, amongst other things, delivering clean growth (IR547). He considers that the direct and indirect benefits of the scheme should carry more weight in favour than suggested by the Inspector. The Secretary of State therefore disagrees with the Inspector and finds that benefits relating to employment and the economy should attract moderate weight.

#### *Renewable and low carbon energy and climate change*

31. The Secretary of State has carefully considered the Inspector's assessment at IR548-562. For the reasons given in those paragraphs, he agrees with the Inspector at that there is some doubt about the extent to which the WWRF would help to reduce carbon emissions over the lifetime of the scheme compared with alternative means of dealing with waste and other ways of generating the same amount of energy (IR561). He agrees with the Inspector at IR562, that the scheme would be likely, over its lifetime, to provide GHG and climate change benefits of moderate significance, and that this benefit should be given moderate weight in the planning balance.

#### *Waste management*

32. The Secretary of State has carefully considered the Inspector's assessment at IR563-IR569 regarding the proposal's contribution to waste management within Cambridgeshire. He agrees with the Inspector at IR565 that the proposal would help meet an identified need in Cambridgeshire as it would allow more waste to be managed further up the waste hierarchy and would reduce waste sent to landfill. However, the reasons given in IR566 limit the weight to be given to the benefits of co-location with the existing mechanical biological treatment plant (WWMBT) at Waterbeach Waste Management Park as a significant advantage of the appeal scheme. Further, for the reasons given in IR567, the Secretary of State agrees with the Inspector that there is potential for a significant tonnage of waste to be transported long distances, which would be at odds with the application of the proximity principle.
33. Overall, the Secretary of State therefore agrees with the Inspector for the reasons given at IR569-570 that the proposal would reasonably accord with the provisions of MWCS Policy CS29 regarding need and concerning a restricted catchment area, along with controls on the tonnage and type of waste treated, but that the harm identified from the WWRF to the character and appearance of the area would not provide the high quality or standard of design required by MWCS Policies CS2 and CS24. He agrees with the Inspector that the waste management benefits of the scheme attract moderate weight.

#### **Planning conditions**

34. The Secretary of State has given consideration to the Inspector's analysis at IR436, and 602-610, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider

that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

35. Having had regard to the Inspector's analysis at IR611-IR617, the planning obligation dated 22 November 2019, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR614-616 that, with the exception of Schedule 6 (Alternative Access Road and Car Park), the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. In accordance with Clause 3.2 of the obligation, the owner shall not be obliged to comply with, and shall not be in breach of, undertakings covenants restrictions and requirements in respect of Schedule 6. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

36. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with policies in the South Cambridgeshire Local Plan in relation to key objectives Policy S/C2 b. to protect the character of South Cambridgeshire, including built and natural heritage, and is also in conflict with landscape and character Policy NH/2, historic environment Policy NH/14, design Policy HQ/1 and renewable and low carbon Policy CC/2. Further he considers the appeal scheme is not in accordance with the Cambridgeshire and Peterborough Minerals and Waste Core Strategy strategic vision Policy CS2, design for waste management development Policy CS24 and heritage policy CS36. He considers that the proposal is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

37. The Secretary of State considers the various harms to different elements of character and appearance as specified in paragraph 20 of this letter carry moderate to substantial weight, the harm to heritage assets is at the higher end of 'less than substantial' and carries substantial weight, and harm to amenity and living conditions carries slight weight.

38. The Secretary of State considers employment and economic benefits carry moderate weight, green-house gas and climate change benefits carry moderate weight and waste management benefits carry moderate weight. He considers that heritage mitigation measures attract slight weight.

39. The Secretary of State has considered whether the identified 'less than substantial' harm to the significance of Denny Abbey Complex Scheduled Ancient Monument, the SAM, Grade I listed Denny Abbey, Grade I listed 14th century refectory, Grade II listed 17th century barn, Grade II gate piers and Cottenham Conservation Area is outweighed by the public benefits of the proposal at para 38 above. In accordance with the s.66 duty and in light of NPPF para 193 he attributes substantial weight to the harm in para 23 above which he places at the upper end of 'less than substantial'.

40. Overall the Secretary of State concludes that the benefits of the appeal scheme are not collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of Denny Abbey Complex, the heritage assets that make up this complex

and Cottenham Conservation Area. He considers that the balancing exercise under paragraph 196 of the Framework is therefore not favourable to the proposal.

41. Having concluded at para 17 above that the plan is up to date and at para 23 above that the harm to the designated heritage assets is at the high end of less than substantial, the Secretary of State has not considered IR597-IR599. Like the Inspector at IR596, he concludes that the planning balance falls against the proposal.
42. Overall the Secretary of State considers that the material considerations in this case indicate a decision in line with the development plan.
43. The Secretary of State therefore concludes that the appeal should be dismissed, and planning permission refused.

### **Formal decision**

44. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a waste recovery facility (Waterbeach Waste Recovery Facility – WWRF) comprising the erection and operation of an energy from waste facility, air cooled condensers and associated infrastructure, including the development of an internal access road; office/welfare accommodation; workshop; car, cycle and coach parking; perimeter fencing; electricity sub-stations; weighbridges; weighbridge office; water tank; silos; lighting; heat offtake pipe; surface water management system; hard standings; earthworks; landscaping and bridge crossings, in accordance with application ref: S/3372/17/CW, dated 21 September 2018 (as amended).

### **Right to challenge the decision**

45. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
46. A copy of this letter has been sent to Cambridgeshire County Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Andrew Lynch*

Authorised by the Secretary of State to sign in that behalf



## ANNEX A - SCHEDULE OF REPRESENTATIONS

### General representations

<b>Party</b>	<b>Date</b>
Alan James	19 May 2020
Jude Sutton	20 May 2020
Lucy Frazer MP	06 March 2020
John Cattermole	12 March 2020
Jasmine Seemarks	29 February 2020
Iain Muspratt	08 June 2020



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# Report to the Secretary of State for Housing, Communities and Local Government

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI  
an Inspector appointed by the Secretary of State

Date: 16 March 2020

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Town and Country Planning Act 1990 Sections 78 and 79

appeal by

AmeyCespa (East) Limited

against the decision of

Cambridgeshire County Council

Inquiry Held on 5-8, 12-15 and 19-20 November 2019

Levitt's Field, Waterbeach Waste Management Park, Ely Road, Waterbeach, Cambridge CB25 9PG

File Ref: APP/E0535/W/19/3225123

**File Ref: APP/E0535/W/19/3225123**

**Levitt's Field, Waterbeach Waste Management Park, Ely Road, Waterbeach, Cambridge CB25 9PG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by AmeyCespa (East) Limited against the decision of Cambridgeshire County Council.
- The application Ref.NoS/3372/17/CW, dated 19 December 2017, was refused by notice dated 21 September 2018.
- The development proposed is a waste recovery facility (Waterbeach Waste Recovery Facility – WWRF) at Levitt's Field, Waterbeach Waste Management Park (WWMP), Ely Road, Cambridgeshire, comprising the erection and operation of an energy from waste facility to treat up to 250,000 tonnes of residual waste per annum, air cooled condensers and associated infrastructure, including the development of an internal access road; office/welfare accommodation; workshop; car, cycle and coach parking; perimeter fencing; electricity sub-stations; weighbridges; weighbridge office; water tank; silos; lighting; heat offtake pipe; surface water management system; hardstandings; earthworks; landscaping and bridge crossings.

**Summary of Recommendation: The appeal be dismissed**

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## ABBREVIATIONS

AA	Appropriate Assessment pursuant to the Habitats Regs
AD	Anaerobic digestion facility
ADS	Audience Development Strategy in section 106 agreement
AOD	Above Ordnance Datum
BEIS	Department for Business Energy and Industrial Strategy
BMV	Best and most versatile agricultural land
C&I	Commercial and Industrial
CCC	Cambridgeshire County Council
CBWIN	Cambridge Without Incineration
CCGT	Combined Cycle Gas Turbine
CD	Inquiry Core Document
CHP	Combined heat and power
CIL	Community Infrastructure Levy Regulations 2010
CLO	Compost like output from WWMBT
CMP	Conservation Management Plan in section 106 agreement
CRP	Cambridge Research Park
DAC	Denny Abbey Complex
Defra	Department for Environment Food and Rural Affairs
EA	Environment Agency
EIA	Environmental Impact Assessment
EfW	Energy from waste
EHT	English Heritage Trust
eMWLP	Cambridgeshire and Peterborough Preliminary Draft Minerals and Waste Local Plan March 2019
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy Infrastructure
EP	Environmental Permit issued by the EA
ES	Environmental Statement dated December 2017
FEI	Further Environmental Information dated April 2018
FGT	Flue gas treatment
FoE	Friends of the Earth
FVP[x]	Mr Flatman's viewpoint number x
GLVIA3	Guidelines for Landscape and Visual Impact Assessment, Third Edition Landscape Institute
GHG	Greenhouse gas
GPA3	Historic Environment Good Practice Advice in Planning 3 The Setting of Heritage Assets 2017 at CD19.7
GV	Group Value
GVA	Gross Value Added
HCV	Heavy Commercial Vehicle
IBA	Incinerator Bottom Ash
ID	Inquiry Document – document submitted at the Inquiry
IS	Interpretation Strategy in section 106 agreement
LBCAA 1990	Planning (Listed Buildings and Conservation Areas) Act 1990
LCA	Landscape Character Area
LDA	LDA Design report at CD19.20
LS	Landscape Strategy in section 106 agreement

LVIA	Amey's Landscape and Visual Impact Assessment at CD28 CD50-54 and CD87-92
MBC	Michelle Bolger Consultancy
MVP[x]	Mr Mason's viewpoint number x
MWCS	Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document July 2011
MWI	Municipal waste incinerator
MWSSP	Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document Feb 2012
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPPW	National Planning Policy Waste
NPS	National policy statement
NPSE	Noise Policy Statement for England
NSIP	Nationally Significant Infrastructure Project
PCPA 2004	Planning and Compulsory Purchase Act 2004
PHE	Public Health England
PM and PM <sub>[x]</sub>	Particulate Matter PM <sub>x</sub> diameter less than x micrometres
PM[x]	Mr Mason's photomontage number x
PPS5	Planning for the Historic Environment [now cancelled]
PRoW	Public Rights of Way
RE	Renewable energy
SAC	Special Area of Conservation
SAM	Scheduled Ancient Monument
SC	South Cambridgeshire
SCDC	South Cambridgeshire District Council
SCLP	South Cambridgeshire Local Plan September 2018
section 106	Section 106 of the Town and Country Planning Act 1990
SoCG	Statement of Common Ground dated 26 July 2019
SSCLG	Secretary of State for Communities and Local Government
SSHCLG	Secretary of State for Housing Communities and Local Government
SSSI	Site of Special Scientific Interest
TCPA 1990	Town and Country Planning Act 1990
TLP	The Landscape Partnership
tpa	tonnes per annum
TPM	Total Particulate Matter
UKWIN	UK Without Incineration
VOC	Volatile Organic Compounds
WasteSPD	Location and Design of Waste Management Facilities SPD July 2011
WF[x]	Mr Flatman's panoramic wireframe number x
WNA	Cambridgeshire and Peterborough Waste Needs Assessment January 2019 at CD17.9
WNT	Waterbeach New Town
WPC	Waterbeach Parish Council
WRAP	Waste and Resources Action Programme
WWMBT	Existing mechanical biological treatment plant at WWMP
WWMP	Existing Waterbeach Waste Management Park
WWRF	Waterbeach Waste Recovery Facility (the appeal scheme / proposal / proposed development)
ZTV	Zone of Theoretical Visibility

## Procedural and background matters

1. The site address on the application form is Waterbeach Waste Management Park, Ely Road, Landbeach, CB25 9PG, but the site address included on the appeal form, as cited in the above bullet points, should be preferred.
2. The appeal site is located at the 160 ha Waterbeach Waste Management Park (WWMP), which includes a number of waste management facilities, including; landfill with gas treatment plant, organic treatment in-vessel composting, waste transfer station, materials recycling facility, mechanical biological treatment facility (WWMBT), construction and demolition / aggregate recycling facility, waste wood processing facility and anaerobic digestion facility.<sup>1</sup> The WWMBT produces a compost like output (CLO) that currently goes to landfill. The appeal scheme proposes an energy from waste (EfW) facility that is referred to in this report as Waterbeach Waste Recovery Facility (WWRF).<sup>2</sup>
3. To the east of the appeal site, beyond the A10, is Denny Abbey Scheduled Ancient Monument (SAM), which comprises a monastic priory complex. The SAM contains two Grade I listed buildings; the remains of a 12<sup>th</sup> century Benedictine abbey church and a 14<sup>th</sup> century refectory for a Franciscan nunnery. It also contains a Grade II listed 17<sup>th</sup> century barn, along with Grade II listed gate piers at the entrance to the SAM that are located off the A10. Collectively these heritage assets are referred to as the Denny Abbey Complex (DAC).
4. The application by AmeyCespa (East) Limited (which is abbreviated to Amey or the appellant in this report) was accompanied by an Environmental Statement, dated December 2017, (ES) in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (hereinafter the EIA Regulations).<sup>3</sup> At the request of Cambridgeshire County Council (CCC) Further Environmental Information was submitted in April 2018 (FEI) concerning noise screening, air quality assessment, cumulative assessment, the effects on the DAC and Ely Cathedral, and lighting.<sup>4</sup> Responses to consultation about the FEI are included at CD11.1-CD11.25. An updated Carbon Assessment was submitted by Amey in July 2018.<sup>5</sup>
5. CCC refused the application, against an officer recommendation for approval, for two reasons.<sup>6</sup> (1) The scale and massing of the proposed development, in relation to the landscape (local character and visual impact) and harm to the visual amenity of local residents were considered to have significant adverse effects that could not be resolved through the proposed mitigation. (2) Given the scale and massing of the proposed development, and the significant

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<sup>1</sup> Amey controls 126 ha of the WWMP. Landfill consent is at ID15.

<sup>2</sup> So as to use terminology consistently throughout this report EfW is used as a general term for any energy from waste technology, whereas the appeal scheme is the WWRF.

<sup>3</sup> ES at CD23-CD36. Figures at CD37-CD84. Appendices at CD85-CD113. Non-Technical Summary at CD114. The transitional provisions in the Environmental Impact Assessment (EIA) Regulations 2017 mean that the 2011 EIA Regulations continue to apply because the request for a scoping opinion was made on 23 March 2017.

<sup>4</sup> CD10.1-CD10.10.

<sup>5</sup> CD12.1. A revised version was submitted to the Inquiry at AC4/B Appendix 1.

<sup>6</sup> CD12.2. The Committee Report is at CD21.9 and Minutes at CD21.8.

adverse impact on the local landscape, the harm to the setting of the Denny Abbey Complex heritage asset was not outweighed by the benefits of the proposal. CCC found the proposal contrary to national and local policies, including Policies CS33, CS34 and CS36 of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document 2011 (MWCS).<sup>7</sup>

6. The application was determined in the context of the then adopted South Cambridgeshire Development Control Policies DPD 2007 and was found to be contrary to Policies DP/2 (Design), DP/3 (Development Criteria), NE/4 (Landscape) and CD/4 (Listed Buildings). This plan was superseded with the adoption of the South Cambridgeshire Local Plan (SCLP) in September 2018.<sup>8</sup> The cited policies have been replaced by SCLP Policies HQ/1 (Design), NH/2 (Landscape) and NH/14 (Heritage Assets).<sup>9</sup>
7. On 3 June 2019 the appeal was recovered for decision by the Secretary of State by a direction made under section 79 of the 1990 Act. The reason for the direction was that the appeal involves proposals for development of major importance having more than local significance.
8. A Pre-Inquiry Note was issued in the lead up to the Inquiry to deal with procedural matters.<sup>10</sup> A Statement of Common Ground (SoCG) agreed between Amey and CCC is dated 26 July 2019.<sup>11</sup> This includes a description of the appeal site and the proposed development, planning history and policy context, along with need and benefits. It also sets out matters that CCC and Amey agree would not give rise to any unacceptable impacts, or conflict with certain MWCS policies. These are: traffic and highways; ecology and nature conservation; public rights of way; sustainable use of soils; water resources and water pollution prevention; airport safeguarding; ancillary development; noise; dust; land contamination; land quality; air quality; human health and pollution control. The relevant MWCS Policies are CS14, CS22, CS29, CS32, CS35, CS36(b) and CS39. The SoCG records that the pre-submission public consultation undertaken by Amey and CCC exceeded the requirements of CCC's adopted Statement of Community Involvement.
9. The Inquiry sat for 10 days and was closed on 20 November 2019. Accompanied site visits were conducted on 5 and 21 November 2019.<sup>12</sup> I visited the locality unaccompanied on 4 and 22 November, and on 1 and 2 December 2019.
10. The appellant and CCC agreed planning conditions at the Inquiry if the appeal were to succeed.<sup>13</sup> A note on proposed section 106 obligations was submitted in the lead up to the Inquiry. The terms of an agreement were discussed at the Inquiry, and the parties were given time for a signed version to be submitted.

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<sup>7</sup> CD17.3.

<sup>8</sup> CD17.5.

<sup>9</sup> CC1/A paragraph 3.9.

<sup>10</sup> CD121.

<sup>11</sup> CD119.

<sup>12</sup> The itinerary for site visits is at ID59. Suggestions for viewpoints are at ID4.5, ID6.2 and ID31.2.

<sup>13</sup> ID64.



The agreement between the landowners and CCC is dated 22 November 2019.<sup>14</sup> The section 106 obligations include provisions to prepare and develop a Conservation Management Plan for Denny Abbey, along with Landscape, Audience Development and Interpretation Strategies. Provision is also made for an alternative access road to Denny Abbey and relocation of its existing car park. The section 106 agreement would also set a limit for the total tonnage of waste imported to the WWMP. An access licence to carry out works off the appeal site is included. These provisions are summarised in Annex A to this report. CCC submitted a Community Infrastructure Levy (CIL) Compliance Statement to the Inquiry.<sup>15</sup> The Conclusions section of this report considers the obligations and their compliance with relevant law and policy.

11. On Day 9 of the Inquiry the appellant raised a point about the description of the proposed development. In order to avoid the issues arising that occurred recently in *Finney v Welsh Ministers* Amey requested that the description in any permission be modified so that the reference to treating up to 250,000 tonnes of residual waste per annum goes into condition.<sup>16</sup> Whether the determination of the appeal should be on the basis of the amended description is a matter for the Secretary of State, which is considered in more detail in the Conclusions section of this report.
12. The ES included a landscape and visual impact assessment (LVIA) undertaken by Axis.<sup>17</sup> This was reviewed for CCC by The Landscape Partnership (TLP). Michelle Bolger Consultancy (MBC) reviewed the appellant's landscape/visual evidence on behalf of Cambridge Without Incineration (CBWIN).<sup>18</sup> TLP also commented on MBC's review and provided a comparison between the findings of TLP, Axis and MBC about significant landscape and visual effects.<sup>19</sup> Both the appellant's and CCC's landscape experts submitted predicted Zones of Theoretical Visibility (ZTV).<sup>20</sup> However, these used slightly different parameters and methodologies and so the results are not directly comparable. Small differences in the models result in considerable variation between the predicted ZTVs in this flat landscape.<sup>21</sup> The appellant's model was used to predict visibility, for both the building and the stack, from roads, Public Rights of Way (PRoW), the railway and rivers.<sup>22</sup>
13. I requested that the landscape experts for the appellant and CCC agree a Scott's Schedule setting out their respective judgements about the significance of the proposed development on landscape and visual receptors. However, the

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<sup>14</sup> ID8.3.

<sup>15</sup> ID14.2.

<sup>16</sup> In *Finney v Welsh Ministers* [2019] EWCA Civ 1868 the Court of Appeal held that it was not lawful to vary a condition under s.73 if that point also appears in the description of the development, contrary to what had been understood previously, including in *Finney* at first instance and a previous decision of Sing J. (as he then was) in *R (Wet Finishing Works Ltd) v Taunton Deane BC* [2018] PTSR 26.

<sup>17</sup> LVIA/ES at CD53.

<sup>18</sup> CD20.11 and WR2(1).

<sup>19</sup> CD118.24.

<sup>20</sup> CCC's ZTVs were prepared by Citrine.

<sup>21</sup> A comparison of the ZTVs is included in Appendices 1 and 2 of AC2/D for both the WWRF building and stack.

<sup>22</sup> AC2/B.

experts were unable to agree about relevant receptors and instead submitted individual schedules.<sup>23</sup> The landscape experts who appeared at the Inquiry both submitted photographs and photomontages/panoramic wireframes. For the appellant Mr Mason's photographs are referred to in this report as MVP[1,3,5-17,20,22,24-26] and photomontages are referred to as PM[7,10,17,20,22,25,26].<sup>24</sup> For CCC Mr Flatman's photosheets are referred to in this report as FVP[1-94] and his Panorama Wireframes as WF[1-10].<sup>25</sup>

14. The Fenland Special Area of Conservation (SAC) and Wicken Fen Ramsar Site are contiguous sites within a 10 km screening distance of the appeal site for air quality assessment. I requested a written statement to inform a Habitats Regulation Assessment.<sup>26</sup> The submitted report provides sufficient evidence to enable the Secretary of State to determine whether the proposed development would have a likely significant effect on a European site either alone or in combination with other plans and projects. I am also satisfied that sufficient information is included to undertake an Appropriate Assessment (AA) if necessary.

### **Planning policy guidance and statutory requirements**

#### *Development plan and local policy*

15. The development plan comprises the MWCS and the SCLP, along with the adopted Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document February 2012 (MWSSP).<sup>27</sup>
16. Levitt's Field is allocated in the MWSSP as W1K-Extension of Waste Management Park, Waterbeach.<sup>28</sup> Policy W1K states that the Description of Proposed Use is Waste Recycling and Recovery, with potential uses including materials recovery facility, in vessel composting, energy from waste, inert waste recycling and new waste management technologies. The supporting text sets out implementation issues that would need to be addressed within a planning application. These include; the archaeological significance of the site, access for HCVs from the existing roundabout only, emissions to air and pollution control, noise and dust mitigation, major aquifer and Flood Zone 3 mitigation, consideration of any historic features / environment, potential need for Flood Risk Assessment. The 9<sup>th</sup> bullet point refers to proximity to Denny Abbey SAM – adding that proposals would need to take the Abbey and its setting into account, with early discussions with English Heritage (now Historic England (HE)) advised. The implementation issues include consideration of nearby residential properties along the A10, including Denny Abbey cottages. It adds that open windrow composting is not appropriate given the sensitive receptors nearby.

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<sup>23</sup> Mr Mason's for the appellant at AC2/E. Mr Flatman's for CCC at CC3/B.

<sup>24</sup> MPV are at CD53. PM at AC2/B Appendix JM2.

<sup>25</sup> CC3/A Appendix A.2 and CC3/A Appendix F.1-F.10.

<sup>26</sup> ID22.

<sup>27</sup> CD17.4.

<sup>28</sup> ID56 sets out stages in plan process for this allocation.

17. Other relevant development plan policies are summarised in Annex B of this report. Section (10) of this report considers which development plan policies are most important for determining this appeal.
18. The emerging Cambridgeshire and Peterborough Draft Minerals and Waste Local Plan is at consultation stage (eMWLP).<sup>29</sup>
19. Relevant Supplementary Planning Documents include the following:
  - The Location and Design of Waste Management Facilities SPD July 2011 (abbreviated to WasteSPD) <sup>30</sup>
  - SCDC's Listed Buildings: Works to or affecting the setting of SPD July 2009 (ListedBuildingsSPD) <sup>31</sup>
  - Cottenham Village Design Guide SPD (CottenhamSPD) <sup>32</sup>
  - SCDC District Design Guide: High Quality and Sustainable Development in South Cambridgeshire SPD March 2010 (DesignGuideSPD) <sup>33</sup>
  - SCDC's Landscape in New Developments SPD March 2010 (LandscapeSPD) <sup>34</sup>
20. Reference is made to appropriate provisions of these SPDs in the summaries of cases and in the Conclusions section of this report.

*National policy and guidance*

21. The *National Planning Policy Framework* (hereinafter the NPPF) states that it should be read in conjunction with the Government's planning policy for waste in the *National Planning Policy for Waste 2014* (NPPW). The NPPW states that in determining waste planning applications authorities should, amongst other things, ensure that waste management facilities are well-designed, so that they contribute positively to the character and quality of the area in which they are located. In assessing the suitability of sites authorities should consider, amongst other things, environmental constraints, transport infrastructure and the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community. Appendix B to the NPPW sets out factors to be taken into account in determining planning applications.
22. The *National Planning Practice Guidance* (hereinafter the NPPG) includes a section on waste, which also refers to the NPPW.
23. The appeal scheme is not a nationally significant infrastructure project (NSIP), but the underlying principles set out in national policy statements (NPS) concerning energy are applicable here. Relevant NPSs are EN-1 Overarching National Policy Statement for Energy, and EN-3 National Policy Statement for Renewable Energy Infrastructure.

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<sup>29</sup> CD17.8.

<sup>30</sup> CD17.45.

<sup>31</sup> CD19.3.

<sup>32</sup> CD123.

<sup>33</sup> CD20.2.

<sup>34</sup> CD20.3.

24. Reference is made to appropriate provisions of the NPPF, NPPW, NPPG and NPS in the summaries of the parties' cases and in the Conclusions section of this report.

*Other statutory requirements and regulations*

25. The development must be considered in the context of the statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) to have special regard to the desirability of preserving the setting of a listed building.
26. The Conservation of Habitats and Species Regulations 2017, requires that where a plan or project is likely to result in a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, the Secretary of State as competent authority is required to make an AA of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
27. The Industrial Emissions Directive 2010/75/EU sets emission limits for waste incineration plants.<sup>35</sup>
28. Regulation 122 of the CIL Regs states that a planning obligation may only constitute a reason for granting planning permission for development if the obligation is a. necessary to make the development acceptable in planning terms; b. directly related to the development; and c. fairly and reasonably related in scale and kind to the development.

**The site and surroundings**

*The appeal site*

29. The appeal site comprises; (1) Levitt's Field (6.3 ha), which is located on the south-eastern boundary of the WWMP, (2) internal access roads within the WWMP, and (3) land within the highway boundary of the A10 for a potential heat pipe. The proposed WWRF would be sited on Levitt's Field, to the south of the WWMBT, which has a building height of less than 20 m.<sup>36</sup> Levitt's Field is open and has not been developed, except for an emergency turning head in the field's north-western corner for vehicles using the WWMBT.<sup>37</sup> The current lawful use of the majority of the field is agricultural land. Levitt's Field is classified as Grade 2 agricultural land.<sup>38</sup> Beach Ditch, which runs along the north-eastern boundary of Levitt's Field, is a non-statutory designated County Wildlife Site. Levitt's Field is bordered to the south-east by deciduous vegetation along the A10, and to the south-west by mixed vegetation that includes tall mature poplar trees.

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<sup>35</sup> CD17.16.

<sup>36</sup> This building height is apparent from the cross-section in ID52.

<sup>37</sup> ID19.

<sup>38</sup> ID60.

### *Locality*

30. The appeal site is situated about 6.7 km north of Cambridge and about 12 km south of Ely. It is 2.4 km to the north-west of Waterbeach village, and 1.5 km to the south-west of Chittering. Cottenham lies some 2.9 km to the west of the appeal site. Landbeach is about 3.5 km to the south. Figure JM1 shows the appeal site in relation to the WWMP to the north and west, and the DAC to the east over the A10.<sup>39</sup> It also indicates the location of Ely Road industrial estates, and Cambridge Research Park (CRP), which comprises contemporary hi-tech industrial and office buildings, to the south of the appeal site. Roof ridge heights of industrial units are about 8 m, and the CRP buildings are some 10-12 m high. There is also a petrol filling station/convenience store on the A10 adjacent to the industrial estate. Existing solar farms and consented glasshouses, which include a 15 MW combined heat and power (CHP) plant, lie to the north-east of Chittering.<sup>40</sup> There are three small wind turbines on farmland to the south of Chittering.
31. The proposed site for Waterbeach New Town (WNT) is shown on Figure JM1 to the south of the DAC. The consented scheme for WNT comprises 6,500 homes, four schools, leisure and community centres. SCLP Policy SS/6 provides for a new town of approximately 8,000 to 9,000 dwellings for the WNT on the site of the former Waterbeach Barracks. There is also a proposal to relocate the railway station on the existing Cambridge/Ely railway line, which runs some 2.3 km to the east of the appeal site. The approved parameter plan at ID38 specifies maximum building heights of eight storeys up to 30 m high within the consented WNT.<sup>41</sup>
32. The closest residential properties to the appeal site are Denny Croft Cottage located to the immediate south of the south-eastern corner of Levitt's Field, and Denny Abbey Farm Cottages, four terraced dwellings located about 25 m to the east of Levitt's Field on the opposite side of the A10. There are holiday properties to the south between the Dickerson Industrial Estate and Denny Croft Cottage, and Elm Farm lies to the north of the appeal site. There are other scattered dwellings and farms in the wider area.<sup>42</sup>
33. Heritage assets in the locality are shown on CD75-CD77. Waterbeach, Landbeach and Cottenham conservation areas are shown at CC2/B Appendix 1.<sup>43</sup> Ely Cathedral is about 12.5 km to the north of the appeal site.<sup>44</sup> Part of Car Dyke, which is thought to be of Roman origin, lies to the south of CRP. A section of Car Dyke is a SAM with the remainder a non-designated heritage asset.<sup>45</sup>

<sup>39</sup> Figure JM1 is at AC2/B. Figure JM10 includes an aerial view of CRP and imagery for the proposed WNT development.

<sup>40</sup> ID42. The glasshouses would be 7.4 m high, but tanks and CHP stacks about 15 m high.

<sup>41</sup> Sustainability requirements and strategies for the WNT are included at ID39.

<sup>42</sup> AC2/B Appendix 1 Figure A.

<sup>43</sup> More detailed maps of Cottenham and Landbeach Conservation Areas are at AC3/B Appendices 6 and 7.

<sup>44</sup> AC3/B Appendix 12 Figure 19 is a view towards the appeal site from the West Tower of the Ely Cathedral.

<sup>45</sup> An aerial photograph of part of Car Dyke is at AC3/B Appendix 13 Figure 20.

34. Figure JM1 shows the routes of the River Great Ouse to the north and the River Cam to the east, both of which have footpaths along their embankments.<sup>46</sup> The Ouse Valley Way promoted route is about 2.2 km north of the appeal site, and the Fen Rivers Way along the Cam is some 3.4 km to the east of the appeal site. Both the Great Ouse and Cam are used for recreational boating with moorings and marinas. Other PRoW in the wider area are shown on Figure JM6Bi at AC2/B Appendix 6.
35. In terms of the local topography Levitt's Field varies between 2.75-3.77 m AOD and the DAC is about 5 m AOD. The finished WWMP landfill profile in relation to the proposed WWRF is shown on the sections at ID52.
36. Wicken Fen Site of Special Scientific Interest (SSSI) lies about 5.4 km east-north-east of the appeal site.<sup>47</sup> Cam Washes SSSI is about 4 km to the east of the appeal site. Wicken Fen is part of the Fenland SAC and Ramsar Site. The SAC was designated to conserve *Molinia* meadows and Calcareous Fen habitats. The Ramsar site was listed as one of the most outstanding remnants of the East Anglian peat fens. Beach Ditch and Engine Drain are County Wildlife Sites.<sup>48</sup>
37. A 2018 study commissioned by the Greater Cambridge Partnership made a number of recommendations, including looking at dualling all or part of the A10 between Ely and Cambridge. At the time of the Inquiry tenders were out for consultant support for the development of a strategic outline business case for the A10 dualling and junction improvements. However, at this stage no alignments for the dualling have been developed and no timescales for the works published.<sup>49</sup>

#### *Landscape*

38. In the 2014 National Character Area profile the appeal site lies within NCA88 Bedfordshire and Cambridgeshire Claylands, but close to NCA46 The Fens.<sup>50</sup> Key characteristics of the Claylands include a gently undulating, lowland plateau divided by shallow river valleys that gradually widen as they approach The Fens NCA, with variable, scattered woodland cover, small plantations and pollarded willows and poplar along river valleys. It is a predominantly open, arable landscape, but major transport routes cross the area.<sup>51</sup> Key characteristics of NCA46 The Fens include an expansive, flat, open, low-lying wetland landscape offering extensive vistas to level horizons and huge skies throughout, providing a sense of rural remoteness and tranquillity, where large built structures exhibit a strong vertical visual influence.<sup>52</sup>
39. The appeal site lies within regional landscape character type RCT13 Lowland Village Farmlands, but close to the RCT22 Planned Peat Fen.<sup>53</sup> The Lowland

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<sup>46</sup> See also CD74.

<sup>47</sup> ID22 Figure 3.1 shows the location of Wicken Fen SSSI/Fenland SAC and Cam Washes SSSI. See also CD64.

<sup>48</sup> CD74.

<sup>49</sup> ID65.

<sup>50</sup> AC2/B Figure JM2.

<sup>51</sup> CD20.6.

<sup>52</sup> CD20.5.

<sup>53</sup> AC2/B Figure JM3.



Village Farmlands is characterised as a well settled, low-lying landscape that is often crossed by major river corridors, with high density of settlement, intensive agriculture and major transport infrastructure making it often a busy, rural landscape. The Planned Peat Fen is described as a flat, low-lying and sparsely populated landscape with large arable fields, almost no tree cover, and wide views to distant often dramatic skies.<sup>54</sup>

40. In the County assessment the appeal site lies at the transition between Area 3: Western Claylands and Area 8: Fenland.<sup>55</sup> The Western Claylands is a gently undulating landscape with open fields, sparse trimmed hedgerows, scattered woodlands and watercourses often cleared of bankside vegetation. Measures to create new landscape structure include the creation of new woodlands, ideally at least 2 ha in size, and planting woodland belts.
41. County Area 8: Fenland is a large open landscape with distant views where the scattering of clumps and individual trees merge together to produce a feeling of a more densely tree-covered horizon. Fen islands range in size from the dominant Isle of Ely, which rises over 20 m above the adjacent peat Fens, to much smaller features elevated an almost imperceptible metre or two. But these islands are significant in the landscape as most are occupied by settlements or farmsteads with associated tree cover that gives them special prominence. In the open landscape isolated agricultural and other buildings are often prominent against a background of a constantly changing sky where vast cloudscapes provide drama and visual delight. The planting of avenues/tree belts should be undertaken within areas already characterised by similar features and where the scale of work is appropriately large. White poplar and hybrid black poplar are included in the plant species guidelines for the Fenland.<sup>56</sup>
42. The appeal site and about 75% of the land within a 10 km radius of it lies within District LCA E. The Fen Edge.<sup>57</sup> This is mostly a flat, low-lying landscape with open views. Key characteristics include extensive vistas and large skies creating drama, with church towers and spires creating landmarks, and a rich and varied intensive agricultural land use. Clumps of trees, poplar shelterbelts and occasional hedgerows sometimes merge together to give a sense of a more densely treed horizon. Straight running 'lodes', drains and north-south droves are distinctive features. The Great Ouse river and lodes are enclosed by raised banks or marked by lines of willows. Low sand and gravel Fen 'islands' rise above the flat landscape and have provided a historic focus for settlements, with a higher proportion of grassland cover, trees and hedgerows. Some modern development has spread onto low-lying land. Vernacular buildings are typically small scale. Some village edges, such as at Cottenham, have a well wooded character, while others have more open edges. Willow and poplar are, amongst others, listed as trees on peat and silt Fenland, and willow on Fen islands. Design principles include ensuring that new developments reflect the form, scale and proportions of existing vernacular buildings.<sup>58</sup>

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<sup>54</sup> Landscape East 2010 at CD20.7.

<sup>55</sup> AC2/B Figure JM4.

<sup>56</sup> Cambridgeshire Landscape Guidelines 1991 at CD20.9.

<sup>57</sup> AC2/B Figure JM5.

<sup>58</sup> 2010 District Design Guide SPD at CD20.2.

43. The section of the DesignGuideSPD entitled “Appreciating Context Landscape Setting” states that any new development must sit comfortably in its landscape, taking account of the topography and natural and man-made features. New development should not intrude upon the skyline, with the exception of specifically agreed features selected as landmarks, in the tradition of church spires or towers. If, for the general development, this is unavoidable, careful consideration must be given to the height and form of buildings, with the built form broken down to appear as a composition of forms, rather than one large form and utilising trees and other planting to soften the impact on long distance views.<sup>59</sup>
44. The section of the DesignGuideSPD entitled “Environmental Health Issues Waste/Refuse Collection and Recycling-operational” refers to the then emerging WasteSPD stating that it will guide the design and location of strategic Waste Management Facilities in Cambridgeshire to ensure high quality design in accordance with best practice and to demonstrate how these facilities can be developed in both urban and rural settings.<sup>60</sup>

#### *Denny Abbey and Farmland Museum*

45. The nearest part of the SAM lies some 135 m from the appeal site, with the furthest parts about 870 m from the site.<sup>61</sup> The Grade I Benedictine Abbey church is about 430 m from the appeal site.<sup>62</sup> The refectory building, which is also Grade I listed, is about 416 m from the appeal site.<sup>63</sup> This is currently unused. The Grade II listed 17<sup>th</sup> century barn is used as an exhibition space for the Farmland Museum.<sup>64</sup> It is about 400 m from the appeal site. The Grade II listed gate piers at the entrance to the DAC and Farmland Museum off the A10 are about 26 m from the appeal site.<sup>65</sup>
46. Denny Abbey and Farmland Museum Masterplanning Discussion was published in October 2017.<sup>66</sup> The masterplanning process was intended to help the museum and Abbey to lead a shared vision with partners and identify future funding, planning and project options. It refers to the LDA Design 2013 heritage appraisal.<sup>67</sup> The Masterplanning Discussion plan entitled ‘Strategic Vision’ includes reference to upgrading or relocating the access onto the A10 and car park, a reinstated causeway link to Waterbeach village with enhanced views and appreciation of Denny Abbey setting, and notes key views towards the Abbey and the Fenlands and enhanced setting looking south.

#### *Planning history*

47. The part of the appeal site granted planning permission for the vehicle turning head in 2009 is previously-developed land. The remainder of Levitt’s Field has

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<sup>59</sup> Paragraph 5.2 CD20.2.

<sup>60</sup> Paragraph 10.4 CD20.2.

<sup>61</sup> A plan of the SAM is at CC2/B Appendix 1 and an aerial photograph at AC3/B Appendix 1 Figure 1.

<sup>62</sup> Photographs of the abbey church are at AC3/B Appendix 2 Figures 2, 3 and 4.

<sup>63</sup> Photographs of the refectory are at AC3/B Appendix 3 Figures 5, 6 and 7.

<sup>64</sup> Photographs of the barn are at AC3/B Appendix 4 Figures 8 and 9.

<sup>65</sup> A photograph of the gate piers is at AC3/B Appendix 5.

<sup>66</sup> ID9.

<sup>67</sup> CD19.20.



no other planning history, except for an EIA Scoping Assessment for a biomass energy plant prepared by Donarbon Ltd in April 2010. This scheme proposed a plant that would process 75,500 tpa of biomass including a mix of refined CLO from the WWMBT. The proposed building, located in the western part of Levitt's Field, had a footprint of 120 m by 70 m, and varied in height from 12–22 m, with two exhaust stacks no higher than 42 m. Further details about the proposal, including site layout plans, are included in CC1/B Appendix 3. The Donarbon proposal did not progress beyond this stage.

48. The WWMP has an extensive planning history dating to the 1960s, which followed on from previous mineral extraction. A comprehensive planning permission for waste management was granted in 2001 and the WWMP currently operates under a free-standing planning permission granted in 2016.<sup>68</sup>

### **The proposed development**

49. The proposed development (WWRF) is an energy from waste (EfW) facility which would have an energy generating capacity of about 27.4 MWe, with 24.4 MWe for export after 3 MWe would be used to support the WWRF's parasitic load, through the treatment of up to 250,000 tonnes per annum (tpa) of residual waste by incineration. The facility would also enable heat to be extracted from the generation process for use by local heat users. It would have the potential to export an average of 6.35 MW of heat to users. If a viable heat user was identified and a contract to deliver heat secured, a heat pipe connection would be installed from the WWRF to the CRP roundabout on the A10.<sup>69</sup> The WWRF would be designed to operate as a recovery facility with the ability to recover energy from waste using a process having an efficiency factor that would satisfy the Waste Directive R1 efficiency formula.
50. The WWRF would be a conventional combustion plant based around a main building containing; a waste reception hall with shredder, waste bunker and a potential conveyor link to the WWMBT, boiler house hall and de-mineralisation plant, turbine hall, flue gas treatment (FGT) facility, air pollution control reagent and residue silos, and staff facilities. Incinerator Bottom Ash (IBA) would be stored on site before being transported to another site to be treated, graded and used as aggregate. Air pollution control residues would be removed by road-tanker to either an authorised landfill site or, if technologies are developed, to be used in industrial processes.
51. The main building would be 141 m long, with the width varying between 55-91 m. The highest section of the building towards its western end housing the boiler hall would be 41.7 m high. The FGT facility would be 36.3 m high. The curved roof of the bunker hall would vary in height from 41.7-34.3 m. The lowest part of the building, the tipping hall, would have a curved roof varying in height from 20.4-11.7 m. The stack would be located adjacent to the western elevation of the building and would be 80 m high with a diameter of 4.5 m. The air-cooled condenser (33 m long, 31 m wide, 21 m high) would be in a separate building to the west of the FGT facility. Ancillary development would

<sup>68</sup> Details of the WWMP's planning history is set out in paragraph 4.2 of the SoCG.

<sup>69</sup> CD78.

include; a weighbridge, substation, fencing and gates, two bridges over Beach Ditch, service connections, tanks, fire sprinkler and a pump house.

52. The landscape scheme shown on Drawing No: 1970-01-SK001 would integrate with surface water drainage requirements, including reed beds with some open water. Rows of hybrid poplar trees are proposed along the south-western side of the proposed main building, the reed bed and behind the existing vegetation along the frontage to the A10.<sup>70</sup> Other planting would include willow pollards and native black poplars. A meadow seeded with locally appropriate wildflower mix is proposed adjacent to the belts of poplar trees. The section 106 agreement would provide off-site landscaping. This is shown on Plan 3 of ID8.3 and includes screen planting to a field corner on land on the opposite side of the A10 to the appeal site, blocks of specimen tree planting along parts of the existing access road to Denny Abbey, and strengthening the existing tree/hedge line and allowing the hedge to grow taller along a field boundary midway between Denny Abbey and the A10.
53. Operation of the proposed WWRF would require an Environmental Permit (EP) issued by the Environment Agency (EA). An application for an EP was submitted by Amey to the EA, but this was withdrawn when CCC refused the application for planning permission.
54. The scheme proposes treating residual waste, as defined in Defra's 2014 *Energy from Waste – a guide to the debate*.<sup>71</sup> This states that residual waste is the waste that is left over when all the recycling possible has been done. It adds that this generally means the environmental or economic costs of further separating and cleaning the waste are bigger than any potential benefit of doing so. It is usually a mixture, with part coming from things made from oil like plastics, and part from things that were recently (meaning the last 100 years or so) growing and are biodegradable, such as food, paper, wood etc. Only the energy generated from the recently grown materials in the mixture is considered renewable. Energy from residual waste is therefore a partially renewable energy (RE) source, sometimes referred to as a low carbon energy source.
55. Suggested Condition 6 provides that at least 75,000 tpa of the residual waste arising from other waste management facilities on the WWMP, that are suitable for thermal treatment at the WWRF, would be treated at the WWRF. A condition is also proposed concerning the waste catchment area. Condition 7 specifies that not less than 70% of the waste imported to the WWRF shall originate from a catchment area comprising Cambridgeshire and Peterborough, along with Milton Keynes, and the following local authorities; Hertfordshire, Suffolk, Essex, Norfolk, Luton, Bedford, Central Bedfordshire, Northamptonshire, Rutland and Lincolnshire, including any waste being processed through any waste transfer station within the defined catchment area.
56. The WWRF would operate 24 hours a day 7 days a week. But receipt and export of all waste HCVs would be limited by a suggested planning condition to

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<sup>70</sup> Photomontages of planting at Year 15 are included for MVP7,10,17,20,22,25 and 26 at CD92.

<sup>71</sup> CD17.33. The definition is included in the suggested planning conditions at ID64.

0600 to 1900 hours Monday to Sunday, excluding Christmas Day, Boxing Day and New Year's Day.<sup>72</sup>

57. During the 36-month construction period the on-site workforce is estimated to be approximately 300 people. During the operational phase the WWRF would create direct employment for approximately 32 full time equivalent staff members.
58. During the operation of the WWRF the net impact of the scheme on vehicular movements per day in the short to medium term would be approximately 54 additional HCVs (27 in and 27 out). The section 106 agreement would cap the waste tonnage received at the WWMP at 571,000 tpa.

### **The case for Cambridgeshire County Council (CCC)**

The following summary of CCC's case broadly follows CCC's closing submissions to the Inquiry, with additional reference where necessary to the evidence adduced.<sup>73</sup>

#### *Overview*

59. The degree of harm that would be caused by the WWRF, despite its acknowledged benefits, means that CCC has had to vigorously contest this appeal. The people of Cambridgeshire, the landscape of which they are rightly proud and the nationally important built heritage here, deserve better. In the final analysis, what is proposed represents poor planning, and CCC's refusal of permission should be upheld.
60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA) requires the decision on this appeal be taken in accordance with the statutory development plan, unless material considerations indicate otherwise. The additional specific duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) is clearly engaged by the harm to listed buildings here. It requires that the Secretary of State has special regard to the desirability of preserving listed buildings or their settings. The Courts have explained that this means that harm to a listed building must be given considerable importance and weight.<sup>74</sup>
61. Judged both against the statutory development plan, and against other material considerations, not least the NPPF and the NPPW, the appeal scheme falls short, because of the harm it would cause to the surrounding landscape and visual amenity and to designated heritage assets, as per CCC's reasons for refusal in its decision of 21 September 2018. Although there are weighty benefits in favour of the WWRF, they are outweighed by the harm it would cause, and clearly so.
62. CCC's reasons for refusal were reached after careful consideration of the WWRF by the Waste Planning Authority's Planning Committee, with the benefit of a

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<sup>72</sup> Suggested planning Condition 9.

<sup>73</sup> ID2 and ID63.

<sup>74</sup> *per* Sullivan LJ in *East Northamptonshire DC v SSCLG* [2014] EWCA Civ 137; [2015] 1 WLR 45 at [29].

thorough report, an officer presentation and a Members' site visit. Amey relies upon the strength of the officer's recommendation that permission be granted. However: (a) it is CCC, acting through its Planning Committee, that is the decision-making authority, not officers, (b) this was not an officer report such as one may sometimes see that identified no substantial countervailing factors justifying refusal, hence the officer recommendation was an on-balance recommendation, albeit one firmly in favour.

63. Members of the Planning Committee were presented with information from the ES that tended to underplay the visual effects of the WWRF, yet they resolved to refuse permission, nonetheless. Since the decision the Inquiry now has the benefit of fine-grained ZTVs, from both landscape experts. These show that visibility of the WWRF would be more extensive than suggested by the ES. As regards harm to heritage, there would be public views of Denny Abbey church from the east from over 2 km, in which the WWRF would be clearly visible sitting behind/to the side of the Abbey, dwarfing it and dominating the asset.<sup>75</sup>

*Amended description*

64. Amey wishes to alter the description of development to remove the reference to tonnage. This raises both procedural and potentially substantive difficulties. As per *Holborn Studios*, the two potential limitations, substantive and procedural, must be carefully considered.<sup>76</sup> The change must not amount to a fundamental alteration. But it is in the public interest that the substantive constraint should not be 'too severe'.<sup>77</sup> Applications must be notified to owners, publicised and any representations duly made must be taken into account, with no application 'entertained' otherwise. So too, amendments cannot sidestep those third-party rights. *Wheatcroft* wrongly conflates the substantive and procedural tests. Procedural constraints should not be too relaxed.
65. What is proposed by Amey would drive a coach and horses between what has been publicised and deprive the description of development, that for which planning permission is sought, of meaning. The issue here is principally a procedural one. The public have been notified of the description of development. Amey argues that it makes no odds to have the tonnages in the conditions rather than the description, but it is an important matter. The reason given by Amey for the alteration, namely a response to *Finney* so as to allow a clear run at a section 73 application in the future, is a poor one for such a change at this stage in the appeal process.

*Development plan and emerging plan*

66. The statutory development plan comprises the MWCS, MWSSP and SCLP. Identified policies in the SCLP stand in the shoes of the policies in the replaced South Cambridgeshire Development Control DPD 2007 that were cited in the reasons for refusal. The SCLP is the more recent of the parts of the development plan and so any conflict between it and the MWCS/MWSSP is to be resolved in its favour.

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<sup>75</sup> WF1.

<sup>76</sup> *R (Holborn Studios) v Hackney LBC & anr* [2017] EWHC 2823 (Admin).

<sup>77</sup> On *Arrowcroft* and not affected by *Finney*.

67. Amey's very short list of policies "most important" for the purposes of NPPF paragraph 11(d) is a longer list than those attacked on consistency grounds, including Policy CS29 and the Allocation (W1K) itself that are positively, and heavily, relied upon in support of the appeal scheme, plus Policy CS24.<sup>78</sup> Amey accepts that a number of the policies even in its truncated list of policies "most important" are consistent with the NPPF for the purposes of paragraph 11(d).
68. A new joint Waste Plan is emerging (eMWLP). It contains no allocation for Levitt's Field, but it is agreed that the draft plan carries only limited weight.<sup>79</sup> That agreement is not affected by the fact that consultation commenced on 15 November 2019. Dependent on the time that a decision comes to be made on this appeal, it may be necessary for the Secretary of State to revisit that position, dependent on the stage the draft plan has reached.
69. Amey does not allege lack of (raw) waste management capacity, including landfill, at this Inquiry, and CCC agree that the WWRF would meet a need for sustainable waste management.

*Consistency with the NPPF and interpretation points*

70. Amey argues that MWCS Policies CS33, CS34 and CS36(a), and SCLP Policy HQ/1, are out of date by reference to the NPPF. The criticisms are without foundation. Section 38(6) PCPA 2004 gives primacy to the statutory development plan. The NPPF falls within the 'other material considerations limb' of the section. The NPPF, at paragraphs 11 and 213 introduces the question of whether development plan policies are 'out of date' as against its policies, by reference to their degree of consistency with the NPPF. Simply because a development plan policy might be 'out of date' for the purposes of the NPPF, does not alter the fact that the decision-maker must still reach their own view regarding the weight to attach to the policy.<sup>80</sup>
71. Interpretation of policy is a matter of law.<sup>81</sup> The Courts have continued to emphasise that interpretation of a policy, being a matter of law, is clearly distinct from application of the policy, which is likely to involve an exercise of judgement for the planning decision maker subject only to challenge on *Wednesbury* grounds, just as whether a matter is a material consideration as a matter of law is clearly distinct from its weighting, again a matter for the planning decision maker subject only to challenge on *Wednesbury* grounds.
72. Amey's case advanced at the Inquiry alleging inconsistency with the NPPF was different from that in its Statement of Case. As to Policy CS33, the "no balance" case in Amey's Statement of Case was abandoned, and a new argument advanced that there is a lack of "guidance" from the policy as to what is "reasonably expected". But CS33 makes quite clear that development can be assimilated in accordance with the various guidance documents referred to. These include the waste-development-specific WasteSPD, which provides a

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<sup>78</sup> This list is (MWCS) CS24, CS29, CS33, CS34, CS36; (MWSSP) W1K; (SCLP) HQ/1.

<sup>79</sup> SoCG paragraph 5.15 CD119.

<sup>80</sup> *Hopkins Homes v SSCLG* [2017] UKSC 37, [2017] 1 WLR 1865, and *Monkhill v SSHCLG* [2019] EWHC 1993 (Admin), *per* Holgate J at [39].

<sup>81</sup> *Tesco Stores Limited v Dundee City Council* [2012] PTSR 983 *per* Lord Reed at [18-19].



great deal of “guidance” as to what is reasonably expected. Amey positively relies on the guidance given by the WasteSPD.

73. “Assimilated” itself is an ordinary English word. That the precise word does not appear in the NPPF is nothing to the point. What the policy is seeking to do is (a) ensure new development is sympathetic to local landscape character and (b) make a particular point of recognising the intrinsic character and beauty of the local countryside.<sup>82</sup> Those are both things that the NPPF endorses at paragraphs 127(c) and 170(b). It is suggested that Amey’s true complaint is that there is here, in CS33, a policy that responds to local character and distinctiveness and the beauty of the local countryside. There is nothing inconsistent with the NPPF in that.
74. The fact that Policy CS34 does not set the threshold at “harm”, but “significant harm”, does involve a balance, which is articulated in paragraph 11.16 of the supporting text. Amey identifies this paragraph as properly reflective of national policy through the words ‘unacceptable degree’, but complains of a lack of sufficient balance. This is weak stuff on which to base a complaint of inconsistency. Amey’s view that the words of the policy were to be read not as ‘no significant harm’ but as ‘no unacceptable significant effects’ would re-write the policy.
75. The criticism of Policy CS36(a) that it goes too far in seeking ‘substantial’ benefits to outweigh harm is equally weak. Given that the NPPF stipulates that harm to the significance of designated heritage assets is to be given ‘great weight’ (the greater the significance the greater the weight) it is difficult to see how such harm could be outweighed by benefits that are anything other than great, and the distinction between “great” and “substantial” is not self-evidently a vast one. The criticism turns on the distinction in the NPPF between paragraphs 195 and 196, and ‘substantial’ benefits as opposed to ‘benefits’. But that distinction already existed in PPS5, against which CS36 was examined, and the examination Inspector took particular care with this policy, including alteration of the wording of the other limb to achieve balance, yet left this limb alone, from which it can be inferred that the Inspector considered nothing further needed to be done to CS36(a) to align it with PPS5.<sup>83</sup> The supporting text to CS36 makes clear the richness of the historic environment in the plan area, and the link between that and the Fenland landscape. That the bar for some heritage harm is set somewhat higher than that for less than substantial harm in the NPPF is hardly the kind of inconsistency that would justify a conclusion that CS36 is out-of-date.
76. The same charge is laid against SCLP Policy HQ/1. This was assessed against the 2012 NPPF, which was not materially different from the current NPPF so far as relevant to Policy HQ/1 limbs (a) and (b) and was found to be sound.
77. Insofar as the development plan sets a more challenging test for development in Cambridgeshire, than the NPPF sets as a matter of generality for development nationwide, that is an appropriate reflection of the particular local issues in play, not least the flat landscape in which development of any

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<sup>82</sup> Which is clear from the supporting text, in particular paragraphs 11.13-11.15.

<sup>83</sup> ID50.

scale/mass can have a disproportionate impact, the richness of the historical environment and the fact that the latter is inextricably linked to the local landscape.

78. In addition, Amey has misinterpreted and mis-applied these policies. Amey asserts that the WWRF would both 'preserve or enhance the character of the local urban and rural area and respond to its context in the wider landscape' and 'conserve or enhance important natural and historic assets and their setting' for the purposes of limbs (a) and (b) of SCLP Policy HQ/1, despite the evidence from Amey's landscape and heritage experts of significant landscape and visual harm to 1-1.5 km and harm to the designated heritage assets comprising the DAC and two conservation areas. It was similarly asserted that the WWRF would 'sustain and enhance' heritage significance for the purposes of SCLP Policy NH/14, but Amey's evidence does not allow for such a result on any view.
79. Of all the supplementary documents that accompany the development plan, the WasteSPD is important and, significantly, Amey does not suggest that it is inconsistent with national policy/guidance. Amey seeks to rely upon what the WasteSPD says about "Energy from Waste" plants to make good the position that when making the allocation, CCC could not have "reasonably expected" an EfW facility "materially" smaller in scale or mass than the WWRF. This is unjustified given the MWCS itself makes quite clear that "energy from waste" includes more than incineration, notably anaerobic digestion, pyrolysis and gasification, and the WasteSPD does not suggest that such facilities would typically be 'large' scale. The WasteSPD emerged alongside the MWCS, and both were adopted in July 2011.
80. The WasteSPD's paragraphs 3.4 and 3.7 are damning of the WWRF, and paragraph 3.6 is a further obstacle. Amey suggests that paragraphs 3.4 and 3.7 (but not 3.6) are concerned only with non-allocated proposals. That is clearly incorrect. Amey considers that paragraph 3.4, which says 'siting should not be harmful to the character, appearance, and setting of the historic environment and specific historic assets' presents no impediment to the appeal scheme. Similarly, paragraph 3.7 provides that 'There will be occasion in environmentally sensitive areas where it will not be possible to site a facility without being harmful to the character, appearance and setting of a site, in such cases development should be avoided'. Amey's approach has been one that interprets and cherry picks from the WasteSPD in a way that is wholly partial and bears no relation to the objective interpretation of the wording in the document, nor to its relationship with the development plan.

#### *Harm: Overview*

81. There is synergy between CCC's two reasons for refusal, because the heritage assets at Denny Abbey, both those that lie within the monastic precinct specifically referenced in the SAM scheduling details, and the wider group (notably, the Gate Piers lie outside), draw significance from the surrounding landscape, which over the centuries has both provided isolation and sustenance. Amey acknowledges harm, both to landscape/visual amenity and to designated heritage assets but seeks to downplay the degree of harm.
82. Amey's heritage evidence alone means that there is already harm that attracts "considerable importance and weight"/"great weight" to be placed into the

planning balance.<sup>84</sup> In fact, the weight must be greater than would be the case for the same harm to a lower level of designated heritage assets, given the significance of the assets concerned here.<sup>85</sup> It is clear from paragraph 193 of the NPPF and *Palmer*, that the significance/heritage value of the asset in question will affect the weight to be given, with greater significance to attract greater weight, but that any harm to any designated heritage asset must be given great weight.

### *Landscape and visual effects*

#### Introduction

83. The sheer scale of the WWRF and its massing (it would be the largest feature for miles around) mean that it would be a highly visible new industrial element in this open, largely agricultural, landscape. It would stand in contrast with other built form in the surrounding area. That built form is not only almost invariably lower slung by comparison (and typically markedly so), but generally well concealed at eaves/ridge height by multi-layers of vegetation. That is true not only of the built form of the WWMP, but also the nearby industrial estates, and the CRP. Attempts by Amey to claim equivalence of effects as between the WWRF and buildings at most half its height (at the WWMP, or the CRP, or the Donarbon proposal) must be rejected. Likewise, similar attempts for buildings with a large footprint but relatively low scale (in terms of height), such as solar farms or the glasshouses development.<sup>86</sup>
84. The WWRF would be self-evidently harmful in this landscape, significantly so, as well as the source of significant visual harm. Amey's own landscape and visual impact appraisal acknowledges as much, whilst parting company with CCC regarding the extent of the harm.<sup>87</sup> Numerous flaws in the LVIA led it to underestimate the effects, landscape and visual, but despite those flaws it still identified significant harm out to 1-1.5 km from Levitt's Field.
85. The LVIA was overly selective regarding the study area, the relevant landscape characteristics and viewpoints, all in a way that tended to downplay the value and sensitivity of the surroundings to the WWRF, and to downplay the effect of the appeal scheme. The same is true of the appellant's landscape/visual evidence to this Inquiry. The following selection of flaws in the LVIA's approach to assessing the baseline set a pattern for an underestimation of effects.
86. The River Great Ouse, which is only some 2.5 km from Levitt's Field, and church towers in the local area, were essentially ignored, or at best underplayed, even though specifically identified in relevant guidance.<sup>88</sup> The over-narrow focus on

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<sup>84</sup> *Mordue v SSCLG* [2016] 1 WLR 2682 confirms that by correctly following the NPPF heritage chapter, albeit the original NPPF, but there has been no material change with the present NPPF, a decision-maker will also discharge the section 66 LBCAA duty.

<sup>85</sup> NPPF paragraph 193. This submission is entirely consistent with the judgment of the Court of Appeal in *R (Palmer) v Herefordshire* [2016] EWCA Civ 1061 [2017] 1WLR 411, *per* Lewison LJ at paragraph 7.

<sup>86</sup> ID42 shows the glasshouses are some 7.5 m from ground. Ancillary structures are higher and are presumably the basis for references to 9.5 m. What is not clearly shown on ID42 is the AOD, whereas Levitt's Field is 3 m AOD.

<sup>87</sup> LVIA at CD28, CD50-54 and CD87-92.

<sup>88</sup> Such as Cottenham Church of All Saints, see pages 4 and 6 of the Cottenham Village Design Guide SPD at CD123.



the built form in the immediate area surrounding Levitt's Field ran not only through the LVIA and the appellant's landscape/visual evidence, but also through the appellant's planning evidence. The latter concentrated on whether the appeal scheme would be integrated with the surrounding WWMP and other built development, not the non-built-landscape, let alone the wider landscape. As regards relevant landscape characteristics, all references to large skies, the drama they create, even to openness in the various LCAs touching the "claylands" area found themselves excluded from LVIA Appendix 5.4, in favour of a conclusion that this is a landscape of "enclosed" fields that finds no support in any LCA.

87. As regards viewpoints and appraisal of visibility, the LVIA claimed a much more limited range of visual effects than the reality. The LVIA claimed only a 2 km visual effect on the River Great Ouse receptor (see MVP25 as described within Appendix 5.5), yet this was contradicted by the appellant's own ZTVs. The same for MVP26 concerning the River Cam.

LVIA: landscape baseline

88. In terms of the landscape baseline the LVIA does not do what the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) require, namely to identify the 'landscape receptors' as a key part of the baseline work (and then assess the impact against those receptors in order to arrive at 'effect').<sup>89</sup> The LVIA adopted a flawed and a spatially narrow approach to the assessment of the baseline. As noted, the LVIA did not highlight reference to the River Great Ouse text within NCA88. Similarly, LVIA Appendix 5.2 had not bolded 'predominant land use is arable' in NCA46, or of 'settlements...smaller towns, villages and linear settlements widely dispersed throughout, giving a more rural feel'. The area the subject of character assessment was clearly being narrowed, to much less than the appropriate study area, and the focus incorrectly shifted away from 'natural' features and the rural. This ignored much if not most of the study area that even the appellant ultimately recognised as appropriate (out to 10 km), but also an over focus on built form and commercial activity as against what is, quite clearly, a largely rural area, in which the predominant land use in the study area is arable. The unjustifiably selective approach to landscape features was at the expense of that which makes this area self-evidently sensitive to development such as the appeal scheme.
89. The District LCA refers to 'low lying, flat open landscape, with extensive vistas, large skies create drama'. The appellant's emphasis on limitation of views was and is the opposite of the text in the District LCA. The County LCA speaks of 'The open landscape provides distant views where the scattering of clumps and individual trees merge together to produce a feeling of more densely tree-covered horizon' is clearly different from localised vegetation cover that can have a significant enclosing effect: merging together on the horizon and enclosure are quite distinct.
90. The appellant's evidence was slanted almost entirely towards existing, consented or 'pipeline' built form.<sup>90</sup> But did acknowledge that the WWRF, when it was

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<sup>89</sup> GLVIA3 paragraphs 3.21, 5.33 and 5.34.

<sup>90</sup> See JM1 at AC2/B.

visible, would be more prominent than any other buildings. The appellant also acknowledged that the heritage landscape was part of the baseline.

91. As regards the proposed mitigation (the rows of poplars) and its appropriateness or otherwise by reference to the LCAs, it is now agreed that this is not what is being sought by the County Management Principles for the Western Claylands in which Levitt's Field sits. As regards the Regional LCA objective B7, it was argued that the point of the mitigation was not to enclose. But one only has to look at ES Appendix 5.6 and the 15-year view to see that it would result in a "curtain wall".
92. In terms of landscape sensitivity, the LVIA's assessment of value had selectively alighted on only a couple of features within GLVIA3 Box 5.1, contrary to the guidance.

LVIA: landscape effects

93. What was known to the authors of the LVIA at the time it was put together, as per its paragraph 5.2.10, was that the appeal scheme would potentially be visible at range longer than 2.5 km, whereas now the ZTVs produced by the landscape/visual experts show it would be visible, out to 10 km (and beyond, given the ZTVs cut off at 10 km). It was also, rightly, accepted that visibility goes directly to the question of landscape effects.
94. Visibility mapping is required by GLVIA3. It was apparent that the appellant's landscape expert had not had any form of ZTV commissioned until one was requested by SCDC's landscape officer in order to consider a particular viewpoint to the north-west. In any event the bare earth ZTV then commissioned was of little use. This left the authors of the appellant's LVIA to guess at visibility and, ultimately, to significantly underestimate it. Far from there being uncertainty as to whether the WWRF would be visible beyond 2.5 km (as noted, the deliberate word used in the LVIA is 'potential'), it is now certain beyond doubt that it would be visible far, far beyond that.
95. Efforts to present the Citrine ZTVs for CCC as significantly overestimating the extent of visibility by comparison with the appellant's ZTVs did not take into account that the ZTVs take different points for eye height, both within GLVIA3 recommended tolerances, of 1.5 m and 1.7 m, the effect of which would be to increase visibility in the Citrine ZTVs and decrease it in the appellant's. Similarly, the Citrine ZTVs assumptions regarding woodland blocks and buildings, of 12 m and 10 m respectively, could cut both ways. Also, by taking a single point in the centre top of the 4.5 m wide stack, the appellant's ZTVs would tend to underestimate visibility. The material available to the authors of the LVIA was of little assistance and led to an underestimate of visibility.
96. The appellant's landscape expert was unable to point to anything, in the main text or Appendix 5.4, that would allow anyone to see an assessment against identified landscape receptors but did not accept that the LVIA had not done so. But if that was so, reference was made to AC2/D Appendix C. This copies Table 3 of CC3/A but inserts comments. It starkly illustrates the failure of methodology in the LVIA, and with respect to the appellant's landscape expert, although he denied it, the fact that he had prepared the LVIA did mean that he would tend to be predisposed to reach the same findings again, even though now applying the correct GLVIA3 methodology. As regards mitigation and its effectiveness, the

appellant's landscape expert agrees that it would not reduce the level of adverse effects.

LVIA: visual effects

97. The LVIA underestimates the extent of visual effects. This is apparent by comparison of the ZTV (Figure JM7i) with LVIA Appendix 5.5 for example regarding MVP26, MVP25 and MVP10. For MVP10 does not show Denny Abbey, but FVP1 does. The LVIA is silent regarding any view including Denny Abbey from the east at any distance. Cottenham Church of All Saints is visible in FVP4 and FVP5, which makes the LVIA's failure to have regard to the Cottenham Village Design Statement SPD all the more important.
98. The appellant describes the PRow network as 'fairly sparse', as referring to the 3 km ZTV, confirming the impression that the focus has been too narrow. This may also account for the rather slanted selection of viewpoints in terms of those on roads and those not.
99. In relation to the Donarbon proposal, the appellant accepts that the two 42 m high stacks proposed in that scheme were only comparable to the appeal scheme building in terms of height, and that they would not break the skyline to the same extent as would the WWRF.
100. It is instructive to consider the views of the other landscape consultants who have reviewed the appellant's LVIA. Both TLP and MBC considered the appellant's LVIA had underestimated the extent of the significant effects, both landscape and visual. Their positions as at the date of determination of the application are helpfully set out in tabular form in the document prepared by TLP as Appendix 3 to the Committee Update at CD118.24. Both gave their initial views without the benefit of a ZTV. MBC called for one, TLP did not. TLP were wrong in their view regarding the acceptability of the appellant's LVIA proceeding without a ZTV (or equivalent mapping) set out in their review of MBC's points on the appellant's LVIA.<sup>91</sup> MBC has reviewed the matter since the various ZTVs were produced and the latest MBC position is set out in WR2(1). The judgement to be preferred here is that of CCC's landscape expert, who finds significant (adverse) effects that extend markedly beyond those found by the appellant's LVIA.
101. Even based on the appellant's own LVIA, any suggestion that the WWRF, with a plume at times, would be "assimilated" into its surroundings in accordance with the guidance documents that MWCS Policy CS33 leans on is untenable. Consideration of the appeal scheme as against all LCAs and the WasteSPD amply demonstrates that. The proposed development would breach MWCS Policies CS33, CS34 and CS24, and Policies HQ/1(a) and NH/2 of the SCLP. Even the tree screen proposed as mitigation would appear as a curtain wall and an alien feature in the landscape, whilst failing to hide the most impactful upper element of the building (and inevitably failing to conceal the stack).<sup>92</sup>

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<sup>91</sup> CD118.24 paragraph 2.1(c). See also GLVIA3 paragraph 6.6 onwards.

<sup>92</sup> LVIA Appendix 5.6 at CD92.

## *Heritage*

### Introduction

102. The landscape and visual impact brings with it clear harm to heritage, which harm is again acknowledged by the appellant's own work (again whilst parting company with CCC regarding the degree of harm), through harm to the extraordinary grouping of assets at the DAC. There was little by way of challenge to the substance of the CCC's expert heritage evidence, rather that all turns on matters of judgement.

### The Cottenham and Landbeach conservation areas

103. Despite the appellant's heritage expert's proof and appendices that there would be "no harm" to either conservation area, at the Inquiry he agreed with CCC's heritage witness. This has ramifications. Firstly, it means that there is undisputed harm to two designated heritage assets to be placed into the balance, along with the harm to the DAC covered by CCC's second reason for refusal. Secondly, it calls into question the appellant's heritage expert's approach: if he could be so vehement on paper yet concede so completely on the stand regarding the conservation areas, without even offering an explanation for the change of stance, that tends to call for yet closer scrutiny of the approach to the DAC.

### The DAC

104. The monastic precinct with Denny Abbey church, the Refectory and the surrounding earthworks are truly unique. As is the DAC, with the Grade II barn a coherent piece with the earlier monastic buildings, reflecting the evolution of the site, and the Grade II gate piers that similarly show the unusual post-dissolution farm history of this remarkable survival.

105. To understand Denny Abbey, its monastic combination of solitude and prominent built form, supported by the pasture and richly productive Fenland around it, followed by its post-dissolution centuries as the centrepiece of a working farm, the surrounding landscape is an important key. It still allows for appreciation of the sense of seclusion and remoteness of this Fen-edge monastic site, and for the buildings, in particular the Abbey church, as a raised-up "beacon" of devotion in this open landscape, then later the heart of a farming enterprise for hundreds of years. As HE has said throughout, but put most comprehensively in their letter of 11 January 2018, the introduction of the WWRF would do 'very serious' harm to the assets' significance.<sup>93</sup>

106. HE is not alone in this view. Every heritage professional other than the appellant's heritage expert who has expressed a view that either expressly or by implication allows for an understanding of where the harm sits within the NPPF's "less than substantial harm" bracket has put it either at the higher or highest end of that bracket.<sup>94</sup>

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<sup>93</sup> ID17.

<sup>94</sup> Not only HE but also CCC's heritage expert, SCDC's conservation officer [CD9.33.2] and English Heritage Trust [CD9.16 and CD11.22].

## Significance (DAC)

107. The “exceptional” nature of the SAM and the Grade I Denny Abbey church were and are not disputed by the appellant. However, the appellant’s heritage expert acknowledged that his analysis of the significance of the Abbey church had not included, in addition to and beyond the matters set out in his proof (namely successive use by three religious orders): (a) that it is the only surviving Poor Clare building; (b) its striking use by the Countess of Pembroke, their benefactress; and (c) its unusual post-dissolution use as a farmhouse, no doubt linked to its previous use by the Countess. The significance of the fact these matters had not been included in his analysis is that the latter two went to the contribution to significance made by the post-dissolution history, which itself tends to elevate the importance of the landscape around the DAC to its significance. The post dissolution history here does add to its importance.
108. The choice of an isolated location for the foundation was a deliberate one, albeit possibly a convenient one in terms of the land available. But it is agreed that the Abbey was ‘designed to be isolated’. This goes directly to the important reality that the appeal scheme would reduce the present sense of isolation. The Abbey is assumed to have drawn on the productive Fenlands around it. There is continuity here, in that the Abbey remains surrounded by that which is rural: previously Fenland, now arable, but still rural. There is a possibility that Levitt’s Field was once productive Fenland for the Abbey.
109. As regards the prominence/dominance of the Abbey in the surrounding landscape, the Abbey church is the biggest building in its scale and mass, reflecting the fact it was deliberately built above a height which was purely functional and raised up as an expression of devotion. For the medieval period, the Abbey church would have been a building with dominance, with prominence, with ‘presence’, but may not have been as grand as other monastic structures. The medieval landscape of an island surrounded by watery Fen has changed, but the buildings were listed, and the SAM scheduled, in the context of a post-fen drained landscape, but that did not stop listings at Grade I. The appeal scheme would render Denny Abbey less prominent in the landscape.
110. The appellant surprisingly and unjustifiably sought to downplay the significance of the Refectory, also Grade I, by describing it as a ‘roofed ruin’, and at the same time to narrowly restrict its contributory setting. The Refectory is part of a whole as well as an individual asset in its own right. Every one of the DAC assets has a “GV” group value listing. The Refectory was previously connected to the Abbey church by a cloister and it is not experienced simply by looking into it. Furthermore, it would not be expected to have windows.
111. The appellant sought to disassociate the Grade II Barn from the Abbey church and the Refectory and associate it only with the Farmland Museum building. But there is coherence to the barn as part of the group with the earlier monastic buildings. The Barn has a “GV” listing due to its association with Denny Abbey church and the Refectory.
112. The Gate Piers were described by the appellant as a “curiosity” whose setting turned entirely towards the rest of the DAC, drawing nothing whatsoever from the other direction where the appeal scheme would sit. However, the Gate Piers, which appear to come from a column removed from the Abbey church gable end, were placed on the road for a purpose. They have been there for c.200 years,



- reflecting a certain sense of status in the mind of the landowner who erected them. Their purpose was to draw attention to the entrance to the DAC.
113. The group value of the DAC assets, as a whole, can add to significance.<sup>95</sup> The appellant accepts the fact of these assets together in one place was no coincidence, but had not increased the degree of harm in the assessment of the effect on the whole, by comparison with assessment of the effect on individual assets. The highest degree of harm for the individual assets was considered 'at the lower end' of the scale of less than substantial harm found for the Abbey church, that being the same degree of harm found for the DAC as a whole.
114. The contribution to significance of Levitt's Field itself is described by the appellant as "neutral", notwithstanding that it is presently a field with trees that has an openness, a rurality and a greenness that forms a part of the rural landscape that remains around the DAC.
115. HE's objection should not be given reduced weight on the grounds that its identification of "key views" to the west came about simply because the appeal proposal lies in that direction.<sup>96</sup> It is evident from HE's letter of 11 January 2018 and email of 24 October 2019 that HE were not saying that there were only key views to the west. Claims that HE and CCC's heritage adviser had 'regarded the sensitivity of the heritage assets as being too great' because they had 'not taken into account the change that has taken place' and were viewing matters as it was 'in the past as a fen island with contemplative religious orders living within it, rather than in contemporary surroundings, with drainage' do not reflect the fact that these changes have been taken into account in observations about legibility.<sup>97</sup>
116. The development of WNT means that the role that Levitt's Field plays in preserving the sense of isolation and prominence of Denny Abbey becomes more important, not less. That role can be readily appreciated by consideration of the visualisations of the new town.<sup>98</sup> HE's The Setting of Heritage Assets GPA3 advises with respect to cumulative change; "Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views of it (see also paragraph 40 for screening of intrusive developments)".<sup>99</sup>

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<sup>95</sup> Page 22 of HE's Religion and Ritual Post AD-410 at CD19.8.

<sup>96</sup> AC3/A paragraph 5.21 as amended by Dr Edis at the Inquiry.

<sup>97</sup> CC2/A paragraphs 5.15 and 5.17, and HE's letter of 11 January 2018 at page 4, and its email of 24 October 2019 at ID17.

<sup>98</sup> AC2/A Figure JM10.

<sup>99</sup> Page 4 of GPA3 at CD19.7. Paragraph 40 says that screening may reduce harm, but can only mitigate negative impacts, rather than removing impacts or providing enhancement. It adds that screening may have as intrusive an effect on the setting as the development it seeks to mitigate, so where necessary, merits careful design.

## Effects (DAC)

117. As is evident from MVP17 the appeal scheme would harm the visual relationship between the complex, between the buildings and the natural landscape, to the spatial extent that landscape covered the SAM, contrary to paragraph 4.41 of the SCDC's Listed Buildings SPD. The ES offers only MVP17, and MVP20, both being views out/away from rather than including the DAC assets. MVP10 does not show the Abbey due to some piece of vegetation that changes when one walks either way on the PRoW from which WF1 was taken. The appellant's heritage expert has not properly considered the view towards the Abbey from the east, with the WWRF behind/to the side in the view. Yet it is the east that is, along with the north and to some extent the south, the landscape that is least changed, and presents a view of Denny Abbey church as an isolated building across open fields. The change to views would, due to the dominating nature of the WWRF behind/to the side of Denny Abbey church, cause harm, but in the appellant's views only at a 'relatively low point on the scale'.
118. WNT would not come between the viewer and Denny Abbey in views from the east. The viewer would still have a view across fields to Denny Abbey, but now with the WWRF behind/to the side. ID51 shows the line of view from WF1 would pass over the recreation space of the new town. But perhaps more importantly, PRoW that WF1 is taken from proceeds northwards, offering potential for further views. WNT would draw many more people than hitherto to locations in an arc to the south and south-east of the DAC, able to appreciate it in its setting, but with the appeal scheme those views would now include the WWRF, bringing an industrialising change to the character here that would reduce the prominence of the Abbey buildings and would reduce what sense there is of isolation.
119. It is notable that HE, the Government's statutory heritage advisor, has not only written voicing strong and detailed objection to the appeal scheme for this reason, but did so with eyes wide open as to the benefits. HE's and SCDC's views should be afforded substantial weight.<sup>100</sup>
120. Turning to the "mitigation package" the appellant is offering for the DAC, whilst of some benefit that benefit does not go to directly reduce the harm to heritage significance. That is a quite different question from whether it goes into the NPPF paragraph 196 balance (it does not, it does not flow from the appeal scheme, as per NPPG, and the appellant's argument that it does was a further false step in its assessment) and separate also from whether, in the overall balance, it amounts to benefits – it clearly does. But what it does not do is alter the harm to heritage significance by reducing it. Furthermore, the proposed tree-screening would also tend to dominate the DAC.
121. As regards the extent of the benefits, the DAC site already has public access; already has interpretational aids; faces no specific risk that requires addressing;

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<sup>100</sup> *Shadwell Estates v Breckland DC* [2013] EWHC 12 (Admin) *per* Beatson J at [72] states: "Secondly, a decision-maker should give the views of statutory consultees, in this context the "appropriate nature conservation bodies", "great" or "considerable" weight. A departure from those views requires "cogent and compelling reasons": see *R (Hart DC) v SSCLG* [2008] EWHC 1204 (Admin) at [49] *per* Sullivan J, and *R (Akester) v Department for the Environment, Food and Rural Affairs* [2010] EWHC 232 (Admin) at [112] *per* Owen J. See also *R (Jones) v Mansfield DC* [2003] EWCA Civ. 1408 *per* Dyson LJ at [54].

is in optimum viable use; presently has a car park on grass, and whether the new proposed access and car park would disturb buried heritage and landform, more or less than the existing car park is not yet known, as it is impossible to know. This is why a Conservation Management Plan to take the site forward would be helpful, but beyond that all is speculative. Even the landscaping plan has potential to harm buried archaeology.

122. The test set by MWCS Policy CS36(a) is failed, as is the test set by SCLP Policy HQ/1(b) as, by way of further underpinning, are the tests set at paragraphs 3.4 and 3.7, in particular, of the WasteSPD. Similarly, the appeal scheme derives no support from SCLP Policy NH/14, and it fails the NPPF paragraph 196 balance. CCC repeats that it is a striking indication of the flaws in the appellant's interpretation of policy, and its application of policy, that it does not acknowledge that even on its own expert evidence there will be failures against policy and the plainly relevant WasteSPD. That has markedly skewed its assessment.

#### *Other matters*

123. As the SoCG makes clear CCC does not include harm to residential amenity, such that living conditions within the property would be rendered unacceptable, in its first reason for refusal.
124. However, "design" does form part of the reasons for refusal. Scale and massing are an important aspect of the design of a building. Policy DP/2 of the since superseded 2007 DPD was the design policy within that plan. Of great importance in this landscape is how the WWRF would be perceived above the tree line/horizon, and whilst it is acknowledged that some effort was made to deal with massing in the design process, the end result is a plain and ordinary looking industrial elevation, on a huge scale with a tall chimney attached, that would, inter alia, face the DAC above the tree line. It would not sit well in the context, appearing as a stark new standalone industrial landmark. The conflict with the design policy of the SCLP Policy HQ/1, that now stands in the shoes of Policy DP/2 of the 2007 DPD is, again, stark, (likewise the failure of the WWRF against the aspirations of the WasteSPD and MWCS Policy CS24).

#### *Allocation*

125. Importantly, and contrary to the appellant's evidence, it is not remotely the case that the allocation for Levitt's Field in the MWSSP at W1K makes such harm inevitable if an EfW facility is to sit here. The appellant has, consistently throughout the appeal process, but to ever increasing degree, sought to make too much of the allocation.
126. The appellant has sought to make a case that not only is EfW at Levitt's Field the 'proposed' use (as opposed to one of a number of 'potential' uses) but that as regards the EfW potential use CCC could not have reasonably expected something of materially lesser scale than the appeal scheme. The appellant could not be more wrong, and its stance represents not only a misreading of the development plan but also a remarkable case of corporate amnesia. It was the appellant's own predecessor, Donarbon, that in 2010 was promoting an EfW facility on Levitt's Field by way of a biomass plant to take the CLO from the WWMBT, along with some other inputs, with 75,000 tpa capacity and a radically reduced scale and massing by comparison with the appeal scheme (not only was the building height 22 m, but the massing was such that the proposal was set



- entirely on the far western side of Levitt's Field).<sup>101</sup> The appellant's Design Evolution Document at CD2.01 came sometime after the Donarbon proposal and, of course, after the MWSSP. CCC had before it from the owner of the WWMP at the time the MWSSP was emerging a proposal for the appeal site that was for a building considerably smaller in scale than the WWRF.
127. Even considering only incinerators with capacities starting at 180,000 tpa (nothing below that) at the time the MWSSP was emerging there were a number of incinerators with building heights at least 10 m below those of the appeal scheme. The heights given for the "smaller" plants with capacities between 180,000 tpa and 210,000 tpa are 28.7 m to 32 m.<sup>102</sup>
128. The appellant advanced yet a further extension of its case regarding the allocation: that it was significant that it contains no advisory/informative regarding landscape matters. There is no hint of that point in the appellant's Statement of Case, Proofs of Evidence or Opening Submissions. In any event, what that point has thrown up is information that is self-evidently unhelpful to the appellant's position. Namely that, the assessment of Levitt's Field through the plan process (a) mistakenly failed to assess it on landscape grounds against anything larger than 'Waste Treatment/Recycling' buildings up to 12 m, given an 'Impact Code C'; and (b) as regards the heritage assessment, although that did (correctly) assess it against EfW, the maximum building height considered was 30 m, so some 12 m lower than the appeal scheme.<sup>103</sup>
129. The analysis must start with what it is the MWCS means by "energy from waste", and it is clear it means more than incineration. Once the range of technologies encompassed within "energy from waste" within the MWCS is understood, as including anaerobic digestion and gasification, amongst others, as well as incineration, the appellant's argument immediately collapses. The WasteSPD cannot possibly be used to overwrite the fact that the MWCS makes "energy from waste" a broad concept, necessarily including technologies that could involve facilities very much smaller in scale than the appeal scheme. The MWCS and the MWSSP are inextricably linked. The WasteSPD does not trump them: on the contrary, it was adopted alongside the MWCS.
130. The appellant is attempting to conjure meaning for the W1K allocation that is simply not there. It goes well beyond the attempt to make supporting text policy, which was criticised by the Court of Appeal in *R (Checkley Valley Campaign)*.<sup>104</sup> It is an attempt to re-write the development plan. The realisation that the harm brought by the appeal scheme was not at all assumed in the allocation, even if it is realised in the form of EfW, places the proposed WWRF in a particularly unfavourable light. The appellant's evidential case regarding compliance with key development plan policies, such as MWCS Policy CS33, depends on acceptance of its evidential case regarding the allocation, and also the WasteSPD.<sup>105</sup> This is at best a bootstraps argument, that takes the appellant nowhere.

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<sup>101</sup> EIA Scoping Assessment Biomass Energy Plant Donarbon April 2010 at CC1/B Appendix 3.

<sup>102</sup> AC4/A Table 1 page 14.

<sup>103</sup> ID56.

<sup>104</sup> CD21.4.

<sup>105</sup> AC1/A paragraph 6.19.

131. The appellant's attempts to frame the allocation as envisaging essentially the WWRF and no other as the intended EfW use are of a piece with its attempts elsewhere to undermine key policies in the MWCS (CS33, CS34 and CS36(a)) and SCLP Policy HQ/1 as out of date by reference to the NPPF. This in circumstances where the appeal scheme's conflict with those policies is clear. Even if there was merit to the appellant's arguments that the policies are out of date, which there is not, then (a) the appeal scheme fails when judged against the NPPF in any event; (b) it is for the decision-maker to weight the policies, not for the NPPF to do so.

### *Benefits*

132. CCC has existing operational capacity, once landfill is included. There is no claim of lack of (raw) waste management capacity. CCC fully recognises the benefits of the appeal scheme. Sustainable waste management, that moves waste up the waste hierarchy from landfill, brings climate change benefits, contributes to the UK's energy needs, and would be co-located at the WWMP, are weighty considerations. The possibility of heat offtake, although presently only potential rather than actual, is a further point in the benefits pile.

133. As regards GHGs, the benefit of EfW over landfilling of the same waste in terms of GHG emissions lies in there being biogenic content to the waste. This is because of the way biogenic waste gives off GHG as it breaks down (slowly) in landfill. As the biogenic content to the waste reduces, so does the benefit in "carbon" terms.<sup>106</sup> If there was an increase in food waste collection, and so a reduction in the biogenic content of waste that would otherwise go to landfill, but is now assumed to be burnt in the WWRF, the net carbon benefit would reduce.<sup>107</sup>

134. It is a valid point that Government legislative proposals to increase recycling, including separation of waste streams, would inevitably reduce the biogenic content of waste, not least by removal of food waste from the but-for-landfilled waste (also, *inter alia*, green waste for the "top up"), and so it can be expected that the "carbon" benefit for the WWRF would reduce over time.<sup>108</sup> If all biogenic content was removed, there would be no carbon benefit. Despite this, CCC recognises the uncertainty regarding improvements in recycling through waste separation, and has not considered future shifts towards low-no carbon energy generation as the grid comparator for electricity and the residential comparator for heat output, and has given the carbon benefit of the appeal scheme "significant positive weight" in the planning balance.

135. As regards self-funding, the appellant has (rightly) not sought to argue that any saving to the public purse falls within section 70(2)(b) of the TCPA. The potential saving in terms of landfill tax does not fall within the section 70(4)

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<sup>106</sup> CC1/A paragraph 5.86.

<sup>107</sup> AC4/B Tables 16 and 17: Variant 1 assumed a 50% reduction in food waste in the top-up waste and a one-third reduction in the CLO from the MBT. The net benefit reduces, if the WWRF facility is generating electricity only from an annual 36,466 tCO<sub>2</sub>e in the 2016 base case to 32,714 under Variant 1, and if the WWRF facility is also exporting heat from 45,322 to 41,571 tCO<sub>2</sub>e.

<sup>108</sup> See the Environment Bill, which was stalled at the time of the Inquiry, at CD139.

definition.<sup>109</sup> The *Health and Safety Executive* case in effect found that financial considerations unrelated to the use and development of land are “material considerations” in respect of a decision under section 97 of the TCPA whether or not to make a revocation order.<sup>110</sup> It does not support any such approach in respect of decisions whether or not to grant planning permission.<sup>111</sup> The *Forest of Dean* case further underscores the difficulties facing the appellant’s argument.<sup>112</sup>

#### *Relevance of possibility of other sites/schemes*

136. The appellant has not assessed the WWMP or the area proximate for an alternative site, and so cannot say a location elsewhere is not possible. The case law regarding the correct approach to this question begins with the judgment of Scott Baker LJ in *South Cambridgeshire DC v SSCLG & ors*<sup>113</sup>, but ultimately turns on the section 38(6) test and the question of whether it is a material consideration that the appellant has not shown (deliberately) that there are no alternative sites (or schemes, and of course the Donarbon proposal has been discussed as it was advanced, but that should not be taken as exhaustive). What is material is a matter of law. Some considerations are automatically material, others discretionary. Those mandated by statute, explicitly or by necessary implication, are plainly material, but beyond that whether a decision-maker must treat a consideration as material turns on *Wednesbury* principles.<sup>114</sup>

137. It is clear from the authorities, that each case depends on its circumstances, but it will be relevant, possibly highly relevant, whether the proposed development in question is in conflict with the development plan and/or other considerations such as national policy, if so to what extent, and/or whether it involves planning harm, and if so to what extent. Here, as demonstrated, there is stark non-compliance with policies acknowledged as “most important” to the decision by the appellant’s own planning witness, going to landscape, visual and heritage impacts, due to the great harm the appeal scheme would wreak in planning terms.<sup>115</sup> The fact that it has not been shown there are no alternative

<sup>109</sup> AC1/A paragraph 5.51.

<sup>110</sup> *The Health and Safety Executive v Wolverhampton City Council* [2012] UKSC 34, a case concerned with section 97 of the TCPA.

<sup>111</sup> See also the *Encyclopedia* at P.70.20.

<sup>112</sup> In *Wright v Forest of Dean* [2019] UKSC 53 the community benefit fund was held not material (by contrast with the measures secured in *Welcome Break*).

<sup>113</sup> *South Cambridgeshire DC v SSCLG & ors* [2008] EWCA Civ 1010.

<sup>114</sup> The test of “obvious materiality” approved by the House of Lords in *In re Findlay* [1985] A.C.318 at 333-334 *per* Lord Scarman is, as noted in *DLA Delivery v Baroness Cumberlege of Newick* [2018] EWCA Civ 1305; [2018] P.T.S.R. 2063 *per* Lindblom LJ at [23-34], one that turns on whether no reasonable decision-maker could have failed to have regard to the consideration in question.

<sup>115</sup> Contrast, for example, the position discussed in *R (Mount Cook Land Ltd and another) v Westminster City Council* [2003] EWCA Civ 1346, where it was held “that where a development in respect of which planning permission is sought did not conflict with planning policy and otherwise involved no planning harm, any alternative proposals which were not themselves the subject of a planning application at the same time would, in the absence of exceptional circumstances, be irrelevant to the question whether planning permission should be granted; that, even if exceptional circumstances, an alternative proposal could only be a material consideration where there was at least a likelihood or real possibility of the

sites on or proximate to the WWMP is material to the Secretary of State's decision.

138. The Donarbon scheme, which CCC refers to because it was advanced, not to in any way restrict the alternative schemes that might be suitable for Levitt's Field, is acknowledged would meet a need for sustainable waste management, but not to the same extent as the appeal scheme. It would generate electricity/heat, but not to the same extent as the appeal scheme (albeit more than sufficient heat to, for example, supply WNT). It would bring benefits, but not to the same extent as the appeal scheme and would, it can be assumed, not cause the harm that the appeal scheme would cause. Clearly, the possibility of an alternative scheme on Levitt's Field itself, that would not bring the harm that the appeal scheme would bring, is both obvious and a material consideration for the Secretary of State.

*Compliance with development plan taken as a whole*

139. The appeal scheme fails to comply with the development plan policies cited in CCC's reasons for refusal, plus those in the SCLP that stand in the stead of the overtaken 2007 DPD policies cited in the reasons for refusal. If, on a hypothetical basis, the appeal scheme was in conflict with only Policies CS33, CS34 and CS36 of the MWCS and Policy HQ/1 of the SCLP then clearly that would lead (one) down a route of possibly saying not in accordance. It is submitted that the appeal scheme's conflict with that small handful of four policies alone, given their importance, means it is not in accordance with the development plan taken as a whole. When MWCS Policy CS24 and SCLP Policies NH/2 and NH/14 are added that position is further reinforced.

*Compliance with national policy (in particular NPPF and NPPW)*

140. The appeal scheme does not benefit from NPPF paragraph 11(c), as it is not in accordance with the statutory development plan. It does not fall within paragraph 11(d), as the "most important" policies are not "out of date". Notably, even if the appellant's arguments regarding consistency with the NPPF are accepted, which they should not be, and even if the appellant's truncated list of policies "most important" is accepted, which it should not be, almost half of the policies considered "most important" are policies not suggested to be out of date. On the contrary they are consistent, and the appellant relies upon them: MWCS Policies CS24 and CS29, and MWSSP W1K - so three out of seven (the other four on the appellant's short shortlist being MWCS Policies CS33, CS34 and CS36 and SCLP Policy HQ/1). So even taking the appellant's case here at its highest, it offers no better than a flimsy basis for bringing a case within paragraph 11(d). But the appellant's list is, in any event, too short, and given its position that all other policies are consistent with the NPPF, each addition to this list of policies "most important" moves this case further from paragraph 11(d).<sup>116</sup>
141. Even if, contrary to the above, the appeal scheme does fall within NPPF paragraph 11(d), it not only engages paragraph 11(d)(i) due to the application of NPPF paragraph 196, but does not benefit from the tilted balance as the paragraph 196 balance falls against it, so providing a "clear reason" for refusal.

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alternative proposal eventuating in the foreseeable future should the planning application be refused..."

<sup>116</sup> ID67.

142. If, despite all of the above, the appeal scheme benefits from the tilted balance, because, for reasons not discernible, the paragraph 196 heritage balance falls in its favour, the combination of the heritage harm with the landscape and visual harm would “significantly and demonstrably” outweigh the benefits.
143. The NPPW aligns with the NPPF, and gives the appeal scheme no extra boost. Paragraph 7 brings the debate back to whether the appeal scheme contributes positively to the character and quality of the area. There is a clear difference between the way national policy in the NPPF treats RE proposals that are not NSIPs. Whilst EN-1 is relevant, it does not give the appeal scheme the degree of boost suggested by the appellant. Paragraph 154 of the NPPF recognises that even small-scale renewable and low carbon projects provide a valuable contribution to cutting GHG emissions, and that the application should be approved if its impacts are (or can be made) acceptable.

*Other matters (Habitats)*

144. CCC’s position remains that no AA is needed: one was screened out not on the basis of “mitigation” but because the appeal scheme would make only a miniscule contribution to deposition and, crucially, the Fenlands SAC/Ramsar site would remain well below critical load. However, if an AA is required CCC considers the necessary information is available.

*Balance and conclusion*

145. The simple proposition that underpins CCC’s case is that in the overall planning balance, the harm outweighs the benefits, and clearly so. The Members of CCC’s Planning Committee recognised that, and the case against the appeal scheme has become stronger still since they resolved to refuse it. However weighty and however numerous (and one can endlessly disaggregate benefits, or indeed, harms to give the appearance of massed ranks, to no useful end), the benefits cannot begin to justify the placement of this EfW facility, with its scale and mass, here, in this landscape and in such proximity to Denny Abbey.
146. Even if it were the case that there was no other type of EfW facility that could possibly come forward, and no other place it could possibly be placed within or near the WWMP than here, the harm would still outweigh the benefits. But that is not the case, and in those circumstances the harm is simply inexcusable.
147. CCC calls to mind the words of the then-constituency MP (Lucy Frazer QC) in her representations on the appeal of 1 May 2019 seeking its dismissal, which representations were patently uncoloured by party political considerations and founded in good planning, respect for local democracy and common sense:
- “(the Appellant) does not seek to argue against the conclusion that the proposed incinerator has a significant adverse impact on both the landscape and the Denny Abbey heritage site, but rather that the County Council have not correctly balanced this impact against the public benefit of the development. This is a local decision taken by local County Councillors who know and live in the area in question and did carry out a balancing exercise...’
148. CCC respectfully requests the Secretary of State to dismiss the appeal.



## The case for interested persons opposing the scheme

The following persons appeared at the Inquiry objecting to the proposed development, and a summary of their submissions is included below. Some of the submissions refer to the health conditions of individuals, but for confidentiality reasons the following summaries omit these particular details, whilst still making the general points about health impacts raised in evidence.

149. Jane Williams<sup>117</sup> local resident expressed concern about stress on local water resources from the proposed development. It is not clear how much water for the EfW facility would come from mains. The visual impact of the scheme in this flat landscape, along with effects on the SAC, Cam Washes SSSI and County Wildlife Sites, would harm the local environment. It would be located on the edge of a new town of 33,000 people. The implications for human health from emissions, including PM<sub>2.5</sub> are not known. CCC's refusal is supported because incineration is not the right option because of climate change effects.
150. Barbara Bull<sup>118</sup> local resident objects to the proposed EfW facility because of its effects on the character and appearance of the area. Public consultation about the scheme has been inadequate, and the application has not taken into account CCC's SPD concerning environmentally sensitive areas and the scale/massing of the scheme in its setting. Residents have no faith in the EA's ability to supervise operation of the WWRF given its inability to deal with fires, odour and fly infestation from the WWMP. An EP would not give adequate control after the grant of planning permission and so the appeal should be dismissed. CCC considers that it has adequate provision for waste without the WWRF, which would import waste from as far as the Isle of Wight. Additional traffic on the A10 would add to existing congestion. If residents were aware that their waste was going to an EfW facility they would give up recycling. There are other greener methods of dealing with waste.
151. The proposed long and slender poplar trees would not hide the WWRF. It would be visible from Denny Abbey and harm heritage and the landscape. Seen from the west it would be compared with Ely Cathedral. A meeting about health was held in 2018 at which speakers for Amey gave conflicting answers. There is concern about the health effects of toxins deposited on farmland for 30 years and on the water supply. Primary schools proposed in the WNT would be close to the WWRF and put children at risk. There is also concern about the effects on environmentally fragile areas at Wicken Fen and Cam Washes SSSI.
152. Waterbeach Parish Council (WPC)<sup>119</sup> raised traffic and transport issues concerning the A10 in written submissions about the proposal. Planned increases in population may not result in the quantities of waste relied on by the appellant because of the impact of high recycling rates and on-site recovery in new development. The massive capacity of the appeal scheme may be causal in a reduction of recycling rates. The proposal would rely on importing waste from outside the County. WPC is concerned about the health risks of emissions, particularly from PM<sub>2.5</sub> given the proximity of major new residential

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<sup>117</sup> WR1(88).

<sup>118</sup> WR1(49).

<sup>119</sup> WR1(43), CD9.17, CD11.11 and ID3.1-3.3.

development and schools. The impact of contamination on SSSIs in the vicinity, Denny Abbey Farm, Cow Hollow Wood and the Car Dyke is also of concern.<sup>120</sup> Noise and light emissions would be contrary to MWCS Policy CS2. The scale and bulk of the proposed building would be at odds with the surrounding landscape and built development. WPC raised concerns about the recent fire at the WWMP and ash fallout with the prevailing westerly winds.

153. WPC does not agree that mitigation for Denny Abbey would be met by building a car park, with the Abbey still blighted during both construction and operational phases in terms of visual impacts, structure massing, transport and noise. The impact on the existing education centre has not been considered. The eMWLP demonstrates that there is no requirement for an additional EfW. The application for a County EfW scheme in Wisbech, if permitted along with the WWRF, would mean that the three incinerators, with Peterborough, would require excessive out of County waste. There have been unprecedented flood warnings in the local area and WPC endorses the concerns of the local councils which have declared a Climate Crisis. All references to a district heating scheme should be viewed as extremely optimistic given that no firm plans are in place. There is concern about the appellant's financial circumstances and its ability to complete construction, which could result in a half-finished building.
154. If minded to approve the scheme the Secretary of State should consider the need for section 106 contributions towards an off-site educational recycling centre, along with funding for a link to CRP and improvements to the School Lane Chittering / A10 junction. WPC supports local concerns about air quality and the need for continuous off-site measurement of PM. WPC objects to the proposed screening of the WWRF using poplar trees. A mixed variety of native British trees should be preferred that would withstand adverse weather. WPC supports Cottenham PC's request for a formal transport plan. A condition should be imposed requiring 90% of the EfW feedstock to be sourced from Cambridgeshire and Peterborough. The proposed building should meet the requirements for a Near Zero Emission Building.
155. Campaign to Protect Rural England (CPRE) <sup>121</sup> raised six major objections to the proposed development. The scheme would have a significant and adverse visual impact on the local character and surrounding countryside due to its prominence, large scale and industrial appearance. The 80 m high chimney would be clearly visible in this low-level and open Fenland from public viewpoints on higher ground. The view for those looking into the Fen-bowl from higher ground would not be of a gentle Fen landscape with towns and villages on the higher ground but would be dominated by this massive industrial building. Those looking north-east from Madingley Cemetery to see Ely Cathedral would be distracted by this intrusive structure.
156. The Fens, whilst flat, are a special and delicate landscape, which an Inspector described as not characterised as monotonous, but with a slightly mystical character that can change with weather conditions. There are currently few industrial buildings in the local landscape. Implementing a building significantly

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<sup>120</sup> Cow Hollow Wood lies between Waterbeach railway station and the River Cam. Car Dyke runs in a north-west/south-east orientation south of Waterbeach and CRP. Further to the north-west part of the dyke is a SAM shown as Site 5 on CD75.

<sup>121</sup> CD9.25, WR1(23), WR2(5) and ID4.1.



more massive than any other building in the area would be insensitive to any form of environmental, social, artistic or cultural value associated with the English countryside. The proposal would have a serious impact on the Fen Edge District LCA. It would be on the edge of the Cambridge Green Belt and have a negative impact on it.<sup>122</sup>

157. Light emitted from the buildings and car parks would add to light pollution in this primarily rural landscape, adding to its urbanisation, and harming the setting of Denny Abbey. It would prevent views of the night-sky and have a significant adverse effect on wildlife. CPRE agrees with HE about the likely impact on designated heritage assets.
158. Local councils have declared a climate emergency and CPRE is concerned that additional GHG from the scheme would exacerbate the threats to climate change, the greatest of which in Cambridgeshire is the loss of Fens to sea-level rise. GHG emissions would increase if waste was transported from other areas. Everything possible must be done to reduce the flood risk to the best food growing land in the UK. The proposal should be considered in the context of the eMWLP. The draft contains no reference to a need for a major waste incineration facility, and the introductory text states that no allocations are being proposed as there is sufficient capacity. Emerging policies include reference to air quality and to self-sufficiency.
159. New processes for sorting and reprocessing waste are continually being researched and developed, for example the identification and recycling of black plastic food-packaging. It is unsustainable to burn materials that are already, or are in future likely to become, recyclable. Temporary storage in landfill until technological development made recycling feasible would be a more sustainable approach. Out-of-date technology to waste valuable materials by burning should be replaced by new technologies on this site.
160. A proposal has been made for an incinerator at Wisbech. There is already another at Peterborough. Approval of the WWRF could result in an excess.
161. CPRE submitted information about the Fens Biosphere project and the vision for recognition by UNESCO.<sup>123</sup>
162. James Bull<sup>124</sup> Labour candidate for MP opposed the development as it would be the wrong site for an incinerator. The UK's waste expert think tank, Waste and Resources Action Programme (WRAP), advises against siting incinerators near homes. Scientists say that particle emissions, dioxins and heavy metals from incinerators are a potential risk to health. Homes and schools would be close to the proposed WWRF. The appeals site was not chosen for any strategic reason, other than the appellant operates from there. Britain is committed to zero carbon, but the WWRF would be a step backwards, pumping out GHG for 35 years or more. The project would not be financially viable if it only processed waste from Cambridgeshire, so waste would be trucked from across the country. A decision which did not uphold CCC's refusal

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<sup>122</sup> The Cambridge Green Belt lies to the south of WNT and Cottenham as shown on Figure 1 of the SCLP at CD17.5.

<sup>123</sup> ID4.2-4.4 and ID4.6.

<sup>124</sup> ID5.

would fail the citizens of Cambridgeshire and future generations who would have to live with this hazard for decades.

163. Nigel Seamarks<sup>125</sup> local resident objects to the scheme because of a lack of need, the massing of the structure, and its impact on the Fenland and Denny Abbey. Imperial College London's 2019 Small Area Health Statistics Unit on birth conditions and municipal waste incinerators was cited. This found that the findings on birth defects was inconclusive, but that the study could not rule out that living closer to an incinerator may slightly increase the risk of some specific defects. It found a small increase (1.2/1,000) in risk for children living within 10 km of an incinerator being born with a heart defect or a genital abnormality. A 1.2/1,000 risk might sound like a low risk, but for those affected the impact can be life changing. With WNT and some 30-40,000 residents the risk must be transparent and open. Residents are already concerned about what they are breathing in from the WWMP, which has experienced fires and EA breaches. There is concern about the plume and PM impact on the SSSI Cam Washes.
164. Amey will not say where all 250,000 tpa of waste would come from and have no intention to reduce their landfill permits. A shredder should be rejected as this would enable potentially recyclable material, such as mattresses, to be treated at the WWRF. The 250,000 tpa incinerator at Ipswich now needs 290,000 tpa due to the reduction in high calorific plastic bottles and packaging, so there is concern about future increases in tonnage if the WWRF was permitted. Waste should be processed locally and if permitted a condition should be imposed requiring a minimum of 90% from Cambridgeshire.
165. The A10 is recognised as a dangerous road and the construction parking and traffic implications of the appeal scheme have not been properly considered, and the process should be delayed until the new A10 route is agreed. Along with a tonnage limit, a condition should also be imposed to limit the maximum number of transport movements.
166. If approved, continuous measurements, including of PM<sub>2.5</sub> at Waterbeach and Chittering, should be required by condition. A social fund levy should also be recommended for the potential damage to new-borns. As a district heating system, which was linked to the construction of a pedestrian/cycle link to CRP, is no longer looking likely this beneficial link could be provided by section 106 monies. There are concerns about ownership of the WWMP because of financial uncertainties that could in future affect the co-location of businesses. Co-location is an important planning consideration affecting transport, section 106 funding and waste arising relationships. If approved conditions should be imposed to cover the risk of financial uncertainty and co-location.
167. Cambridge Friends of the Earth (FoE)<sup>126</sup> said that their main concern is the potential pollution from heavy metals, dioxins and PM. Regardless of the sorting/separation employed heavy metals would inevitably be incinerated. These would include cadmium and mercury from batteries, along with lead from solder in electrical goods. A typical waste stream contains a range of

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<sup>125</sup> WR1(89) and ID6.1 and ID6.3-6.5.

<sup>126</sup> WR1(42), WR2(2) and ID20.

materials, each of which has an optimal temperature of combustion to preclude formation of hazardous compounds, such as dioxins and furans produced from incomplete combustion of chlorinated hydrocarbons (for example PVC). As the incinerator would be constantly fed tonnes of possibly wet waste at ambient temperature there is doubt that every piece of PVC would be subject to incineration at 850° C for at least two minutes. The process would reduce such concentrations to very low levels at any one time, but these pollutants are persistent in the environment and would be likely to accumulate in soil and water over the life of the WWRF, possibly to dangerous levels.

168. For cadmium there is no lower concentration limit below which it can be considered harmless. For PM diesel cars are being legislated off the roads, yet the WWRF would be a potentially huge source of PM including nano-particles.
169. Data from Addenbrookes Hospital incinerator from 2006 indicates that even a well-run facility, using properly sorted waste in relatively small quantities, can still exceed pollution limits.
170. The maxim of 'Reduce, Reuse and Recycle' is increasingly being taken onboard by the public, and has enormous potential for sustainable job creation. The use of excess plastic is starting to become socially unacceptable. If this trend continues the WWRF would be faced with a declining residual waste stream. This appears to be already apparent with the proposal to bring in waste from outside the region. Burning fossil-fuel derived plastics cannot generate RE. Burning materials that could be recycled is a huge waste of energy and adds to CO<sub>2</sub> emissions because manufacturing new products from recycled materials uses much less energy than making them from raw materials.
171. FoE has serious doubts about the current regulatory regime for monitoring incinerators. The EA is chronically underfunded and staffed, spot checks are carried out by prior arrangement with the operator, who would provide the monitoring data. It is not possible to predict in 25 years what pressures the then operator of the WWRF would be under in terms of feedstock or compliance.
172. Heather Macbeth-Hornett<sup>127</sup> local resident raised concerns about the health effects of cadmium and other pollutants on children attending nearby schools. Recent research has shown that pollutants can cross a placenta and be detrimental to the health of an unborn child. An EfW plant would reduce recycling and would not produce clean RE. With a visible plume the WWRF would have an adverse visual impact day and night. The WWRF would affect views of Ely Cathedral. Smoke from the recent fire at WWMP was visible from roads in Cottenham. Residents of Cottenham have not been properly consulted about the proposed development.
173. Michael Lynch<sup>128</sup> local resident considers that the appeal should be dismissed because of toxic emissions to air, soils and water and the food chain. PM<sub>2.5</sub> and inadequate monitoring are of particular concern. Reference was also made to research in Canada which found evidence of nano-particles from

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<sup>127</sup> WR1(44), WR2(11), ID10.1 and ID10.2.

<sup>128</sup> WR2(28) and ID46.

burning emitted to the air entering the human brain could cause cancer, reduction in intelligence, dementia and mental health problems. The carbon footprint of the WWRF would be greater than a comparable landfill operation. Less environmentally harmful methods of waste disposal exist. Recycling methods could be as effective as incineration and would create more jobs. The WWRF would discourage recycling. The huge structure would have a dominant visual impact, and create an unacceptable increase in HGV traffic, drawing waste from distant areas. CCC will be soon consulting on its five-year strategic plan for waste and this decision should be made in that context. Amey's track record is not reassuring. The company has been fined for pollution. Publicity about the proposal was virtually non-existent until a meeting was arranged by local councillors.

174. Dr John Webb<sup>129</sup> on behalf of Herts WithOut Waste gave examples of communities and small businesses engaged with local authorities to progress toward a circular economy of materials, where spare materials are valued and returned to use. The Government does not want incineration at any costs. The consequence of Government policy and commitments is that it can reasonably be expected that the WWRF, as a 'GHG factory' on an industrial scale, would be obsolete by the time it became operational. The environmental costs of the WWRF would be too high. A consequence of refusing this scheme might be something better than incineration.
175. Rev Norman Setchell Retired Army Chaplain and local resident was amazed that health considerations were not a factor in CCC's determination of the application given the emission of nano-particles and the proximity of WNT. The number of signatures on the petition against the proposal indicates the genuine fear and anxiety about the scheme. Traffic on the A10 was also of concern.
176. Barry Garwood<sup>130</sup> local resident notes that with the prevailing wind Burwell, Wicken, Reach, and the Swaffhams would be directly in line with the likely fall-out from WWRF's chimney, but there has been very little information about the proposal in this area. The building would be too tall to screen and with a plume from the chimney would dominate the skyline and alter the character of the landscape. The area is crossed by a number of lodes that are drainage ditches, some navigable, many with footpaths, raised above the surrounding land that are vantage points from which the WWRF would be visible. A prominent historic earth bank known as the Devil's Dyke provides panoramic views over the Fens to Ely Cathedral and beyond.<sup>131</sup>
177. Burning rubbish is not a sustainable solution, which cannot be dressed up as a green energy scheme. It would release all the carbon directly into the atmosphere, along with other pollutants including toxins and heavy metals. Landfill is not ideal, so the solution is to drastically reduce the waste produced and improving recycling. Burning waste would provide even less incentive for processing companies to recycle waste.

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<sup>129</sup> ID24.1-24.3.

<sup>130</sup> ID31.1.

<sup>131</sup> Locations are shown on ID59.

178. The land here is rich and fertile. But continuing to produce high levels of carbon emissions will precipitate further global warming and sea level rise that will eventually flood the country's best and most productive food production area. The land would become contaminated with toxins and heavy metals such as lead, mercury and cadmium that would settle on the Fens and enter the food chain, which results in a fear of physical harm. By continuing with waste burning incinerators humans are accelerating climate change and bringing about mass extinction.
179. The appellant's carbon assessment seems dubious. Treating carbon from biogenic sources as a neutral carbon burden is misleading. Burning wood would result in CO<sub>2</sub> being released, but if it decomposed some would remain in the ground. The same would apply for organic materials. If not burnt the carbon in plastic would remain locked up in a relatively stable material. The electricity that would be produced is assumed to offset gas-fired power station production. But with the move to RE the appellant's estimate of annual CO<sub>2</sub> offset from the export of electricity is an over-estimate. Also, waste is a much dirtier fuel than natural gas. There is no known demand for heat, and it is likely that heat produced would be largely wasted, directly warming the atmosphere. Concerning landfill, the calculation ignores biogenic carbon sources although these contribute to GHG emissions. This skews the calculation in favour of burning, when the reality is that burning emits twice as much biogenic carbon into the atmosphere compared with landfill.<sup>132</sup>
180. The carbon footprint of construction is not considered. The scheme provides for 129,500 tpa of waste to be diverted from other counties, with a maximum distance travelled of 150 km. This would be a long way to move waste. Transport would increase the carbon footprint considerably with the additional vehicles resulting in more congestion on the A10. The suggestion that the scheme would be good for the environment is greenwash, and efforts to tackle climate change cannot be reduced to a simple calculation of GHG emissions.
181. Jasmine Seamarks<sup>133</sup> local resident raised concerns about an incinerator so close to schools and the need for clean air. Building an incinerator would not be worth it if unclean air made people's existing health issues decline or meant that children had health problems at birth. The incinerator would need waste to burn for 30-40 years but it is much better to recycle than burn, and more people and companies are recycling and want to do more. For example, the Brownies at Waterbeach have collected thousands of crisp packets for recycling. Technology and skills are advancing and there are other options. After a recent Youth Climate March in Cambridge parents were challenged to do better. A giant incinerator would be a regret and a huge mistake.
182. If approved construction should not take place when event days take place at Denny Abbey and Farmland Museum. The existing environmental education centre should remain available during any construction period with

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<sup>132</sup> ID23.

<sup>133</sup> WR1(37) and ID32.1.



involvement of Cottenham and Waterbeach schools assisted by funding from the operator of the WWRF to promote recycling.<sup>134</sup>

183. Clare Cambridge<sup>135</sup> local resident considers that the proposed vast incinerator would turn the WWMP into an industrial township that would completely alter the character of this rural area. The additional traffic would increase the region's carbon footprint. The A10 is an attractive historic link between Cambridge and Ely with medieval Denny Abbey in between. Tourists would not bother to visit if a massive incinerator was what they would remember most about the area. Views of the chimney would extend over hundreds of miles of Fenland as well as from the A10 and the railway. Screening would not be possible.

184. Emissions would pollute the productive agricultural land. Given the past record, including litter, flies, odours and fires, there are concerns that the operator would be able to meet high standards consistently. The EA does not have the staff to monitor around the clock. Neighbouring land and ditches have been polluted. The WWRF would have a colossal carbon footprint, and once operational recycling initiatives would dwindle. Experience elsewhere is that incinerators have applied to expand once approved. A mistake in operating the incinerator could cause serious health hazards. Reference was made to *The Health Effects of Waste Incinerators* 4<sup>th</sup> report of the British Society for Ecological Medicine June 2008, which recommended that no further waste incinerators be built.<sup>136</sup>

185. Guinevere Glasfurd-Brown<sup>137</sup> local resident commented on the impact of the proposal on its Fenland setting and the Cam Washes. The WWMP already results in litter along the A10. No tree screen could hide the WWRF in this rural and farmed landscape. Ely Cathedral is a landmark in a beautiful open landscape that is currently uncrowded by industrial development. Sight lines from the American Cemetery in Cambridge have been protected. The scheme would introduce a massive industrial landmark and set a precedent for further speculative development affecting the vulnerable setting of Denny Abbey. Air quality in the area has been worsening since 2015 and the WWRF would be out of step with the Government's intention to tackle air pollution. Water supply is of concern in a stressed region, where flows in the River Cam are the lowest since 1949.

186. Andrew Ashworth<sup>138</sup> local resident contrasted the planning constraints on minor development imposed within nearby villages with the devastating impact of a structure with the scale and mass of the WWRF and 80 m high chimney which would dominate the surrounding Fens. Potential toxic emissions would increase the incidence of lung disease. PM<sub>2.5</sub> emissions would pose a long-term risk especially for the young. That this would be likely to affect existing residents is evident from their experience of odours/fumes from the existing WWMP and the fallout from a recent fire. An EfW plant would reduce recycling and more intelligent ways are needed to deal with waste.

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<sup>134</sup> ID32.2.

<sup>135</sup> WR1(32), WR2(9) and ID29.1.

<sup>136</sup> ID29.2.

<sup>137</sup> WR1(83) and ID36.

<sup>138</sup> WR1(12).

187. Damien Glasfurd-Brown local resident reiterated local concerns about landscape and heritage impacts, including the proximity to the entrance to Denny Abbey and effect on views of Ely Cathedral. Dismay was expressed that CCC had not given effects on public health as a reason for refusal. More weight should be given to public health, particularly for vulnerable receptors such as those with asthma.
188. Matthew Brown Superintendent of Cambridge American Cemetery referred to the cemetery's designation as a Grade I Registered Historic Park and Garden because of its special historic interest. Its location on the side of Madingley Hill offers extensive views northwards over the beautiful Cambridgeshire countryside towards Ely Cathedral some 22 km away. There is concern that the proposed WWRF would physically block views of the Cathedral and disrupt views from a critical site.
189. Susan Johnson local resident raised concerns about the health effects of the proposal, especially via the food chain, and because of the proximity of planned schools. Local residents did not know about the application, and the future residents of the 9,000 new homes planned are not able to speak against the scheme. The WWRF would draw waste from distant origins and would be contrary to measures to stop the use of plastic, and to reuse and recycle. Given that local water levels are the lowest since 1949, along with Extinction Rebellion raising the issue, the Government needs to rethink its approach to climate change.
190. Jamie Buchanan local resident and landscape architect considers that the WWRF would blight Denny Abbey and WNT. The scheme would impact on views from Cambridge American Cemetery because trees have been removed which expose the A14. In 30 to 40 years the proposed tree planting might screen the building but would never screen the stack. Furthermore, poplar trees are prone to being blown down by strong winds in the Fens, and so their longevity is questionable.
191. Paul Bearpark local resident appreciates the need to stop landfill, but questions whether it is better to pump pollutants into the air. The atmosphere is a thin layer and pollution will disturb its delicate balance. Changes are only noticed many years after people have been affected. EfW is an experiment with young children that is morally unconscionable. It also encourages the wrong behaviour by offering an easy way to dispose of waste with no incentive to reduce and recycle. Consumption should be discouraged. The A10 is already dangerous for cyclists. The WWRF would have an effect from any slightly elevated views in the flat Fens.
192. Ros Hathorn <sup>139</sup> local resident and speaking on behalf of Extinction Rebellion Cambridge Ely and East Cambs raised issues about climate change where Parliament has declared a Climate Emergency. The WWRF business model of burning waste and pumping out CO<sub>2</sub> over 30 years is absurd. It would contribute to global warming and render parts of Cambridgeshire uninhabitable due to sea level rise. Incineration is the wrong choice where the UK has committed to carbon neutrality by 2050. A business as usual approach cannot continue and there must be changes in how we live. Massively reducing

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<sup>139</sup> ID35.1.



household waste is not impossible. People's waste habits are changing. Waste should be dealt with locally, whereas the WWRF would burn waste from 11 other counties. There would be no motivation to recycle. The science is clear that incineration generates energy but emits GHG and dangerous pollutants. There are many alternative clean sources of RE. Burning waste that could be recycled is a waste of resources and a better model is needed.

193. Ellie Crane<sup>140</sup> local resident questioned assumptions in the appellant's carbon assessment, which conclude that there would be a climate benefit under all scenarios, increasing it if the WWRF exported heat as well as electricity. But this is based on the assumption that CO<sub>2</sub> emissions from biogenic waste are climate change neutral. This approach is logically flawed. CO<sub>2</sub> fluxes should be accounted for at each stage of the process. The carbon emitted during incineration should be counted fully. In comparisons with landfill the timing of emissions should take account of long-term carbon storage when rates of decay are low. When all carbon emissions are fully accounted for EfW has a higher carbon per unit of energy produced when compared with fossil fuel – let alone genuinely RE such as wind power. The carbon intensity for electricity generation of the WWRF would be 0.5 tCO<sub>2</sub>e/MWh. BEIS states that the carbon intensity of a typical CCGT is 0.34 kgCO<sub>2</sub>e/kWh and so the WWRF would be more carbon intensive.
194. The carbon costs of the treatment and disposal of IBA and air pollution control residues should have been taken into account as part of a complete lifestyle analysis. Variant 1 of the appellant's analysis considers a reduction in food waste, Variant 2 a reduction in plastics, with top-up waste increased to compensate. But what would the effect be if both reduced and top-up waste came from more distant sources? It is not clear whether fugitive emissions from HCVs have been included in the analysis.
195. Lucy Frazer<sup>141</sup> Conservative candidate for MP maintains objection to the proposal as raised in representations at both the application and appeal stages. Complaints raised about the scheme concern its size and scale, impact on the landscape, and traffic on the A10 which is already at capacity. The appellant does not argue against the conclusion that the WWRF would have a significant adverse impact on both the landscape and the Denny Abbey heritage site, but rather that the CCC has not correctly balanced this against the public benefit of the development. But a local decision was made by local councillors who know and live in the area and who did carry out a balancing exercise. The benefits of the scheme do not outweigh the significant adverse effects on the landscape and heritage assets. Furthermore, CCC's Waste Needs Assessment January 2019 concluded that there is sufficient waste management capacity within Cambridgeshire and Peterborough with respect to preparing waste for reuse and recycling (including composting), other recovery/treatment and disposal to non-hazardous landfill.
196. Pippa Heylings<sup>142</sup> Liberal Democrat candidate for MP opposed the scheme because it is unsuited to the transition to a zero-carbon society under the

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<sup>140</sup> WR1(65), WR2(15) and ID26.1 and ID26.2.

<sup>141</sup> WR1(26) and CD9.30.

<sup>142</sup> ID13.1.

Climate Change Act. The scale of the WWRF would require waste to be continuously brought from other parts of the country. This is unsustainable, especially given the existing stress on the transport network. The detrimental effect on air quality is a health concern. Incineration releases toxic chemicals, including carcinogens and particulates that cause respiratory disease. A note from David Drew (MP for Stroud) is entitled "Our investigation reveals the need for much tighter regulation of incinerators".<sup>143</sup> Operators are required to comply with standards that many public health professionals believe to be unsafe, and laws are poorly enforced.

197. CCC rejected the proposal on landscape and heritage grounds as matters which current planning laws give the strongest grounds for refusal. It seems ridiculous that concerns about well-being and the wishes of local communities, air pollution, and corporate conduct play second fiddle to heritage protection. Cambridgeshire has a serious waste problem, but a large scale commercially driven incinerator at Waterbeach is not the answer. Alternative sustainable solutions, including smaller more sensitive incineration schemes, should be considered. Some experts say that if recycling rates reached 65% then Britain already has all the incinerators it needs.
198. Colin Stroud<sup>144</sup> local resident referred to experience with the effects of incineration from opposing a cement plant. By continuing with incineration, the Government is denying the chance to reform and reduce single use plastic. The WWRF would be emitting CO<sub>2</sub> and pollutants after 2040. Public pressure will eventually force future governments to act. The plant may become environmentally and commercially unacceptable. In the long term this plant could be prematurely shutdown as such forces take place in the market. Small particles cause health degradation, especially in children. In addition to steady, long term toxic emissions, the plant would periodically pollute the countryside unintentionally during failures of combustion leading to periods of heavy pollution. No amount of incineration is environmentally friendly, and a steady supply of plastic refuse is not a sustainable resource.
199. John Cattermole<sup>145</sup> Headteacher Waterbeach opposes the scheme because of the many environmental risks. Amey has a worrying track record for safety and a history of non-compliance, so could not be trusted to run the proposed incinerator in a safe and responsible manner. The huge WWRF would tower over the surrounding area, blighting sight lines and views of Ely Cathedral, causing light and noise pollution, as well as impacting on the historical worth and interest of Denny Abbey. Recycling rates in East and South Cambs have fallen since 2015/16, and there would be no incentive to improve recycling if the WWRF was built.
200. The WWRF would be close to four planned primary schools and one secondary school. There is concern about children's health from particle emissions, particularly PM<sub>2.5</sub>. Reference was made to UNICEF's *Healthy air for every child: A call for national action* in this regard, and the rights of young people to a healthy future.

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<sup>143</sup> ID13.2.

<sup>144</sup> ID44.

<sup>145</sup> WR1(70), WR2(10) and ID37.

201. Mary Shemilt<sup>146</sup> local resident was advised at the application stage that her main concern about the continuous release of toxic micro-particles was not a planning consideration. It is hard to visualise a building bigger than Ely Cathedral. The shocking scale of the WWRF only became apparent when the computer-generated images of the WWRF were presented. The images did not include the plume. This massive and incongruous industrial monument should not be superimposed onto the unique rural Fen landscape with its uninterrupted skies and flat expanse of fields and ditches.
202. Andrew Snelson local resident objected on three grounds. (1) EfW means that it is not necessary to think about resource consumption and better use of materials. (2) The landscape impact of the stack would be appalling. (3) Air quality concerns and the quality of life for vulnerable people. EP standards do not cover all PM of concern. Standards may change over time and therefore the long-term impact of the scheme is unknown. There is no confidence in the EA ensuring compliance. The EA has been unable to deal with the odour problem from WWMP, which is a minor nuisance compared with far more serious concerns regarding an EfW plant. The EA's ability to regulate has been affected by austerity and compromised its ability to fulfil its function. For example, a water company was fined £126 m. Enforcement by the EA for five years failed to ensure that the sewage treatment works operated correctly. Therefore, the EA cannot be relied upon.
203. Alex Biddle<sup>147</sup> local resident said that Cambridge's 'silicon fen' is a world-competitive success story contributing £2.4 billion to the UK's economy. Growth in this area depends upon attracting highly skilled staff. This would be jeopardised by the WWRF with its plume next to CRP. It would replace Ely Cathedral as the dominant feature in the skyline. It would also spoil the location of Denny Abbey. It would be a major mistake to make the dominant feature of the Fens an industrial waste incinerator that would deter the people who could grow the local economy from settling in the area.
204. Cottenham Parish Council<sup>148</sup> objects to the proposal on three grounds. The scale and mass of the building in this open and flat countryside would have considerable visual impact, especially the chimney relative to Denny Abbey. Large volumes of waste imported from other areas and the export of IBA would add to congestion and pollution. If the A10 was blocked HCVs would enter and leave the site via unacceptable routes through Cottenham.
205. But most worrying to residents are the health and environmental impact of the WWRF. Sufficient evidence has not been submitted to show that the impacts of this technology are either within acceptable limits or could be mitigated. The EA is unable to say categorically that there would be no ill effects. PHE's report is vague and suggests that some of the nano-particles cannot be trapped. The odours from WWMP that Cottenham currently experience lead residents to question whether the WWRF would lead to more damaging air pollution, which could not be detected by smell.

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<sup>146</sup> WR1(19) and WR2(8).

<sup>147</sup> ID28.

<sup>148</sup> WR1(40), CD9.31, CD9.30, CD11.13 and ID45.

206. The amount of waste coming from outside Cambridgeshire should be capped at 30%. An EP should provide for continuous, publicly accessible and real-time monitoring. Routing and timing agreements would be necessary to ensure that no traffic came through Cottenham. The existing WWMP liaison group should be improved with wider input from external bodies representing the interests of local residents.
207. Jude Sutton<sup>149</sup> local resident and health professional is concerned about the implications of the scheme during its construction and operational phases. The appellant relies on PHE's advice. But over time statements can be revised and can be wrong, for example regarding the safety of lead and asbestos. There is particular concern about lasting damage to new-borns and their families from placental transfer of incinerator toxins. Although emissions are governed by regulations public concern remains around potential impact on public health and scientific studies are inconsistent or inconclusive. No filter technology traps 100% of fine particle emissions and not all monitoring is continuous.
208. Living close to an incinerator is associated with an increase in risk of some birth defects compared to the general population. All pollutants are additive and there are already excessive background levels in the environment. For dioxins and heavy metals there is no safe limit. The effects of the WWRF would not be negligible, even if numbers would be low babies and their families would be impacted. The development would deliver negative health outcomes and the risk cannot be mitigated. The precautionary principle should apply. Public concern is not irrational, as is indicated by a recent Government response to an investigation led by David Drew MP. Incinerator operators are now required to report PM<sub>2.5</sub> emissions, but discussions are continuing about the effects of PM<sub>0.1</sub> and PM<sub>1</sub>. The Secretary of State will want to understand this research when it is published.
209. In terms of the type of waste that would be burnt the appellant confirmed that it would include nappies and sanitary waste. But only clinical or specialist waste incinerators are permitted to burn human hygiene waste or sewage sludge. Other solutions are possible to recycle such waste and to divert it from landfill. Very careful conditions would need to be imposed to prevent such feedstock if the WWRF were to be permitted.
210. Stack height is an issue here because of the flat Fenland landscape which means that airborne particles suspend in the air longer and fall quicker than areas that have faster moving microclimates. The EA has yet to consider appropriate stack design here.
211. Cambridge Without Incineration (CBWIN)<sup>150</sup> is a non-political community group who came together to raise awareness of, and object to, the WWRF. CBWIN is concerned about the significant and long-term harm an incinerator in this area would cause to landscape, heritage, visual amenity, community, air pollution, environment, ecology, traffic and noise. This harm would not be outweighed by any benefits. The WWRF is not a sustainable, preferred or innovative solution to waste management in Cambridgeshire.

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<sup>149</sup> WR1(67), WR2(3) and ID43.

<sup>150</sup> WR1(91), WR2(1) and ID57.1.

212. Landscape and visual: CBWIN engaged Michelle Bolger Expert Landscape Consultancy (MBC) to review the landscape and visual effects of the WWRF. A review of the LVIA submitted with the application concluded that it underestimated the landscape and visual impacts of the development for the following reasons: restricted study area, failure to identify the importance of skyline views, failure to include a ZTV, viewpoint selection, photomontage selection and under-representation of scale in photomontages, and the lack of winter view photomontages.<sup>151</sup>
213. This review concluded that the sensitivity of the surrounding landscape to the proposed development is medium-high. The magnitude of change would be large and the nature of the change adverse. The overall effect on the landscape would be moderate/major adverse and would be experienced across a wider geographical area (particularly up to the Haddenham Ridge) than identified in either the appellant's assessment or TLP's review for CCC. In terms of its visual amenity effects, MBC's review concluded that the WWRF would have a significant impact on a number of visual receptors both within the immediate context of the site, such as Denny Abbey, and on more distant, elevated locations such as Haddenham Ridge. Significant visual effects would not be localised. They would occur across a much wider area than suggested in the appellant's assessment, including up to and over 6 km from the site, due to the degree of contrast of the scheme in relation to its form, scale, relative to its visual context, and the sensitivity of the audiences affected.
214. MBC's review of the appeal evidence added that the WWRF would create a new industrial 'landmark' to the Fenlands by reason of its vertical prominence in the context of a mostly flat, horizontal and low-lying landscape.<sup>152</sup> Smoke plumes would mean that the new landmark would 'read' unmistakably as an industrial addition to the view in the wider low-lying agricultural landscape. At MVP15 and FVP10 over 6 km away the WWRF would be seen above the skyline, disrupting the otherwise characteristically large open skies.
215. The ZTV submitted illustrates a significant spread of visibility even accounting for surface features such as vegetation. The proposed stack would be visible from numerous locations up to 10 km from the site, which is the limit of the ZTV, and across an area of up to over 100 km<sup>2</sup>. It would be visible from over half of the PRoW network within a 3 km radius of the site, and 113 km of PRoW across the wider landscape. The size of the building, which would dwarf nearby buildings, some of which are large in horizontal scale but sit low in the landscape, could not be mitigated by existing vegetation, design or perimeter planting. Intervening vegetation would not mitigate the extent to which the WWRF would stand out because of an effect of 'perspective'. A true sense of scale and depth cannot be appreciated from photographs. In reality, viewers at for example MVP10 would be clearly able to distinguish an exceptionally large building in the distance from smaller scale intervening vegetation. The locational choice, scale and design would cause permanent and severe harm to the landscape character of the area. The appellant's assessment, which does not include any winter photographs, conflicts with three other landscape

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<sup>151</sup> Michelle Bolger's review is the first appendix in WR1(91) and CD20.11.

<sup>152</sup> WR2(1) appendix dated 21 October 2019.



architects (MBC, TLP and Mark Flatman) who consider that the proposal would have a much greater degree of harm.

216. In response to the appellant's rebuttal evidence MBC noted that this focused on technical details and did not address the main issue, which is the extensiveness of the development's visibility overall, and the incongruity of such an extensively visible industrial feature with local and wider landscape character. For example, MVP15 FVP10 is shown as having a low subtended angle score on rebuttal Figure 3i, but in fact is a location where a large part of the building would be visible and appear particularly incongruous within its context. The ZTVs allow for vegetation but cannot account for views 'through' vegetation in wintertime.<sup>153</sup>
217. CBWIN considers that the WWRF would diminish the understanding and appreciation of Ely Cathedral as a Fenland asset when viewed from various high points around Cambridge, including the American Cemetery. Colour photographs of views towards the appeal site from the cemetery are included at WR1(90).
218. Heritage: The proposal would result in significant harm to the character and setting of Denny Abbey. Scope for mitigation is limited to tree planting, but this would not offset the harmful competition that an industrial incinerator would introduce and the damage it would cause to views. There are no native species that would grow to 40 m high and linear tree walls are alien in the local landscape. The severe harm to heritage assets would not be offset by the stated benefit of constructing the facility.<sup>154</sup>
219. Planning policy: The appellant's balance of 'public good' versus 'harm' justifying the WWRF does not stand up to scrutiny. The eMWLP concludes that there is no need for the development of new waste management facilities in the county for the duration of the plan. Whereas national landscape and cultural heritage policy remains unchanged. The impact on these matters remains severely and significantly harmful.
220. Waste management: The direction of legislation and policy is to minimise plastics in the waste stream. This will reduce the viability of small EfW incinerators that will have an impact within the lifetime of the WWRF. Defra consulted widely in 2018/19 on bringing in consistency for the collection and treatment of waste, with the objective of introducing further measures in 2023. The implications for the calorific value of waste are known by the industry and should have been included in a viability analysis. Specific commitments were made in the Government's 2018 document *Our Waste, Our Resources: A Strategy for England* for the elimination of single-use plastics and upgrading the technology for recovery of plastic materials, and for investing in new chemical plastic recovery technology. Industry has made supporting commitments to the elimination of plastic waste. The Chartered Institute for Wastes Management, of which the appellant is an associated company, supports a major reduction in plastic waste. CBWIN endorses the submission by Andrew Whitaker in this regard.

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<sup>153</sup> WR2(1) appendix dated 28 October 2019.

<sup>154</sup> ID57.3.

221. Pollution: The development would create very real harm for the climate and as a result, living organisms, from pollution. Polluted air and increasing levels of PM<sub>2.5</sub> are directly linked to negative health outcomes, such as irreversible damage to lungs, bones, brains, heart and skin, with the most vulnerable groups being unborn babies, infants, children and adults with chronic conditions or impaired immunity. Thousands of people in these vulnerable groups would be exposed to pollution from the WWRF. The appellant's health impact assessment contradicts numerous reports by leading health experts and authorities. WR2(1) includes a transcript of audio recorded at a public meeting held in March 2018 organised by local residents at which Richard Burton, an independent environment consultant, made a presentation which included comment on the frequency and effectiveness of emissions monitoring, EA regulation of facilities and the weakness of the legal regime.
222. CBWIN in WR2(1) cited a 2018 study concerning an incinerator in the Netherlands which concluded that dioxin emissions were underestimated and exceeded limits. It called for pre-announced controls to be replaced by appropriate long-term and continuous sampling. The results suggested incomplete combustion probably caused by insufficient homogeneous temperatures and oxygen levels in the after-combustion zone, which should be monitored on-line and enforced, along with improper use of bypasses. The study also found that dioxin emissions during transient stages of start-up and shutdown exceeded annual emissions during steady state, and so all dioxin emissions should be taken into account, not only during steady state operation.
223. EU Air Quality Directive 2008/50/EC states that "Fine particulate matter (PM<sub>2.5</sub>) is responsible for significant negative impacts on human health. Further, there is yet no identifiable threshold below which PM<sub>2.5</sub> would not pose a risk." Health impacts are a material consideration in planning decisions. Living closer to an incinerator is associated with an increase in the risk of some birth defects. The potential for harm cannot be mitigated when scientific studies into the health effects of municipal incinerators to date have concluded that it is not possible to exclude a potential causal effect. The Chief Medical Officer for the NHS issued a report in 2017 which considered the threat from air pollution and called for better measurements, more communication, research and reductions in pollution. The Government's Environment Bill seeks to introduce PM<sub>2.5</sub> legislation by 2022. The perception of harm to air quality is real and public concerns rational. People will not know what is being burnt and the WWRF would be a constant and great source of anxiety for local people.
224. SCDC reports conclude worsening air quality along the A10. CCC has a duty to work with local communities to reduce air pollution. WRAP says that ideally incinerators should not be located within proximity to residential properties, schools or colleges. The WNT would be downwind of the proposed WWRF with primary schools within 800 m, and a total of nine schools within two miles. The Secretary of State should consider David Drew MP's research when it is published.
225. There is a duty of care to preserve the unique soils of the area and to ensure that they are not degraded. Increases in air and water pollution and the demands on water resources are recognised as being in crisis and collectively harm wildlife through contamination and soil erosion. There is concern about the potential build up in the soils from deposition of highly toxic dioxins and



heavy metals such as cadmium and nickel in what is a horticultural crop-growing area. The WWRF is or should be a Control of Major Accidents and Hazards (COMAH) site and the Health and Safety Executive consulted.

226. Energy: The appellant's claim that 58.65% of the waste would be 'biocarbons' and so 58.65% of the electricity generated would be RE is wrong. The energy derived from the WWRF would depend upon the calorific value of the feedstock. The incineration of fossil fuel derived plastic can be expected to give rise to nearly five times the energy of that arising from the incineration of food waste. In the absence of details about the calorific value of the feedstock the appellant's RE claims should be given no weight in the planning balance.
227. The NPPF defines low carbon technologies as those that can help reduce emissions (compared to conventional use of fossil fuels). If the conventional use of fossil fuel is taken to refer to CCGT with a carbon intensity of around 0.34 kgCO<sub>2e</sub>/kWh, the WWRF's carbon intensity of between 0.487 and 0.509 kgCO<sub>2e</sub>/kWh based on the appellant's third carbon budget indicates that the scheme would hamper decarbonisation.
228. Climate change: Only Solutions, an environmental consultancy on behalf of CBWIN, concluded that rather than helping to reduce emissions compared to the conventional use of fossil fuels, the WWRF would actually hamper decarbonisation by releasing more CO<sub>2</sub> per unit of electricity than would be released by the conventional use of fossil fuels. This was reiterated in Only Solutions' comments on the appellant's proofs and carbon budget with respect to climate change.<sup>155</sup> This refers to United Kingdom Without Incineration Network's (UKWIN) February 2018 written submission.<sup>156</sup> UKWIN explained that whilst the appellant assumes that half of the biogenic carbon is sequestered in landfill and reduces the assumed quantity of methane released accordingly, the appellant fails to follow best practice by neither crediting landfill with 'negative emissions' for the biogenic sequestered material, nor by including the additional release of this biogenic carbon on the incineration side of the equation.
229. UKWIN/CBWIN argue that a correction should be applied for all the biogenic carbon sequestered in landfill, and that Defra supports this approach.<sup>157</sup> The 2006 IPCC *Guidelines for National Greenhouse Gas Inventories* acknowledges that some carbon will be stored over long time periods in landfill and that wood and paper decay very slowly and accumulate as long-term storage. Even if the appellant's other figures are correct and account is taken of methane released from landfill, then with proper consideration of the sequestration of biogenic carbon in landfill, the WWRF would give rise to between 11,393 and 28,336 tonnes of CO<sub>2e</sub> per year more than would arise from sending the same waste to landfill. The WWRF would have a net adverse climate change impact relative to landfill. This would be even worse if the correct grid displacement factor was applied, which is the long-run marginal emissions factor based on BEIS guidance. UKWIN applied a

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<sup>155</sup> WR2(1) October 2019.

<sup>156</sup> WR1(87).

<sup>157</sup> CD17.33 paragraph 42 states that potentially up to half of the biogenic carbon is sequestered in landfill, and paragraph 44 notes that not all biogenic material breaks down in landfill.

Grid Displacement Factor of 0.281 kgCO<sub>2e</sub>/kWh on the basis of the expectation that if approved the WWRF would be operational in 2019, but as this is now considered to be 2022, a factor of 0.246 kgCO<sub>2e</sub>/kWh should apply. So, the appellant's sensitivity analysis using a factor of 0.28 is already overly optimistic.

230. The relative net carbon impact of the WWRF would depend on the composition of feedstock. The appellant's carbon budget is based on 'default emissions factors' for methane. UKWIN raised concerns about a reduction in methane emissions from CLO feedstock resulting from bio-stabilisation via the WWMBT process, and queried the extent to which other waste streams would biodegrade in landfill, such as waste wood and oversized garden waste. Both the emissions of methane from landfill could be significantly lower, and CO<sub>2</sub> emissions from incineration could be relatively higher, than assumed by the appellant.
231. Noise: The appellant has not provided robust noise predictions for nearby existing residential and commercial areas, or for areas committed for new development, including homes and schools.
232. Cumulative impact: The appellant's evidence and the ES does not accurately reflect the cumulative environmental, hydrological and ecological impacts of major development schemes proposed in the locality. The ES also needs to assess the impact on Cam Washes SSSI and the UNESCO Fenland Biosphere project. The Cam Valley Forum, guardian of the River Cam, has given notice of a water crisis in Cambridge. The WWRF has great potential to worsen that crisis through its demand for water.
233. Traffic: Surveys were conducted on days that did not reflect typical road network capacities, and safety assessments did not factor in accident black spots on the A10 Ely to Cambridge corridor. The appellant's traffic assessment does not reflect the cap of 571,000 tpa for the WWMP as set out in the section 106 agreement. No predictions have been provided to demonstrate the cumulative impact on air quality of additional HCVs over the long-term operation of the WWRF with other development in the area, or from vehicles exporting IBA and fly ash for the site.
234. Community engagement: The appellant has undermined the community's right to information, and to fair and proper consultation. Further details about CBWIN's concerns are set out in WR1(90).
235. Energy and need: The latest Waste Need Assessment by CCC shows that there is no need for the facility. This is reflected in the eMWLP. The appellant would need to import waste from 11 plus counties and via many commercial contracts to ensure the economic viability of the scheme. There is no commitment to taking Cambridgeshire's waste first, which is not in keeping with guidance that authorities should be self-sufficient in waste management. The proposal lacks detail about the heat offtake pipe, and it has now come to light that the promise of heat is no longer a reality.
236. The harm is even more significant than when CCC determined the application and the benefits are further reduced. A national infrastructure project has been announced for a 300,000 tpa waste incinerator in Cambridgeshire at Wisbech. There are better alternatives to burning waste,

but at least the Wisbech scheme would be on an industrial park, where there have been discussions about heat offtake and electricity connection. Incineration is the least sustainable and most environmentally damaging EfW option, which sits at the bottom of EU Waste Management Directive EfW hierarchy.

237. Co-location: The possibility that the WWRF, if permitted, could be in different ownership to the WWMP, and so managed and operated separately, raises uncertainty about commitments made by Amey regarding transport, section 106 funding, waste arising relationships, waste origins and volumes, emissions and associated impact predictions. If the proposal is approved conditions should cover the risk of financial uncertainty and co-location if multiple companies were to run the WWMP.
238. Operator: Amey has a proven poor operator performance track record and should not be permitted to build and run a hugely controversial and dangerous plant, especially when questions remain about the economic viability of the proposal. This is a great worry for local people who live with daily smells, noise and regular serious fire outbreaks.
239. Should planning permission be granted CBWIN suggested conditions to require and maintain effective tree screening, along with controls on vehicle movements and a mechanism for removal of structures and beneficial use of the site when the facility was decommissioned. A limit of 30% of waste treated at the WWRF should be set for commercial waste from outside Cambridgeshire. CBWIN thought that a limit of 250,000 tpa should be applied and that any extension of the operation beyond this limit should be reviewed by the responsible planning authorities before further permission was granted. Revisions to the Waterbeach Community Liaison Group were suggested, as were provisions for monitoring impacts and providing for use of heat. A contribution to a Community Environmental Sustainability Fund was considered necessary as well as an education plan. CBWIN also requested that the appellant be required to develop an anaerobic digester and state of the art recycling centre prior to building an incinerator.
240. Alternatives and Conclusion: Incineration of waste is unsustainable. It requires a constant supply of feedstock, the type of which is being actively reduced through legislation and policy. It creates demand for high calorific plastics that are currently difficult to treat. But innovative technologies are emerging to recycle such plastics in a circular economy. Temporary landfill storing with gas energy capture and landfill mining for recycling is greener and generates more jobs. Alternative solutions are more profitable and would help CCC to meet its landfill allowance schemes, reduce landfill taxation, lower its carbon footprint, along with creating more jobs and less pollution. They would enable the county to move faster towards a circular economy and become self-sufficient in waste management so reducing traffic movements. Alternatives would be cheaper, more flexible, quicker to implement and best for the environment. CBWIN strongly endorses CCC's refusal. The proposed development is the wrong solution in the wrong place.

241. Jane Coston <sup>158</sup> local resident opposes the development because of its landscape impact and because it would dwarf Ely Cathedral, which is lit up on a hill and seen for miles around in all directions. It would be a blight on the approach to Cambridge and ruin the setting of Denny Abbey. An appeal against refusal of a country club in this area was dismissed with the Inspector commenting that it would be harmful to the rural character and appearance of the area. It remains a compelling reason to dismiss the current appeal. The proposed country club was also considered to be a safety risk from additional traffic on the A10.
242. Operators of the WWMP seem to put care for local people at the bottom of the list. An awful stench has affected a wide area around the site, but has vastly reduced in recent months when the planning application was being considered. Whatever regulations are in place they seem to get broken and the public ends up suffering. It is sad that by allowing gravel to be extracted here years ago this inadvertently paved the way for the WWMP and the current proposed incinerator at Levitt's Field. The electricity generated does not have to be produced at Waterbeach, especially if waste was imported from other areas.
243. If incinerators are to be built the location should be chosen and not put in place where speculators think they have a lever to try to make a case for a particular site. Many people would have objected to the allocation in the MWSSP if they were aware that it would result in a scheme of this enormous size. On a visit to the Suffolk incinerator it appeared to be operating fine, but rubbish was tipped from HCVs unchecked. The hot water produced there was not used by nearby houses because it was not needed all year round. There are no firm proposals to use the heat at Waterbeach. If the appeal scheme is permitted a condition should require the heat to be used by something like a swimming pool. Otherwise this benefit should be disregarded.
244. A proposal for an incinerator at Wisbech was announced in November 2019. This is a NSIP that if approved could take all the waste from this area.
245. The effects on health of PM<sub>2.5</sub> are well documented and not disputed. Official monitoring of emissions is inadequate. Concerns about emissions must be taken seriously, it is a worry for local people that would be exacerbated by the size of the WWRF. People have no choice but to live in the area and to live with the constant stress of whether children would be affected, given the proximity of schools and the visibility of the plume.
246. Incineration inevitably burns non-renewable resources as not everyone is careful when sorting their waste. But with more encouragement less waste will be produced and so the operators of the WWRF would have to import waste from more distant sources.

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<sup>158</sup> WR1(66) and ID53.

## The case for the appellant (Amey)

The following summary of the appellant's case broadly follows Amey's closing submissions to the Inquiry, with additional reference where necessary to the evidence adduced.<sup>159</sup>

### *Introduction*

247. In summary, the proposal is in accordance with the development plan read as a whole and there are no other material considerations which indicate that planning permission should not be granted. In the alternative, if the proposal is not in accordance with the development plan read as a whole, there are other material considerations, namely (a) that the tilted balance in paragraph 11(d) of the NPPF applies because the development plan policies which are most important for determining the appeal are out-of-date, in that they are inconsistent with the NPPF; and (b) in any event, the significant benefits of the proposal which indicate that planning permission should be granted.

### *Description of the development*

248. In the event that the Secretary of State decides to grant permission, in order to avoid the issues arising that occurred recently in *Finney v Welsh Ministers*, Amey requests that the description in any permission be expressed to remove matters otherwise regulated by conditions.<sup>160</sup> In the modified description the reference to treating up to 250,000 tonnes of residual waste per annum goes into condition.

249. This was not raised in opening because *Finney* was handed down on the first day, but after the start, of the Inquiry. This amendment would have no effect on the EIA or assessments as they have been undertaken on the basis of 250,000 tpa of residual waste, which would be secured by condition. As to the suggestion by CCC that this runs a coach and horses through requirements to publicise the application and to describe the development is no more than hyperbole. The proposed wording does not change the proposed development, all it would do is move the throughput restriction into a condition.

250. CCC refers to the reformulation of *Wheatcroft* in *Holborn Studios*. In that case there were two issues (1) was the change to the development significant, such that it was no longer the development sought, and (2) whether there was a breach of procedural fairness because those entitled to be consulted were not consulted. First, here there is no change to the development. Secondly as to fairness, since the development does not change it cannot deny those who were consulted an opportunity to comment on it.

251. In *R. (Broad) v Rochford DC*, *Holborn Studios* was cited, and criticised, but the criticism was rejected.<sup>161</sup> *Broad* deals in a little more detail with the issue of procedural fairness. It follows *Holborn Studios* and pulls together the

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<sup>159</sup> ID1 and ID66.1.

<sup>160</sup> In *Finney v. Welsh Ministers* [2019] EWCA Civ 1868 the Court of Appeal held that it was not lawful to vary a condition under section 73 TCPA 1990 if that point also appears in the description of the development.

<sup>161</sup> *R. (Broad) v Rochford DC* [2019] EWHC 628 (Admin).



principles on loss of fairness and prejudice because there is no consultation. *Holborn Studios* confirms that in the absence of material prejudice, there is no unfairness. *Broad* considers Dove J's judgment in *Keep Wythenshawe Special* at [55] which confirms that to justify unfairness, the change to the development has to be of a "very high order". In *Broad*, the changes did not give rise to substantial prejudice as the relevant general issues had been raised by objectors with the local planning authority. So, the mere fact that there is a change is insufficient in itself to create unfairness.

252. There can be no unfairness here because all Amey has done is proposed to move the description of the throughput into a condition and there is no change to the development at all. CCC's submissions are misconceived because they proceed on the basis that there is a change to the development. Therefore, Amey submits that it is open to the Secretary of State to make this change.

*The correct starting point*

253. The two primary issues between Amey and CCC must be approached from the correct starting point, both as a matter of policy and law. For policy this is the allocation in MWSSP W1K. The WWRF falls squarely within the scope of the W1K allocation. The allocation describes the "proposed use" as "waste recycling and recovery" and potential uses, within that category, as including "Energy from Waste". It is clear in both the MWCS and the MWSSP that "Energy from Waste" includes incineration – the precise same technology as the WWRF.<sup>162</sup> EfW is one of the acceptable uses within the scope of the allocation. The fact that the allocation may include other uses does not obviate or in any way lessen the inclusion of EfW (and incineration technology specifically). Incineration based EfW was not considered inappropriate nor was it considered necessary to limit its provision by reference to plant height or capacity.

254. Further, failures to grasp the significance of the allocation and the baseline of acceptability in principle which it sets include: Reliance on the phrase "potential" in the list of acceptable uses which overlooks the fact that it does not detract from acceptability; "potential" merely reflects the flexibility intended by the plans. The MWCS makes clear, "potential" does not detract from acceptability or allocation in the MWSSP.<sup>163</sup> It has no greater significance since it is used to introduce most of the waste allocations in the MWSSP.<sup>164</sup> The allocation gives specific support for the use and technology proposed by the WWRF and the reference to "potential" does not and indeed cannot detract from the acceptance that it is acceptable in principle.

255. A facility of the same scale and massing as the WWRF would be within the scope of the allocation. The potential uses which are included are those uses which CCC, in its adoption of the MWSSP, considers to be acceptable in principle. The WasteSPD was adopted at the same time as the MWCS (and

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<sup>162</sup> CD17.3 at paragraph 7.13 (third bullet).

<sup>163</sup> CD17.3 at paragraph 7.22 and CD17.4 at paragraph 4.9, both of which described the "flexibility of potential uses".

<sup>164</sup> W1A to W1G; W1K; W1O; W1P; W1W to W1Z, W1AA and W1AD.

before the MWSSP).<sup>165</sup> The two plans and the draft SPD were brought forward at the same time and initially advanced together, but the MWCS went to examination first and was adopted first, and the WasteSPD was adopted at the same time. So, there is no doubt that the WasteSPD was part of the consultation and there is no doubt what CCC understood it was considering. Further, the WasteSPD expressly states it “has been prepared to guide the design and location for the [sic.] waste management facilities in Cambridgeshire and Peterborough to ensure high quality and to demonstrate how these facilities can be developed in both urban and rural settings”.<sup>166</sup>

256. When describing different technologies as being acceptable for a particular allocation in the MWSSP, CCC were describing technologies whose characteristics were as described in the WasteSPD; and that the selection of sites within the MWSSP was informed by the WasteSPD, which gives specific consideration to EfW and descriptions, all of which are consistent with the WWRF. The illustrative use of the Lakeside EfW (with a building height of 42 m and a stack height of 75 m) is consistent with these descriptions and is of the same broad size and scale as the WWRF. The smaller plants referred to by CCC are not representative of the modern type of EfW that were considered in the WasteSPD.
257. The allocation was the product of a plan making process which (1) expressly excluded sites for EfW on the basis of landscape and visual impact (see for example Dogsthorpe), (2) expressly noted unacceptable uses on the allocation<sup>167</sup> and (3) expressly noted particular implementation issues, including landscape and visual constraints<sup>168</sup>. Importantly, the W1K allocation was not excluded on the basis of landscape and visual impact and it was not even considered necessary to note a particular landscape and visual implementation issue. There is no reason why a specific height and/or capacity limitation could not have been included as an implementation issue for the allocation if it was felt necessary. The selection of sites was informed by the WasteSPD and it is fair to conclude that the allocation was preferred on the basis that it was a less environmentally sensitive location than the sites which were assessed but excluded during the preparation of the MWSSP.
258. CCC references to Donarbon’s 9 years old scoping opinion are of little relevance. Insofar as this illustrates that a different type of development could come forward on Levitt’s Fields which individually would be smaller than the WWRF (noting the fact that the biomass plant left the majority of Levitt’s Field open for further development) this does not alter the fact that the allocation equally includes an EfW development of the same nature as the WWRF. Further, whilst it might be the case that Donarbon’s proposal would have resulted in lesser landscape and visual effects, this does not mean that the landscape and visual effects of the WWRF are not acceptable – particularly given that Donarbon’s proposal would not have been without impact with its stacks taller than the trees on the site. The acceptability of the WWRF is not

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<sup>165</sup> ID56.

<sup>166</sup> CD17.45 paragraph 1.2.

<sup>167</sup> See the reference to windrow composting being unacceptable in paragraph 8.24.

<sup>168</sup> See for example W1A Alconbury, W1AD Warboy’s Industrial Estate, W6A Ely Waste Water Treatment works, M7C New Barns Farm and W1D Brookfield Business Park.



linked to a comparison with the Donarbon proposal. It is not an alternative for the WWRF given its much more limited feedstock, both in terms of quantity (processing only 75,500 tpa, not 250,000 tpa as the WWRF would do) and in terms of type (Donarbon's proposal would not deal with municipal waste, only biomass fuel) and there is no prospect of Donarbon's proposal coming forward. The fact that it may go a little way towards managing residual waste is beside the point, given the differences, and there was no carbon assessment for the Donarbon proposal.

259. CCC has at a very late stage sought to draw attention to the fact that the absence of landscape from the W1K "implementation issues" was based on an incorrect assessment.<sup>169</sup> This is of no relevance to the construction and application of adopted policy W1K.<sup>170</sup>
260. The allocation does not impose any bar to development of Levitt's Field for EfW because of the potential impact on the DAC nor does it seek to limit capacity or height in principle notwithstanding concerns (but not objections) set out in consultation responses from HE.<sup>171</sup> The implementation issues do not form part of the policy as a matter of law. In any event, the implementation issue in respect of DAC only requires that "[any] proposals ... take the Abbey and its setting into account. Early discussion with English Heritage is advised". There is no requirement in the allocation that the development of the allocation must not harm the DAC. These requirements are incontrovertibly satisfied (and have not been challenged).<sup>172</sup> Even if the allocation does impose a requirement in respect of heritage harm, such a requirement could not be more onerous than the NPPF without such a requirement being inconsistent with it, and for the reasons below, the WWRF complies with NPPF heritage policies, in particular paragraph 196. Given that CCC considers that all listed implementation matters relevant to W1K other than the DAC implementation issue were satisfied, the WWRF is in accordance with the allocation. The allocation forms part of the development plan for the purposes of section 38(6) PCPA 2004 and section 70 TCPA 1990 and therefore the WWRF's compliance with the allocation must be taken into account in this statutory framework.
261. The correct starting point as a matter of fact is the land use and development of Levitt's Field and its surroundings. Levitt's Field is a flat field of mown grass, with a tarmac emergency vehicle turning covering part of the field. It is directly adjacent to the WWMBT, forms part of the WWMP and is isolated from any agricultural land. The lawful use of Levitt's Field (outside the turning circle) is agriculture, but the actual use for agriculture has been lost. It is agreed that there is no prospect of Levitt's Field being brought back into in

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<sup>169</sup> ID56.1 last page (the second dark bullet, relating to the issues and options stage in September 2007) the allocation was not included in the preceding assessment, and then was assessed against impact code C but EfW was impact code I. However, it is accepted that the correct code was used to assess the heritage impacts.

<sup>170</sup> ID66.1 paragraph 18.(1)-(4).

<sup>171</sup> The reference to HE's response in respect of the implementation issue referring to DAC during the preparation of the MWCS is irrelevant to the construction of the allocation as adopted, which is a matter of law, based on the words of the allocation, read in the context of the development plan.

<sup>172</sup> CD2.1 at sections 3.1, 3.4-3.6 and 5.3. Chapter 10 of the ES at CD33. Statement of Community Involvement (CD5) at pages 6 and 20.

actual use for the purposes of agriculture (and hence it is also agreed that the loss of BMV land is a factor to which no weight should be afforded).<sup>173</sup>

262. The surrounding land around the appeal site has developed and changed over time and will continue to change significantly with the development of WNT. The area to the west of the A10 is a well-established area of mixed commercial and industrial development, including the CRP, the WWMP and the Dickerson Industrial Estate. The existing WWMP landfill has also significantly changed the natural topography. The LDA Report notes that this area “has seen significant development and change over recent decades”.<sup>174</sup> The area to the east of the A10 will be transformed by the WNT, providing for about 11,000 dwellings as well as other uses, in a masterplan area of about 578 ha and including buildings up to 30 m in height (8 storeys) in three locations, surrounded by buildings of up to 26 m in height (6 storeys).<sup>175</sup> WNT will be less than 500 m to the south of the DAC.<sup>176</sup>

#### *Landscape and visual impact*

263. The appeal site and about 75% of the land within 10 km radius of it lies within District LCA E. The Fen Edge, which is much more closely matched in terms of relevance to the assessment of effects than are the higher-level assessments at county, regional and national level.<sup>177</sup>

264. The LVIA in the ES, together with Amey’s landscape expert’s evidence provide a transparent and complete assessment of the landscape and visual effects of the WWRF, and should be preferred to CCC’s expert evidence, which does not include a formal LVIA undertaken in accordance with GLVIA3 or define a study area.<sup>178</sup> It is notable that the vast majority of CCC’s expert analysis does not stand on its own, but is all relative to the Axis LVIA. For the purpose of GLVIA3, this is not a reasonable position to adopt. It is impossible to discern what the reasoning is here for reaching the conclusion that there is high landscape susceptibility, and there is no narrative or reasoning in respect of landscape and visual effects. It is impossible for the reasoning to be “traced and examined”. By comparison, the Axis LVIA provides a detailed and comprehensive analysis of each viewpoint.<sup>179</sup>

265. In considering the qualitative nature of CCC’s expert’s judgements there are clear indicators that it is not robust. The methodology describes high landscape susceptibility as: “A finely balance landscape where the landscape character is so well defined that even a small-scale development might cause a significant loss of key characteristics, individual elements or features and specific aesthetic or perceptual aspects or, overall landscape character”. However, CC3/A states that this is an “open fenland landscape that already successfully accommodates small scale commercial development, such as the

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<sup>173</sup> SoCG CD119 paragraph 2.4.

<sup>174</sup> CD19.20 page 34.

<sup>175</sup> ID38.

<sup>176</sup> CD20.12.

<sup>177</sup> AC2/A paragraph 2.48.

<sup>178</sup> GLVIA3 at paragraphs 2.24, 3.32, 3.34 and 5.2.

<sup>179</sup> More details about how CCC’s expert evidence complies with GLVIA3 are set out in paragraph 30 of ID66.1.

existing MBT [and] Cambridge Research Park". This contradicts conclusions on landscape susceptibility because the methodology provides that even small-scale development may "cause a significant loss of key characteristics, individual elements or features and specific aesthetic or perceptual aspects or overall landscape character", yet here such small scale development is "successfully absorbed" and accommodated. This contradiction illustrates an inflated sensitivity to the WWRF. Moreover, this contradiction is apparent even if one accepts that the WWMBT and CRP are "small scale commercial development", a conclusion which Amey submits is untenable in and of itself.

266. CCC argues in respect of LVIA MVP17 that magnitude and effect of visual change are underestimated by the Axis LVIA. However, CCC's judgement of "Major Adverse" effect and "substantial" magnitude and Axis' conclusion of "Major Adverse" effect and "large" magnitude does not suggest that Axis has underestimated the magnitude and effect.
267. CCC assessed WF3 as showing a "minor adverse" effect and WF6 as a "moderate to minor adverse" effect despite the WWRF not being visible in either panorama wireframes. The explanation that one may be able to see the WWRF moving from these locations is no answer: the panorama wireframes are representative viewpoints, and either are not representative of the judgement which CCC has reached, or CCC's judgement is not of the view represented by WF3 and WF6. On either count, the conclusion must be that the analysis is not robust, and that the assessment of effect is inflated. For the purposes of GLVIA3, this is not a reasonable judgement.
268. CCC assesses WF9 as showing a "major to moderate adverse" effect, yet it illustrates, at best, a glimpse through dense vegetation. Indeed, without the exaggerating effect of the red highlighting, it is unlikely the presence of the WWRF would be noticeable. Amey submits that even if it is accepted that the extent of visibility is greater in winter, the effect would not be "major to moderate adverse" (whatever each of these categories may mean, given that they are not described in the methodology). This is another example of CCC inflating the assessment of effect, and again, for the purposes of GLVIA3, this is not a reasonable judgement.<sup>180</sup>
269. Criticisms of Axis' LVIA based on the concept of "key characteristics" is erroneous and notably was not a criticism made by either TLP or MBC. The LVIA clearly draws out the characteristics that it considers to be most relevant to the study area: first, through the emboldening of different parts of the character area assessments in Appendix 5.3; and second, through the narrative description of the study area in section 3 of the LVIA.<sup>181</sup> The LVIA has not treated text which was not emboldened as "seemingly irrelevant". The Axis LVIA has not ignored the arable land use, the presence of the River Great Ouse, the open or flat nature of the landscape, or the extensive views. Criticisms of the LVIA for also highlighting the enclosure within the landscape is misplaced. This is a feature which is noted both at the granular level of Levitt's Field and at the macro level of the national character area.<sup>182</sup>

<sup>180</sup> More details are set out in AC2/D Appendix C.

<sup>181</sup> CD28 and CD88.

<sup>182</sup> LVIA at paragraphs 5.3.3 and 5.3.7. NCA46: "Open fields, bounded by a network of drains and the distinctive hierarchy of rivers (some embanked), have a strong influence on the

270. These matters have also been carried through to the LVIA's assessment of effects. For example, in Appendix 5.4 the "large scale landscape", "very flat, low-lying landform", "very large scale open exposed landscape" where "views are typically open and expansive", "Rivers Great Ouse and Cam", "Marinas along major rivers" together with "views [which] tend to be expansive, long range and uninterrupted" are all assessed.
271. The LVIA did not depart from GLVIA3 in respect of the selection of receptors. Even if valid, this criticism is not one of substance because the LVIA has not omitted consideration of the matters relied on by CCC.<sup>183</sup> The LVIA identifies the baseline situation and components within the landscape.<sup>184</sup> There is no requirement in these paragraphs to consider each component in isolation. Similarly, GLVIA3 paragraph 5.34 requires consideration of the interaction between identified landscape receptors and the development in question. There is no requirement for isolated consideration of each receptor. Those landscape receptors are considered and assessed in Appendix 5.4 of the ES.
272. Criticism that the LVIA methodology departed from GLVIA3 in respect of the assessment of value ignores the clear compliance between the LVIA's methodology and GLVIA Box 5.1.<sup>185</sup> Further, the difference in judgement between the landscape experts on value was only between "medium" (Amey) and "medium-high" (CCC). However, the latter was inflated for example, through failure to recognise that actual agricultural use of the field has already been lost. This point holds good notwithstanding the agreed note on lawful use.<sup>186</sup>
273. The criticism of Amey's LVIA based on its viewpoint selection is erroneous. All of the viewpoints were agreed by CCC following consultation. When the omission of viewpoints was criticised by MBC, the omissions were reviewed by TLP, who were satisfied that the omitted viewpoints were not necessary.<sup>187</sup> Throughout this process, including after receipt of MBC's review, CCC had the opportunity to raise any concerns about the selection of viewpoints or to request that further viewpoints were assessed, but did not do so.
274. As to the ZTV, this is a methodological argument that ignores the work undertaken by Axis, and which is without practical consequence. A ZTV was produced during the preparation of the LVIA and is cited in the ES.<sup>188</sup> Further, it is clear that the ZTV was deployed in consideration of the viewpoints to include in the LVIA. Accordingly, the high point of CCC's argument is that more detailed ZTV work has been produced during the course of this appeal.

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geometric/rectilinear landscape pattern. The structures create local enclosure and a slightly raised landform, which is mirrored in the road network that largely follows the edges of the system of large fields".

<sup>183</sup> Scoping Report (CD85) paragraph 6.2.1 and Scoping Opinion (CD86) at paragraph 18.2.

<sup>184</sup> Section 5.3 of the LVIA (CD28) and in Appendix 5.2 (CD88) where key components are explicitly highlighted. GLVIA3 paragraphs 3.21 and 5.33.

<sup>185</sup> Paragraphs 2.6–2.8 Appendix 5.1 to the ES at CD87.

<sup>186</sup> ID60.

<sup>187</sup> CD118.24 at paragraph 2.1(d).

<sup>188</sup> CD33 paragraph 10.2.29.

However, this argument ignores the fact that the more detailed ZTVs which have been produced for this appeal corroborate the LVIA.

275. Mapping visibility forms only part of the establishment of the visual baseline.<sup>189</sup> There are two other parts: (1) identify people who may be affected; and (2) identify view and viewpoints.<sup>190</sup> Importantly, these other steps must be undertaken (and were undertaken by Axis), it is not sufficient to simply produce a ZTV. The reason for this is that a ZTV “identifies land that, theoretically, is visually connected with the proposal and this is refined by site survey to confirm the extent of visibility. But in parts of this area there will be relatively few people to experience the effects of the proposal on views. The baseline studies must therefore identify the people within the area who will be affected by the changes”.<sup>191</sup> This illustrates the fact that the production of a ZTV is not an end in itself and the materiality of any criticism must be tested on the viewpoint selection.
276. GLVIA3 does not require a ZTV to be produced. Equally, GLVIA3 does not specify what the nature or content of the ZTV should be (for example, whether or not it should be a subtended angle ZTV). In any event, a ZTV was produced and visibility was mapped through site work. The fact that the ZTV was not included in the ES is of no consequence: ZTV is a tool, not a conclusion and its inclusion was potentially misleading given it was based on a bare earth model in a landscape where vegetation is important.
277. CCC’s ZTVs overestimate visibility. This difference is not only explicable on the basis of viewer height or the fact that Citrine’s block modelling of trees may “cut both ways” as heights differ, rather it is explicable on the basis that the Citrine ZTVs do not take into account non-woodland tree cover, for example hedgerows. By comparison, these trees/hedges are included in Amey’s ZTVs which use LIDAR and photogrammatic DSM data.<sup>192</sup> Amey’s ZTVs corroborate the selection of viewpoints, illustrating that the viewpoints cover a range of areas at different distances from where the WWRF would be visible. The robustness of the viewpoints selected for the LVIA is demonstrated by how CCC’s viewpoints are grouped around LVIA viewpoints. CCC’s inclusion of additional viewpoints does not indicate any deficiency in the selection of the LVIA viewpoints. Further Amey submits that CCC’s approach of selecting 92 viewpoints lacks proportionality because of the extensive repetition. This is made apparent in CC3/A, which assesses viewpoints in 14 groups and not on an individualised basis. Accordingly, far from identifying 92 additional viewpoints that have been ‘missed’ by the Axis LVIA, CC3/A only provides an additional analysis of 14 “views”.
278. Criticism of AC2/A on the basis that the author failed to declare that he was an author of the LVIA, or that he had designed the landscaping scheme, is misplaced. GLVIA3 does not require such disclosure. In any event, even if there has been such a failure, it is a failure of no materiality: it was not put to

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<sup>189</sup> GLVIA3 on mapping visibility at paragraphs 6.6–6.12.

<sup>190</sup> See “Establish the visual baseline” box in figure 6.1 of GLVIA3 page 99.

<sup>191</sup> See GLVIA3 at paragraph 6.13.

<sup>192</sup> AC2/D Figure 2 where the black areas (visible in both ZTVs) stop in straight lines, reflecting hedgerows on field or road edges, but the coloured areas (visibility on Citrine’s ZTVs) wash over these features.



Mr Mason that his evidence was in some way clouded or affected by his involvement in either the LVIA or the landscape design, and there are no indicators of such an influence in any event.

279. CCC rely on TLP as reaching a different view to the Axis LVIA. This submission does not take into account TLP's judgement that it "did not consider there to be substantive differences" between its judgement and the Axis LVIA.<sup>193</sup>
280. In terms of design CCC would have a high degree of control through the agreed conditions dealing with hard and soft landscaping, and with the external building materials.<sup>194</sup> This would include the ability to approve the colour and nature of the external finish to the building as well as the ability to approve the species and spacing/density of trees. The mitigation from landscaping, which would be not alien or focussed on the lower sections of the building, has not been taken into account in the assessment of effects in either the LVIA or AC2/A. This results in the conclusions being conservative, given that TLP consider that the landscaping would provide positive mitigation to the level of effect.<sup>195</sup>
281. The choice of poplar and willow pollards is consistent with the Fens.<sup>196</sup> Indeed, Mr Buchanan, a landscape architect and local resident of Waterbeach also referred to specific local examples of poplar at Waterbeach lock, echoing TLP's comment that "poplar is present within the surrounding landscape".<sup>197</sup> There are also poplars adjacent to Levitt's Field at present.
282. The design of the upper elevations of the WWRF has been developed through extensive consultation and with obvious awareness of the fact that tree planting cannot screen the upper parts of the building. The Design Evolution Document explains the roof form, colour treatment and material studies, which was informed by consultation.<sup>198</sup> The roof form and the colour of the upper elevations were altered to accord with feedback from consultation, in which CCC participated.<sup>199</sup> The WasteSPD specifically contemplates the use of "green, brown and grey coloured cladding" all of which has been considered in the design process, with a predominately grey and green palette being adopted.<sup>200</sup>
283. WasteSPD paragraphs 3.6 and 3.7 must be read together, in the context of the WasteSPD as a whole. These paragraphs are in a section dealing with locational criteria generally, not the specific guidelines for EfW. As such, they must be read with awareness of their focus on the generality and the fact that the appeal site was allocated in light of the MWCS and the WasteSPD. The

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<sup>193</sup> CD11.7 at paragraph 8.2.

<sup>194</sup> Conditions 29 and 33 ID64.

<sup>195</sup> CD11.7 paragraph 2.4.

<sup>196</sup> NCA 88 refers to "pollarded willows and poplar along river valleys" at CD20.6. Character Area E: Fen Edge refers to hybrid black poplar, white poplar, goat willow and grey willow in the plant species guidelines for the fenland (CD20.9, page 67). See also the District Design Guide (CD20.2) at paragraph 3.37 which notes the presence of poplar shelterbelts in area E: The Fen Edge, also at paragraph 3.42.

<sup>197</sup> CD11.7 at paragraph 7.3.

<sup>198</sup> CD2 sections 10-11.

<sup>199</sup> CD5 at pages 7 and 8. See also CD2 at section 9.

<sup>200</sup> CD17.45 WasteSPD at paragraph 4.5.



important overarching consideration is; "Rural locations on or close to the main road or rail networks are potentially appropriate for a range of waste management facilities". The appeal site is a prime example of such a location, given the presence of the A10. Moreover, any description of the appeal site as being a "rural location" must be caveated with awareness of the changed, and changing, nature of the landscape, in particular the A10 corridor and WNT.

284. There is no unbending requirement for facilities of the same scale and design as agricultural buildings. To the contrary, the WasteSPD recognises that "there may be instances where more innovative design would be appropriate". Moreover, these general comments must also be viewed in light of the fact that the MWSSP was adopted after the WasteSPD and the allocation of Levitt's Field for W1K was made on the basis that in principle an EfW plant was appropriate in this landscape. This demonstrates the generality of the guidance in paragraph 3.6 and the need to consider the local context.
285. The WWRF includes extensive low-level screening which would reduce the visibility of low-level activity in the manner contemplated by paragraph 3.6. Notably, the reference in this paragraph to "screen[ing] low level activity" must be a recognition that some developments will not be able to be screened in their entirety, for example upper elevations, but may still be in accordance with the WasteSPD.
286. As to paragraph 3.7, the requirement to pay attention to building form and construction materials, particularly the external appearance in respect of quality and colour has been satisfied in the proposed design by its orientation, building and roof form, materials and colour. Amey submits that the WWRF is in accordance with paragraphs 3.6 and 3.7 of the WasteSPD, which are not tests but guidance. TLP concluded that "the fundamental elements of the design provide an appropriate solution for providing an energy from waste plant in this location".<sup>201</sup>
287. In respect of the NPPF, the WWRF recognises the intrinsic character and beauty of the countryside, through the detailed consideration in its design and, given the fact that the landscape and visual effects would be localised, with the surrounding tree cover and additional planting softening its appearance.
288. MWCS Policy CS33 requires a proposal to assimilate into its surroundings and local landscape character area in accordance with the available landscape character guidelines and assessments and related SPDs. Here, assimilation cannot sensibly be interpreted as requiring a development to be invisible, be absorbed into or to match exactly the existing development in the landscape. The WWRF is also in accordance with landscape character assessments and guidelines. For example, the County LCA 8 Fenlands considers "large, industrially scaled buildings" associated with modern farm operations and considers that "the scale of the fen landscape can enable these to become an acceptable element in distant views" with careful siting and choice of colour cladding. Notwithstanding the fact that the WWRF is not an agricultural building, this reasoning is applicable given its characteristics. This is all the more the case when one considers that the existing development at the WWMP

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<sup>201</sup> CD11.7 at paragraph 7.5.

cannot be described as being agricultural in scale or design. The natural vegetation noted in the Fen Edge LCA would allow the WWRF to assimilate.

289. MWCS Policy CS34 relevantly requires that there is no significant harm to the environment, visual intrusion or loss to residential or other amenities. It is agreed that residential amenity would not be unacceptably compromised.<sup>202</sup> The predominant effects of the WWRF would be localised and given the starting point of the allocation read together with the WasteSPD, cannot be said to be significant in planning terms.
290. SCLP Policy HQ/1 requires that new development is of a high quality design and new development must preserve or enhance the character of the local area and respond to its context in the wider landscape. Notwithstanding the submissions below on HQ/1's consistency with the NPPF, the WWRF complies with the policy for the same reasons noted above in respect of Policy CS33. For the same reasons, Amey submits that the WWRF is in accordance with NPPF paragraphs 127(c), 128 and 131.

#### *Heritage impact*

291. It is agreed between Amey and CCC that the WWRF would cause less than substantial harm in the terms of NPPF paragraph 196 to designated heritage assets. Neither CCC nor HE has suggested that the WWRF would cause substantial harm.<sup>203</sup> Accordingly, the dispute is one of magnitude within the scale of 'less than substantial' harm and whether the public benefits under paragraph 196 outweigh the harm.
292. The appellant considers that the WWRF would result in 'less than substantial' harm at the bottom of the scale for the Grade I listed refectory and Grade II listed barn, and at the lower end of the scale for the SAM, Grade I listed Abbey church, Grade II listed gate piers and Car Dyke.<sup>204</sup> For Cottenham and Landbeach conservation areas AC3/A and AC3/D state that there would be no harm, but at the Inquiry Dr Edis agreed that any harm to these assets should be in the balance, and agreed with Ms Kelly regarding the conservation areas.
293. The ES correctly understood the need to assess significance, what it was and the relationship between setting and significance as matters of principle.<sup>205</sup> In addition, the methodology adopted was focussed on assessing change (including harm) to significance and did not erroneously focus on setting.<sup>206</sup>

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<sup>202</sup> CD119 SoCG.

<sup>203</sup> SDC's suggestion to this effect in correspondence has rightly not been pursued by CCC.

<sup>204</sup> AC3/B Appendix 13 states the WWRF would be apparent in views from Long Drove at a distance of about 1 km with the change being conspicuous and the building prominent in relation to the tree line.

<sup>205</sup> See section 10.2 of the ES, in particular: paragraphs 10.2.3-4, 10.2.13-18, 10.2.26-27 and 10.2.35-36.

<sup>206</sup> See paragraphs 10.2.28-64 of the ES, in particular: 10.2.43 "...even slight changes may reduce their value or the ability of setting to contribute to the understanding, appreciation and experience of the asset"; table 10.5 at paragraph 10.2.44 and paragraphs 10.2.47 and 10.2.49.

This was carried through in the analysis, which clearly deals with effects on significance.<sup>207</sup>

294. As to the criticism from HE that the ES focussed on an “inner setting”, this is also demonstrably incorrect. The ES at paragraph 10.4.4 states that “while highly sensitive to changes within the Abbey complex, they are, on their own, considered to be of low sensitivity to changes in the wider landscape”; paragraph 10.4.5 – “low sensitivity to changes in the wider landscape”; paragraph 10.4.6 – “the relationship between the earthworks and lower lying ground to the east, northeast and southwest of Denny Abbey contribute to an understanding of the asset and its value; paragraph 10.4.7 – “considered to be less sensitive, of medium sensitivity, to changes beyond these elements of setting”; and, most clearly, at paragraph 10.4.8 – “the setting of the Denny Abbey complex, as a group of assets, comprises the inter-relationship of the individual features and the relationship of the group as a whole with the fenland landscape”.
295. The ES does not ignore group value, given the frequent references to the assets as a group and the assessment of the assets as a “complex”.<sup>208</sup> It follows that the criticisms in HE’s letter of 11 January 2018 are misplaced. HE’s letter should be given less weight as a consequence of its misunderstanding of the ES.<sup>209</sup>
296. Criticism that Amey did not assess group value or failed to have regard to the assets as a group is misplaced. The DAC is not a “super asset”, rather each listed building is a designated heritage asset in its own right. Notwithstanding this, Amey’s assessment of the DAC as a group is included within its evidence.<sup>210</sup> CCC’s concept of a precinct adds nothing when Amey has considered the DAC as a group in any event. This approach is more detailed than CCC’s because it assesses the designated heritage assets both individually and as a group, consistent with GPA3 which recommends that “assessment should first address the key attributes of the heritage asset itself and then consider ... the physical surroundings of the asset, including its relationship with other heritage assets”.<sup>211</sup> CCC omitted the first stage of considering the assets individually, but argued that its conclusions on each designated heritage asset

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<sup>207</sup> See section 10.4 of the ES, in particular: paragraph 10.4.1; table 10.11 at p.10-50 dealing expressly with level of effect on cultural value of the individual assets; paragraphs 10.5.22 – 10.5.38. Note inter alia: paragraph 10.5.27 Refectory and Barn – “changes in their settings would not materially affect the ability of an observer to understand or appreciate these assets and their cultural value”; paragraph 10.5.35 – SAM and Denny Abbey – “elements which contribute to the understanding and value of the asset are the contextual and historical inter-relationships between the individual elements of the Schedule Monument ... The asset is considered to be highly sensitive to change which would affect any of these relationships”.

<sup>208</sup> ES paragraphs 10.3.4, 10.4.8, 10.5.27, 10.5.35 – 36 and paragraph 10.5.54 “inter-relationship between individual elements of the Abbey complex”.

<sup>209</sup> ID17.

<sup>210</sup> AC3/A paragraph 4.11 – “the context of the Denny Abbey Complex as a focal point and group of standing buildings, ruins and earthworks”; paragraph 5.59 – where the concept of the DAC is examined; paragraph 6.5 and 6.8 – “the setting of the Denny Abbey Complex as a whole will be affected by the appeal proposal”; paragraph 6.33 – “the overall affect [sic.] of the proposed development on the significance of the Denny Abbey Complex as a whole”.

<sup>211</sup> CD19.7 paragraph 26.

were “captured in the whole”. Even if this is the case, this approach is less robust than Amey’s, which should be preferred.

297. This is not a methodological error of no consequence. It is important to perform the individualised assessment as the statutory duty in section 66(1) LBCAA 1990 applies to each designated heritage asset individually. Additionally, it is an error that has led CCC to inflate the harm to the significance of the designated heritage assets within the DAC. The absence of individual consideration causes this inflation because it leads to an assessment that fails to appreciate that some aspects of significance will be unaffected by changes to setting. For example, the artistic significance in the Refectory’s floor tiles and architectural and historic significance in the Barn’s unusual timber frame and paired brace, all of which would be unaffected by changes to setting.
298. CCC and HE have exaggerated multiple factors in their assessment of the DAC’s significance and setting. Reliance on Denny Abbey’s alleged “prominence” is a factor which is notably absent in any other available assessment, including the Hedland Report, the LDA Report and HE’s letter of January 2018. The attempt to inflate the prominence of the building is at odds with the known ability of medieval religious orders to construct much larger and more prominent buildings – Ely Cathedral being the foremost example. It also ignores both the obvious modern day tree cover, making Denny Abbey barely discernible in most medium to long distance views, and the clear evidence of more extensive tree cover around the DAC in historic mapping.<sup>212</sup> Similarly, reference to Denny Abbey’s “grandeur” is overegged, given the DAC’s changing role over time, its obvious lack of grandeur compared to some medieval religious buildings and the fact that any such grandeur can only be appreciated at close quarters.<sup>213</sup>
299. CCC overplays the extent to which the agricultural history of the DAC contributes to its significance. It is clear from the listing description of both the SAM and Denny Abbey that the principal historic interest lies in the use of the DAC by – and its transfer between – three different religious orders. The agricultural history is relevant, but it is not the principal interest. It is nonsensical to suggest that Amey did not consider the agricultural history and fairly reflected the use of the DAC and the exceptional interest derived from this element.<sup>214</sup> The role that the surrounding land played in the sustenance of the religious orders is clearly a factor to which CCC attach great weight and, whilst it can be accepted that there was some sustenance gained from the land, the extent or nature of this sustenance is neither known or evidenced. As with so many things, CCC inflates unevidenced speculation into unjustified speculation.
300. CCC exaggerated the contribution of the setting of the assets to the west of the A10 and underplayed the reduced sensitivity to change in that direction, and thus impact on significance was overstated. The corridor of extensive commercial and industrial development on the A10 represents the most

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<sup>212</sup> MVP10, 11, 25 and 26. C19.20 Figure 7 in particular panel C showing 1855 and 1888.

<sup>213</sup> CD19.20 at page 37.

<sup>214</sup> AC3/A paragraphs 5.2, 5.23, 5.25, 5.32 and 5.35.

changed part of the setting of the assets. In particular, the A10 is a noisy modern feature (including lighting at night) which is readily discernible from the DAC. The built form of the WWMP and CRP are both appreciable, together with the unusual elevated topography of the landfill.<sup>215</sup> Further, whilst Levitt's Field is itself largely undeveloped, its actual agricultural use has been lost and it now reads as, and is, part of the WWMP, directly adjacent to the large WWMBT and busy A10.

301. As a consequence, Levitt's Field makes at best a neutral contribution to the significance of the assets and, in relative terms, the principal and overwhelming contribution from setting to significance comes from views to the north and east. The importance of these views was highlighted in both the Hedland Report and the LDA Report.<sup>216</sup> These views give a sense of agriculture and rurality which is lost to the west of the A10 (as well as being much less affected by noise from the A10). The contribution of the setting of the assets to the south, which will be extensively developed by WNT, bringing built form much closer to the DAC, as demonstrated by the wireframes.<sup>217</sup> CCC's emphasis on isolation simply ignores the existence of the A10 and its impact on the setting of the DAC from the west.

302. The different aspects of setting and the significant changes brought about to the west (and soon to the south) of the DAC appears to be given little more than lip-service in HE's correspondence.<sup>218</sup> This also received limited attention in CC2/A (paragraphs 5.15 and 5.17), which does not appear to appreciate that the references in the Hedland Report and the LDA Report to "essentially rural landscape" refers not to the land to the west between DAC and the A10, but to the land primarily to the east/north-east which remains predominantly arable.<sup>219</sup> LDA noted <sup>220</sup>;

"To the west of the A10 the former agricultural landscape has seen significant development and change over recent decades.";

"The subsequent draining of the fens radically changed the setting of Denny";

"More recent changes further altered the local landscape, with the introduction of an airfield to the south and spreading industrial/commercial development to the west.";

"Despite these factors, Denny Abbey still exists in an essentially rural landscape, detached from settlement.";

"This is what the present-day visitor experiences approaching and viewing the surviving medieval buildings. Whilst limited by intervening vegetation, views out from the Abbey are largely to agricultural land and whilst sometimes difficult to appreciate, the subtle raised platform on which the Abbey is located and the lower lying, former fenland landscape bordering the River Cam is still discernible. It is this present-day landscape, with its links back to the medieval fen edge and fen that contributes to the significance of Denny Abbey."

<sup>215</sup> ID52.

<sup>216</sup> CD19.11 Figure 3 and CD19.20 page 41 and accompanying viewpoints A–D in Figure 11.

<sup>217</sup> ID16.1 and ID16.2 in particular viewpoints 17 and 18.

<sup>218</sup> Letter dated 11 January 2018 at ID17.

<sup>219</sup> CD19.11 paragraph 5.4 and CD19.20 paragraph 4.5.

<sup>220</sup> CD19.20 paragraph 14.5.



Figure 3 in the Hedland Report records the open, more characteristic Fenland views to the east/north-east, and similar views are marked in the Draft Denny Abbey Farmland Museum Masterplan.<sup>221</sup> The principal entry into the DAC was from the east and south until at least 1855, giving greater relative importance to the land to the east.<sup>222</sup> These are all consistent with Amey's assessment rather than that of HE or CCC.

303. CCC overplayed the concept of the Fen island which formed part of the original setting, but is long gone. The Headland Report noted <sup>223</sup>;

"This isolated setting persisted throughout the religious use of the abbey site up to the suppression of the Franciscan Nunnery in the 16<sup>th</sup> century. The subsequent draining of the fens has radically changed the landscape setting of Denny: the site is no longer an isolated island of dry ground and it is surrounded by arable fields with an airfield to the south and spreading industrial/commercial development to the west, over the A10."

"The subtle 'island' topography also survives even though drainage and changing land-use make it difficult to appreciate."

This is a factor in understanding the DAC's development but there are two important caveats. First, the extent of the Fen island is unknown and varied over time. Secondly, DAC's position on a Fen island is not readily discernible now and at minimum requires extensive interpretation.

304. Despite the exceptional significance of the DAC, HE has not sought Rule 6 status or to appear at this Inquiry bearing in mind that it is dealing not only with a SAM but multiple Grade I listed buildings. This requires CCC's exaggerated characterisation of HE's views to be approached more proportionately. Amey's evidence should be preferred because of its more robust and comprehensive approach. Further, CCC's criticism is misplaced. The proper conclusion is that the WWRF would result in less than substantial harm, at the lower end of the scale of less than substantial harm.

305. Amey has proposed a comprehensive package of heritage benefits. It is agreed with CCC that all of these measures are CIL compliant. However, CCC is wrong to reduce the weight afforded to these benefits. The heritage benefits, in particular the relocation of the car park, are in accordance with the Farmland Museum's own masterplan document and have been welcomed by EHT as benefits.<sup>224</sup> The present location of the car park on the SAM is agreed to be unsuitable. Further, the potential heritage impacts of moving the access road and car park has been assessed in the ES (for all environmental effects, including heritage impact).<sup>225</sup> The risk is low given this assessment. There is scope for the improvement of the limited interpretation at the DAC. The need

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<sup>221</sup> ID9 "Strategic Vision" and the text in "Visual context and important views" and "The area north and east of Denny Abbey comprises a characteristic pattern of regular rectangular fields created as a result of drainage and 17<sup>th</sup> century enclosure..." It is this to which the final paragraph on that page clearly refers in "maintaining the open character of the rural landscape surrounding Denny Abbey".

<sup>222</sup> CD19.20 at page 38.

<sup>223</sup> CD19.11 paragraph 5.4 largely reproduced on page 38 of the LDA Report.

<sup>224</sup> See masterplan at ID9 and email from EHT at ID18.

<sup>225</sup> CD10.1 at paragraph 5.3 in particular at paragraphs 5.3.51–5.3.66.



to co-ordinate the delivery of improvements to the DAC has been taken into account and provided for through the provision of a proposed conservation management plan.

306. The heritage mitigation package may go to reduce the harm caused, taking it further down the scale as opposed to being simply a public benefit to weigh under NPPF paragraph 196. However, if this approach is adopted then the heritage mitigation package should not be double counted as a benefit as well. It is a matter for the Secretary of State whether it ameliorates harm or is a public benefit in terms of NPPF paragraph 196, or indeed a material consideration for the purposes of section 38(6) PCPA 2004.

#### *Other issues*

##### The effects on air quality and health

307. In respect of air quality, the magnitude of change for all pollutants (including nitrogen dioxide, VOCs and cadmium) is negligible at all areas of relevant human exposure. Further, at identified European and UK designated ecological receptors, the impact of process emissions (including acid deposition) is not significant and there is no likely significant effect alone or in combination with other assessed facilities. A habitats report has been provided including a shadow assessment.<sup>226</sup> In respect of human health, the modelling undertaken in the ES demonstrates that the emissions from the WWRF would not have an appreciable health risk. This conclusion is consistent with the general view of PHE.<sup>227</sup>

308. Specific concerns raised by third parties have been dealt with extensively in AC4/A,D,D2 and ID61.1. Amey submits that this evidence deals comprehensively with these concerns (including the representations by CBWIN and Dr James).

##### The effects on the local amenity of the area, with particular reference to noise, odour and light pollution

309. The effects on the local amenity of the area, with particular reference to noise, odour and light pollution are considered in chapters 5, 7 and 8 and Appendix 1.7 of the ES respectively. A lighting assessment is at CD10.10 and addressed in AC2/A paragraphs 3.31–3.34. Noise is also considered in Appendix 3 AC1/B. In respect of noise and odour no adverse impacts would occur, and no unacceptable effects have been identified. In respect of light pollution, the lighting scheme would comply with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light (2011).<sup>228</sup>

##### The effects on the local road network and on highway safety

310. The effects on the local road network and on highway safety is considered in chapter 11 of the ES and section 4.8 of the FEI. It is also addressed in Appendix 2 to AC1/B (including a detailed response to issues raised by third parties in section 4.2). Traffic flow increases would generally be low,

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<sup>226</sup> ID22.

<sup>227</sup> See discussion in AC4/A paragraphs 4.20–4.34.

<sup>228</sup> CD10.10.

particularly in comparison to relevant future baseline conditions, with the anticipated operational and environmental effects of such small traffic increases being of negligible/minor significance. There is no evidence to indicate that the predicted limited increases in traffic would result in material highway safety effects.

#### The effects on local hydrology

311. The effects on local hydrology are considered in chapter 9 of the ES (surface water and flood risk) and chapter 4 (water use paragraph 4.2.47). There has been no objection from statutory consultees on hydrology matters. Further, this matter has not been the subject of representations, save in respect of water abstraction. As to this, Amey submits that its actual water use is modest for an industrial user and in any event, it is the responsibility of Cambridge Water to ensure that its supply of water to users does not lead to significant environmental effects. There is no evidence that such effects would occur if the WWRF was operational.

#### The effects on biodiversity

312. The effects on biodiversity are considered in chapter 6 of the ES, section 4.3 of the FEI and Appendix 4 to AC1/B. The effects on biodiversity did not form part of the reasons for refusal and CCC agrees that the WWRF would not give rise to any unacceptable impacts in respect of ecology and nature conservation.<sup>229</sup>

The WWRF could be constructed and operated with no net loss of biodiversity interest, no effect on ecological networks, and no effect on statutory or locally designated sites in the surrounding area. This is consistent with the agreed position with CCC.<sup>230</sup> The WWRF would result in biodiversity benefits through the creation and management of new habitats on land that is currently of limited ecological value, in particular through the retained open space in the south-western part of the appeal site.

313. CCC agrees that there are biodiversity/ecology benefits.<sup>231</sup> However, CCC is incorrect to reduce the weight to be afforded to these benefits.<sup>232</sup> The biodiversity improvements which would be derived from the landscaping scheme are additional to any biodiversity benefit of the existing planting around Levitt's Field. The fact that the biodiversity benefits of the WWRF might also be possible if an alternative scheme was developed at Levitt's Field is irrelevant and not a ground for reducing the weight to be afforded to the benefits of the appeal scheme. There is no alternative scheme and one could not come forward in any event as the WWRF would occupy the entirety of Levitt's Field.

314. The HRA submitted at the Inquiry concludes that when the correct standard for acid deposition is applied none of the predicted air quality impacts of the WWRF exceed screening thresholds, alone or in combination with other developments. The effects would be inconsequential, and it can be concluded that there is no likely significant effect on the Fenland SAC and Wicken Fen

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<sup>229</sup> CD119 at paragraphs 8.1 and 8.1.2. CD21.9 paragraphs 8.307–8 and 8.201–212.

<sup>230</sup> CD119 at paragraph 6.3.21.

<sup>231</sup> See CCC's Statement of Case (CD tab D) at paragraph 5.86 and CC1/A paragraph 5.89.

<sup>232</sup> CC1/A paragraph 5.89.

Ramsar site. Nevertheless, if an AA is undertaken it can be concluded that there would be no effect on the integrity of the designated European site.<sup>233</sup>

315. The Fens Biosphere proposal has not been designated. But even if designated, as a framework for co-operation between different interest bodies, it would not impose any controls on the area relevant to planning.

The effects on employment and the economy

316. The effects on employment and the economy are considered in chapter 12 of the ES and section 4.9 of the FEI. The effects on employment and the economy did not form part of the reasons for refusal and it is agreed that the WWRF would create employment during both the construction and operational phases (approximately 300 people in the workforce and 32 full time equivalent staff members respectively). There would also be indirect employment and socio-economic benefits, for example in the supply chain, which are detailed in the ES.<sup>234</sup>

317. CCC agrees that the employment creation is a benefit, but reduces the weight to this benefit because of the likely creation of jobs through WNT and (generically) the growth agenda in Cambridgeshire.<sup>235</sup> This is an erroneous basis to reduce the weight to this benefit because it has not been shown by CCC that the jobs created by the WWRF would be surplus because of the other jobs created through the WNT and there is no evidence to contradict the benefits set out in chapter 12 of the ES.

The effects on GHG emissions and the extent to which the proposal is consistent with Government policy and guidance concerning renewable and low carbon energy and climate change

318. The effects on GHG emissions and the extent to which the WWRF would be consistent with Government policy and guidance concerning climate change is considered in chapter 8 of the ES and in evidence to the Inquiry.<sup>236</sup>
319. It is agreed with CCC that the WWRF would have a material beneficial impact in reducing overall GHG emissions from the landfilling of waste and would displace the need for conventional fossil fuel generation.<sup>237</sup>
320. The extent to which the WWRF would be consistent with Government policy and guidance concerning renewable and low carbon energy is considered in the documents submitted to the Inquiry.<sup>238</sup> Further, this issue did not form part of the reasons for refusal.<sup>239</sup>
321. Based on 2016 waste flows to and from the WWMP, with a biogenic content of 58.6%, with all fossil fuel carbon and 50% of the biogenic carbon

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<sup>233</sup> ID22.

<sup>234</sup> CD21.9 paragraphs 8.305–306.

<sup>235</sup> CC1/A paragraph 5.88.

<sup>236</sup> AC1/A paragraphs 5.21–5.30, 5.52–5.53 and 5.64; AC4/A paragraphs 5.1–5.30; AC4/D paragraphs 2.1–2.20; AC4/D2 paragraphs 3.1–3.21 and ID61 paragraph 3.

<sup>237</sup> CD119 at paragraph 6.3.20. CD21.9 at paragraphs 8.213–8.227.

<sup>238</sup> AC1/A paragraphs 5.1–5.20, 5.52–5.53, 5.61; AC4/A paragraphs 6.1–6.23; AC4/D paragraphs 2.1–2.20 and AC4/D2 paragraphs 3.1–3.20.

<sup>239</sup> CD21.9 at paragraphs 8.213–8.227.

sequestered within landfill, the appellant predicts that the WWRF would lead to a net reduction over landfill in GHG emissions of 36,500 tonnes of CO<sub>2e</sub> per year if it only exported electricity. This would rise to 45,300 tonnes if heat was also exported. Using waste data from 2017 and 2018 would increase these reductions. The appellant considered the sensitivity of these calculations to different waste compositions, different grid displacement factors and different LFG recovery rates, producing a range of net reductions from 21,900-116,900 tonnes of CO<sub>2e</sub> per year when exporting electricity only.<sup>240</sup>

322. The WWRF would reduce GHG emissions principally from diverting waste from landfill whilst generating energy, the majority of which would be RE. The appellant is confident that the bioenergy content of waste treated at the WWRF would be between 50-60%.<sup>241</sup> This would result in overall carbon savings compared to the existing situation, principally derived from: the inherent carbon efficiency of the WWRF when compared to existing arrangements for dealing with waste; the potential savings in the event that a CHP facility was implemented (although assessments with and without have been provided); and the savings in vehicle mileage which would accrue over the existing arrangement where a proportion of residual waste is exported.<sup>242</sup> The WWRF would be a R1 recovery plant. It would help to ensure energy security and would assist in the move to decarbonised energy generation, consistently with the needs set out in the Energy Act 2013.

323. The WWRF represents a realistic opportunity for efficient direct heat use (including, but not exclusively for WNT), thereby further improving the efficiency of the energy network and helping to meet the UK's climate change commitments.<sup>243</sup> Further, reducing the carbon intensity of heating and heat use, both domestically and commercially, is recognised as one of the key challenges in meeting 'net zero' by the Committee on Climate Change and the WWRF would contribute to achieving that objective.

324. This would be consistent with national policy and guidance, including - NPS EN-1 and NPPF paragraphs 154(b) and 148. The latter promotes a move to a low carbon future, including low carbon energy and associated infrastructure<sup>244</sup>. The WWRF falls within renewable and low carbon development for these purposes because it provides RE.<sup>245</sup>

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<sup>240</sup> AC4/B Appendix 1.

<sup>241</sup> AC4/A paragraph 6.4.

<sup>242</sup> AC1/A paragraph 5.29.

<sup>243</sup> CD119 paragraph 6.3.19: "The Appeal Proposal would be CHP Ready and is well located to provide the opportunity for a local district heat network to where viable, amongst others, the recently consented and strategically important Waterbeach New Town. Additional opportunities for direct heat off-take are available within close proximity including the Cambridgeshire Research Park." AC1/A paragraphs 5.1–5.4.

<sup>244</sup> AC1/A paragraphs 5.13–5.14.

<sup>245</sup> In accordance with the following: Renewable Energy Roadmap (2011); The Carbon Plan: Delivering our Low Carbon Future (2011); Energy Security Strategy (2012); Energy from Waste: A Guide to the Debate (2014); Clean Growth Strategy: Leading the Way to a Low Carbon Future; Report Net Zero: The UK's contribution to stopping global warming published by the Climate Change Committee in 2019. AC1/A paragraphs 5.15, 5.21, 5.8, 5.12, 5.16, 5.22–5.25.

325. EN-1 may be taken into account as a material consideration, even where the development is not an NSIP.<sup>246</sup> Further, it is clear that EN-1 is particularly material here because the WWRF, as an EfW plant which produces RE, matches exactly the Government's commitment in EN-1 "to increasing dramatically the amount of renewable generation capacity".<sup>247</sup> As such, it is appropriate to follow EN-1 by giving substantial weight to the contribution which the WWRF would make towards satisfying the need for electricity generating infrastructure.<sup>248</sup>
326. It has been suggested by some that the Government is moving away from EfW by incineration. This is not the case.<sup>249</sup> EfW remains part of the Government's strategy for increasing RE production and moving to a low carbon economy. CCC is not contending that EfW by incineration is no longer Government policy or that it is outmoded or no longer appropriate. EfW forms part of the Government's strategy for energy recovery.<sup>250</sup>
327. CCC was in error in reducing the weight to be afforded to this consideration on the basis that changing waste composition and thus altered biogenic content of feedstock entering the WWRF would limit the level of benefit which can be derived in the future. Even if it can be assumed that the policy mechanisms relied on by CCC for a change in waste composition are effective, any change to the biogenic content of the feedstock would have at most a small effect on the carbon assessment and climate benefits of the WWRF, and it would continue to provide significant carbon benefits in any event.<sup>251</sup>
328. The reduction in GHG emissions, the production of RE and overall carbon savings resulting from the WWRF are all benefits which should be given very significant weight. Further, the potential to provide CHP is a benefit to which significant weight should be given. But CCC seeks to reduce the weight afforded to CHP on the basis that there is uncertainty about its delivery. However, this does not properly consider the sustainability appraisal for WNT or associated condition on the planning permission.<sup>252</sup> Whilst the condition does not require the taking of heat, it requires that the matter is considered very carefully. The sustainability appraisal and associated condition give increased certainty about delivering CHP from the WWRF, particularly given that the WWRF would be able to deliver CHP prior to later phases of WNT (and there are retrofitting possibilities for the first phase).

The need for the proposed development and its implications for waste management

329. It is agreed in general terms between Amey and CCC that the WWRF meets a need for waste management facilities in Cambridgeshire and

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<sup>246</sup> EN-1 paragraph 1.2.1 and NPPF paragraph 5.

<sup>247</sup> CD17.27 paragraph 3.3.10. AC1/A paragraphs 5.1–5.4.

<sup>248</sup> CD17.27 at paragraph 3.1.4.

<sup>249</sup> AC4/D paragraphs 2.1–2.20. AC1/A paragraph 5.28.

<sup>250</sup> Government's Review of Waste Policy in England (2011) CD17.18. Our Waste Our Resource (2018) CD17.23.

<sup>251</sup> AC4/D paragraphs 2.8–2.16.

<sup>252</sup> CD21.42 and ID39.

Peterborough, the wider sub-region and the UK generally.<sup>253</sup> However, notwithstanding this general agreement, it appears that CCC does not appreciate the true magnitude of this benefit or the consequences of planning permission not being granted.

330. There is no requirement in national policy that requires, as a matter of general principle, applicants or appellants to demonstrate that there is a need for the development.<sup>254</sup> However, where it can be demonstrated that there is a need for a particular scheme, that is a material planning consideration. Here CCC agrees that the need for the WWRF is a material planning consideration which weighs in favour of granting planning permission. The most recent statement of Government policy on waste *Our Waste, Our Resource: A Strategy for England 2018* focusses on eliminating avoidable plastic waste by recycling, reusing or composting plastics, and eliminating food waste in landfill. But it acknowledges that if AD or composting are not possible that food waste should be treated via EfW in preference to landfill.
331. Further, in respect of Cambridgeshire and Peterborough specifically, in the context of the emerging plan and accompanying waste needs assessment it is disputed that adequate capacity exists.<sup>255</sup> As agreed, this issue is for resolution in the local plan process, and the emerging plan and need assessment can be given limited weight. CCC's view that sufficient operational capacity existed was dependent on the availability of landfill, which is not in accordance with the waste hierarchy or climate change considerations. Even on this narrow basis, which is not accepted in the wider local plan process, CCC's position is unsatisfactory and contrary to waste policy. There are very significant benefits to replacing the landfilling of waste with EfW.
332. About 445,000 tpa of waste generated in Cambridgeshire and Peterborough is of a code suitable for EfW, but instead goes to landfill.<sup>256</sup> The WWRF would go some way towards solving this capacity gap, but if planning permission is refused, this waste would instead be sent to landfill.<sup>257</sup> Moreover, in the wider catchment area, excluding Cambridgeshire and Peterborough, over 2 million tpa of waste capable of being treated by the WWRF was disposed of to landfill. For these reasons, Amey submits that the need for the WWRF is a benefit to which substantial weight should be given.

### *Benefits*

333. Amey submits that there are substantial benefits to the WWRF which should be afforded significant (and ultimately decisive) weight. It would enhance the existing provision at the WWMP by allowing more waste to be managed further up the waste hierarchy and reducing the waste sent to landfill, and would provide renewable electricity (and heat) in accordance with national policy, thereby helping to meet the energy gap and reduce reliance on non-RE. It would also meet an identified need to drive Cambridgeshire and Peterborough's waste further up the waste hierarchy. The WWRF represents an

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<sup>253</sup> CC1/A at paragraph 5.63.

<sup>254</sup> NPPW paragraph 7 and NPPF paragraph 154.

<sup>255</sup> AC1/A at paragraphs 4.8–4.46.

<sup>256</sup> AC1/A at paragraphs 4.103–4.105.

<sup>257</sup> Which was accepted by CCC at CC1/A paragraph 3.14.



almost unique opportunity to co-locate the EfW with the existing technologies at the WWMP, and represents a realistic opportunity to deliver CHP to WNT. It would provide direct and indirect employment opportunities and deliver net ecological and biodiversity benefits.

334. Furthermore, the WWRF would reduce the tax burden associated with landfilling waste, which is passed onto the tax payer by the local authority. Amey is holder of the municipal waste contract with CCC until 2036, and processing waste in the WWRF would allow CCC to send less waste to landfill (and thus incur less landfill tax). CCC's reliance on the *Samuel Smith* case is nothing to the point, as that was an example of a local planning authority trying to grant planning permission to itself and to take the value of that into account.
335. All of the above benefits are agreed between Amey and CCC, albeit there is disagreement as to the weight which should be afforded to them. For the reasons above in this section and the preceding sections, Amey submits that CCC is wrong to reduce the weight to be given to these benefits.
336. Amey submits that it is a benefit that the WWRF would be self-funding, without any reliance on public funding. CCC disputes this benefit on the basis that it is not a material planning consideration. This position is erroneous.<sup>258</sup> This principle includes offsite benefits which are connected with the development and therefore are material, even though they are offsite. The key point with benefits (on or off site) is whether there is a real connection between the benefit and the development. Here there is plainly a real connection between the benefit and the development since it is part of the characteristics of the development that it is self-funding and not a PFI arrangement. The UKSC in *Wright v Forest of Dean* [2019] UKSC 53 has not changed the law on material considerations and reaffirmed the familiar *Newbury* tests and approach of Lord Hoffman in *Tesco v Secretary of State*.

#### *Planning balance*

#### Consistency of development plan policies with the NPPF

337. Policy CS33 is inconsistent with the NPPF which provides no support for assessing acceptability on the basis of assimilation. The approach of the NPPF in paragraph 172(b) is to achieve development which recognises the intrinsic character and beauty of the countryside, not to require development which is

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<sup>258</sup> In *R (Sainsbury's Supermarkets Ltd) v Wolverhampton CC* [2011] 1 AC 437 Lord Collins held: "70. What can be derived from the decisions in the planning context, and in particular the Tesco case, can be stated shortly. First, the question of what is a material (or relevant) consideration is a question of law, but the weight to be given to it is a matter for the decisionmaker. Second, financial viability may be material if it relates to the development. Third, financial dependency of part of a composite development on another part may be a relevant consideration, in the sense that the fact that the proposed development will finance other relevant planning benefits may be material. Fourth, off-site benefits which are related to or are connected with the development will be material. These principles provide the answer to the questions raised in *Ex p Monahan* [1990] 1 QB 87 about the development in Victoria or the swimming pool on the other side of the city. They do not, as Kerr LJ thought, raise questions of fact and degree. There must be a real connection between the benefits and the development."

identical to other development in the countryside or is invisible i.e. has been absorbed. Equally, NPPF paragraph 127(c) requires sympathetic development but expressly does not prevent or discourage “innovation or change”. The requirement of assimilation is out of step with the NPPF in this regard. CCC describes Policy CS33 as “[setting] the bar higher than the broad wording contained in the NPPF” which underlines the inconsistency.<sup>259</sup> The dictionary definitions cited by CCC are wholly at odds with what the NPPF says about sympathetic development or valuing the character and appearance of the countryside and other statements which apply generally.<sup>260</sup> Yet CCC argues that ‘assimilate’ is seeking to achieve these objectives.

338. Policy CS34 refers to “no significant harm to the environment” and so is inconsistent with the NPPF because the NPPF provides no support for preventing development on the basis that the landscape effect is significant, only on the basis that it is unacceptable. For example, the NPPF makes no reference to limiting the magnitude of change. The correct approach is to consider whether the effect is acceptable, even if it is significant in nature.
339. Policy CS36(a) is inconsistent with the NPPF because it requires there to be “substantial public benefits” to outweigh any harm to any designated heritage assets. This is inconsistent with NPPF paragraph 196 which does not require substantial public benefits in the case of less than substantial harm. Paragraph 196 only requires that there are public benefits which outweigh the harm. In the NPPF, substantial benefits are only required where there is substantial harm (paragraph 195). As such, Policy CS36 is inevitably adopting an elevated starting point from that of the NPPF when dealing with less than substantial harm since it requires in all cases the level of benefits not required by the NPPF.
340. This is an issue of law and the policy is inconsistent with the NPPF. The concept of “substantial” requires an individual assessment of the level of harm and benefits. It has not been suggested that there is something special about Cambridgeshire which does not apply to the rest of England. There is nothing in policy which says that this area is unique in national terms to justify departure from the NPPF. There is no basis for suggesting that the NPPF should be disapplied or a higher standard applied here as opposed to the rest of the country.
341. Submissions that because great weight had to be given to any harm, this meant that public benefits would always have to be substantial in order to outweigh that great harm is erroneous. This approach ignores the clear wording of the NPPF which does not require substantial public benefits for less than substantial harm. The great weight formulation is a reflection of the statutory duties (sections 66 and 72 LBCAA 1990).<sup>261</sup> It operates to give considerable weight to the harm to a designated heritage asset, but this does not require that the great weight will be uniform on all occasions, rather it will depend, among other things, on the extent of the assessed harm and the

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<sup>259</sup> CC1/A paragraph 4.28.

<sup>260</sup> ID21.

<sup>261</sup> Lewison LJ in *R (Palmer) v Herefordshire Council* [2017] 1 WLR 411 referring at [7] to *Mordue* [2016] 1 WLR 2682.

heritage value of the asset in question.<sup>262</sup> Commensurate with this, the weight of benefits required to outweigh the harm requires an individual assessment in any particular case. Both the NPPF and the interpretation by the Courts supports the conclusion that CCC's case on Policy CS36 is wrong. An application of the NPPF policies is sufficient to demonstrate that the statutory duties have been complied with.<sup>263</sup> CCC's argument disappears because the NPPF already factors in the significance to be given to the preservation of the asset.

342. The later policy in SCLP NH/14 is inconsistent with the meaning of MWCS Policy CS36 as advanced by CCC, and underlines CS36's lack of compliance with the NPPF. Policy NH/14 expressly refers to the NPPF; and does not refer to public benefits, but in the text at paragraph 6.49 uses the "substantial public benefits" and "public benefits" distinction found in the NPPF. Further, applying section 38(5) PCPA 2004, this inconsistency should be resolved in favour of SCLP NH/14, with the more recent policy being given greater weight than the earlier policy.

343. SCLP Policy HQ/1(a) is inconsistent with the NPPF because it requires that development "preserve or enhance" local character. This is regardless of its quality or lack of designation. The formulation of preservation and enhancement is the same formulation deployed in the statutory protection in section 72(1) LBCAA 1990 for conservation areas (note also the preservation formulation in section 66(1) LBCAA 1990) and it is well established that this formulation requires that there is no harm.<sup>264</sup> There is no equivalent provision in the NPPF in respect of local character. In respect of a landscape which is not a valued landscape, the NPPF paragraph 170(b) only requires that decisions "contribute to and enhance the natural and local environment by ... recognising

<sup>262</sup> See *Palmer* at [5], considering the statutory duty in s. 66 LBCAA 1990: "The degree of harm (if any) is a matter of judgment for the decision-maker, but if the decision-maker decides that there is harm, he is not entitled to give it such weight as he thinks fit. To the contrary he must give it considerable weight: *East Northamptonshire District Council v Secretary of State for Communities and Local Government* [2015] 1WLR 45, para 22. However, this does not mean that the weight that the decisionmaker must give to the desirability of preserving the building or its setting is uniform. It will depend on, among other things, the extent of the assessed harm and the heritage value of the asset in question: ..." Where Sales LJ (as he then was) held in the context of NPPF 2012: "28. ... Paragraph 134 of the NPPF appears as part of a fasciculus of paragraphs, set out above, which lay down an approach which corresponds with the duty in section 66(1). Generally, a decisionmaker who works through those paragraphs in accordance with their terms will have complied with the section 66(1) duty. When an expert planning inspector refers to a paragraph within that grouping of provisions (as the inspector referred to paragraph 134 of the NPPF in the decision letter in this case) then—absent some positive contrary indication in other parts of the text of his reasons—the appropriate inference is that he has taken properly into account all those provisions, not that he has forgotten about all the other paragraphs apart from the specific one he has mentioned. Working through these paragraphs, a decision-maker who had properly directed himself by reference to them would indeed have arrived at the conclusion that the case fell within paragraph 134, as the inspector did."

<sup>263</sup> As Lewison LJ held in *Palmer*: "Where the decision-maker refers to the statutory duty, the relevant parts of the NPPF and any relevant policies in the development plan there is an inference that he has complied with it, absent some positive indication to the contrary: *Mordue's case*, para 28."

<sup>264</sup> See Lord Bridge in *South Lakeland DC v Secretary of State* [1992] 2 AC 141 at 150.

the intrinsic character and beauty of the countryside". It follows that Policy HQ1(a) imposes a more stringent test than the NPPF. It imposes a test regarded in national terms as being necessary to protect important national assets and is inconsistent on that basis.

344. CCC says that this policy wording got through local plan examination and that national policy and the relevant law have not changed. There is no evidence before the Inquiry as to the basis on which that local plan examination was undertaken. It is undeniable that Policies CS36 and HQ1 are inconsistent. Absent any basis for a special case based on local characteristics, which there is not, it does not matter that the policy wording went through examination. The question is whether, read objectively, the policies are inconsistent.

NPPF paragraph 196

345. In light of the fact that the WWRF would result in less than substantial harm to the designated heritage assets which make up the DAC, it is necessary to undertake the balancing exercise in NPPF paragraph 196.

346. The first stage is to assess whether, and to what extent, the proposal would result in overall harm to heritage asset(s). This stage should consider both the heritage harm and the heritage benefits, weighing them together in order to conclude if there is overall harm or benefit to the designated heritage asset(s) and non-designated heritage asset(s).<sup>265</sup> The conclusion for the first stage should be that the proposal results in less than substantial harm, with that harm being at the lower end of the spectrum of less than substantial harm.

347. The second stage is to weigh the harm against the public benefits. At this stage, all of the public benefits of the scheme (set out above) may be taken into account. When this balance is undertaken, Amey submits that the significant weight which attaches to the public benefits outweighs the harm to the designated heritage asset(s) in question.

348. CCC's approach of discounting the heritage benefits is incorrect and reflects a misreading of the NPPG for the following reasons: NPPF paragraph 196 refers only to "public benefits". No restriction is imposed on the nature of those benefits and therefore any benefit which is material in planning terms may be taken into account. As to the question of materiality, the well-established tests apply: "it must have a planning purpose (i.e. it must relate to the character or the use of land, and not be solely for some other purpose no matter how well-intentioned and desirable that purpose may be); and it must fairly and reasonably relate to the permitted development (i.e. there must be a real – as opposed to a fanciful, remote, trivial or *de minimis* – connection with the development)".<sup>266</sup> All of these tests are satisfied here, as demonstrated by CCC's concession that all elements of the heritage package are compliant with

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<sup>265</sup> See Lewison LJ in *Palmer* at [29]: "where proposed development would affect a listed building or its setting in different ways, some positive and some negative, the decision-maker may legitimately conclude that although each of the effects has an impact, taken together there is no overall adverse effect on the listed building or its setting".

<sup>266</sup> See discussion of the Newbury criteria in *Forest of Dean v Wright* [2018] JPL 672.

CIL regulation 122.<sup>267</sup> This analysis is unaffected by the NPPG, which is clear that public benefits “could be anything that delivers economic, social or environmental objectives” as described in the NPPF. The heritage benefits here deliver these objectives.

349. Further, the statement in the NPPG that “public benefits should flow from the proposed development” is nothing more than a rewording of the principle that the benefit must fairly and reasonably relate to the permitted development. Finally, the heritage benefits are all easily relatable to the examples given in the NPPG. For example, the provision of interpretation would aid understanding of its significance and the provision of better car parking and access would sustain the optimum viable use of the assets.

NPPF paragraph 11

350. The presumption in favour of sustainable development in paragraph 11 does not displace section 38(6) PCPA 2004.<sup>268</sup> Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted (subject to section 38(6) PCPA 2004) unless either limb (i) or limb (ii) of paragraph 11(d) is satisfied. If either limb (i) or (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgement. The mere fact that a policy within Footnote 6 is engaged is insufficient to satisfy limb (i), rather whether or not limb (i) is satisfied depends upon the application of the relevant policy. CCC’s approach would double count the heritage harm.<sup>269</sup> This is because to get to the tilted balance the decision-maker would already have had to decide that the public benefits outweigh the heritage harm.

351. The most important policies for determining this appeal are: MWSSP Policy W1K, Policies CS24, CS29, CS33, CS34 and CS36 of the MWCS and Policy HQ/1 of the SCLP. Nearly all of these policies are out of date by virtue of their inconsistency with the NPPF. CCC’s listing of all relevant policies as being the most important policies for determining the application was erroneous because it failed to draw any distinction between a relevant policy and the policies which are most important. The question of whether a policy is most important necessarily only applies to policies which are relevant and thus cannot be satisfied simply by differentiating between those policies which are or are not relevant. It follows that planning permission should be granted unless either limb (i) or (ii) of sub-paragraph (d) is satisfied.<sup>270</sup>

352. As to limb (i), the only relevant Footnote 6 policy is NPPF paragraph 196, which is satisfied here because the public benefits of the proposal outweigh the less than substantial harm. Therefore, limb (i) does not provide a clear reason for refusing planning permission. As to limb (ii), Amey’s primary position is

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<sup>267</sup> Given that CIL regulation 122 codifies those established tests. *R (Welcome Break Group Limited) v Stroud DC* [2012] EWHC 140 (Admin), Bean J. (as he then was) at [48]–[50].

<sup>268</sup> The correct approach to NPPF paragraph 11 is summarised by Holgate J. in *Monkhill Ltd v SSCLG* [2019] EWHC 1993 (Admin) at [39]–[45]. The application of NPPF paragraph 196 as a restrictive policy within NPPF footnote 6 is dealt with at [58]–[59] at CD21.41.

<sup>269</sup> ID63 at paragraph 186.

<sup>270</sup> ID66.2 and ID63.



that the WWRF is in accordance with the relevant NPPF policies (being those in chapters 15 and 16, as discussed above) and therefore there are no adverse impacts. In the alternative, the only potential adverse impacts at this stage of the analysis could be landscape impacts (given that NPPF paragraph 196 must have been passed in limb (i) in order to proceed to limb (ii)). As to these impacts, they are at worst localised and are significantly and demonstrably outweighed by the benefits of the proposal which are set out above.

353. It follows that neither limb (i) nor (ii) of sub-paragraph (d) are satisfied. For these reasons the WWRF benefits from the presumption in favour of sustainable development in NPPF paragraph 11, which is engaged by virtue of sub-paragraph (d). In the alternative, if the policies which are most important for determining the application are not out-of-date, the WWRF benefits from the presumption in favour of sustainable development in NPPF paragraph 11 which is engaged by virtue of sub-paragraph (c) because the proposal accords with the development plan for the reasons below.

#### Compliance with the development plan

354. The SoCG records that the WWRF is in accordance with Policies CS14, CS22, CS29, CS32, CS35, CS39 and CS36(b) of the MWCS and Policy SS/6 of the SCLP.<sup>271</sup> Amey submits that the WWRF is in accordance with Policies CS33, CS34 and CS36(a) of the MWCS, and Policies HQ/1, NH/2 and NH/14 of the SCLP. It follows that the WWRF is in accordance with the development plan. Further, even if it does not accord with the development plan on one of the contested issues, Amey submits that the WWRF is in accordance with the development plan read as a whole, given its accordance with the agreed policies in the SoCG and the allocation. This is particularly the case given the fact that Policies CS33, CS34, CS36 of the MWCS and Policy HQ/1 of the SCLP should be accorded limited weight by virtue of their inconsistency with the NPPF.

#### Matters which are not material consideration in this case

355. Amey's operator competence is not a material consideration because planning permission runs with the land and Amey is not seeking a personal permission.<sup>272</sup> Contrary to what some local objectors have said, the ownership of WWMP is neither controlled by planning nor material to it.
356. Matters covered by the EP regime (including its efficacy, the EA's competence and Amey's compliance with other EPs which it holds) is not a material consideration. This is apparent from NPPF paragraph 183, NPPW paragraph 7 (fifth bullet point) and has been endorsed by the Courts on many occasions.<sup>273</sup> In other words, the Secretary of State can assume that other regulators in other regimes will operate in accordance with those regimes.
357. Alternative sites/technologies are not a material consideration here because "inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about" are not relevant. In *Mount Cook Auld LJ*

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<sup>271</sup> CD119 at paragraphs 5.7 and 5.13.

<sup>272</sup> AC1/B Appendix 5.

<sup>273</sup> R (Squire) v Shropshire Council [2019] EWCA Civ 888 per Lindblom LJ at [67].



stated: “even, in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight.”<sup>274</sup>

358. No alternatives have been advanced by CCC that could be assessed, only general submissions which fall to be given no weight. There is no burden of proof in these cases.<sup>275</sup> So CCC has failed to deal with two critical aspects of alternatives and has misstated the law. There is no burden and even if potentially relevant, *Mount Cook* explains why it goes nowhere here. The attempt to clutch at Donarbon is hopeless: it was a scoping opinion which went nowhere and was dropped in 2010, nine years ago. There is no evidence that the Donarbon proposal was viable.
359. CCC has simply made vague assertions that the EfW could be located elsewhere (whether on the WWMP or not) and vague assertions that the allocation might be developed through other technologies. These assertions were plainly inchoate and being absent of any detail or evidence are ones for which there is no real possibility of coming about. This is all the more the case given Amey’s clear intention to bring forward the WWRF on Levitt’s Field, to the exclusion of other sites and technologies, as demonstrated through the ES and planning statement where other technologies are considered but rejected.<sup>276</sup> No specific viable alternative was identified to assess its comparative performance. It follows that alternative sites or technologies are not a material consideration in the determination of this appeal.

#### *Conclusion*

360. For the reasons above, Amey’s primary case is that the proposal is in accordance with the development plan as a whole. Accordingly, applying section 38(6) PCPA 2004, planning permission should be granted unless material considerations indicate otherwise. In the alternative, even if the WWRF is not in accordance with the development plan, Amey submits that the benefits of the proposal listed above are all other material considerations which indicate that planning permission should be granted, given the number of benefits and the significant weight which should be afforded to them. For the reasons above, Amey requests that permission be granted.

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<sup>274</sup> *R (Mount Cook Land Ltd) v Westminster CC* [2017] PTSR 1166 at [30]. See also *South Cambridgeshire DC v SSCLG* [2008] PTSR 37 at [29]-[37] which are generally consistent and where Lindblom LJ underlined the fact that the materiality of the existence of alternatives was a matter for the judgment of the decision-maker. Here there is no specific assessment which could give any significant weight to alternatives as a material consideration.

<sup>275</sup> See *South Cambridgeshire* at paragraphs 34–36.

<sup>276</sup> Chapter 3 of the ES (CD26).

## Written representations

### *Pre-application community consultation*

361. The appellant's Statement of Community Involvement refers to public exhibitions held in September 2017, publication of a newsletter and information sent to parish councils.<sup>277</sup>

### *Application stage*

362. Representations submitted to CCC about the application, and in response to the submission of the FEI, are summarised in paragraphs 6.2-6.7 of CCC's Planning Committee Report dated 17 September 2018.<sup>278</sup> These raised similar issues to those considered at the Inquiry and so are not repeated here.

### *Inquiry stage*

363. The Planning Inspectorate received 90 written representations at the appeal stage.<sup>279</sup> These are summarised as follows.<sup>280</sup> About 47% of the submissions commented on the visual and landscape impact of the proposed development. There is particular concern about the height and size of the building in a rural Fenland context, with long sight lines in a flat landscape. The plume from the stack would draw attention to an incongruous building in this setting. Some 44% cited concerns about the health and climate change impacts of emissions from the proposed WWRF. The proximity of new dwellings and schools in WNT, along with CRP, was raised in this regard. Concern was expressed about dioxin and heavy metal pollution, and that authorities have said that there is no safe level of exposure to small PM. Ineffective control by the EA of the existing operations at the WWMP was also cited, along with Amey's safety record. Some considered the scheme's CO<sub>2</sub> emissions to be at odds with CCC's and Cambridge City Council's declaration of a climate change emergency.

364. Heritage considerations were included in 41% of the submissions. Noise and visual impact on the fragile setting of Denny Abbey was raised. So too, was the effect on appreciation of Ely Cathedral, which is known as the 'ship of the Fens' because of its prominent position on an elevated part of the Fens. About 33% of the written submissions commented on the likely traffic implications of the scheme on an already congested A10. Implications of the scheme for waste management was of concern for about 31% of respondents. Some argued that there is no need for a plant of this capacity given initiatives to reduce consumption and the use of plastics, and to increase recycling.

365. Concern was also noted about the likely catchment area for waste and the implications of importing waste from considerable distance. Temporary storage of plastics in landfill for later processing was suggested, and many considered that greener solutions should be found for dealing with waste. A common concern was that incineration would lead to a reduction in recycling,

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<sup>277</sup> CD5.1-5.10.

<sup>278</sup> CD21.9.

<sup>279</sup> Folder WR1.

<sup>280</sup> The % add up to more than 100% because most submissions commented on more than one issue.

which was claimed had occurred in Leeds. Others thought that the introduction of an incineration tax would be likely and would affect the viability of the scheme. Reference was also made to the eMWLP which indicated that there was sufficient waste capacity without the need for the WWRF.

366. One submission considered that the incinerator should be given approval if any two of the following would be useful: 1. Heat could be used to heat the 4,500 houses to be built near the site, 2. If so, would the incinerator produce less CO<sub>2</sub> than the houses would otherwise, 3. Would it be possible to harvest the CO<sub>2</sub> emissions from the incinerator, 4. Would it be possible for the incinerator to produce electricity.

*Other correspondence submitted in the lead up to and during the Inquiry* <sup>281</sup>

367. Dr Kim Ashton <sup>282</sup> opposes the WWRF because it would detract from the heritage and conservation landscape of the Fens, including protecting the biodiversity reserve Wicken Fen and Denny Abbey. The facility is not needed and would increase traffic and emissions, including PM<sub>2.5</sub> and heavy metals, increasing Cambridgeshire's carbon footprint at a time when carbon emissions should be reducing. The EA accepts that incinerators can produce dioxins many times over the permitted limit for months at a time while deemed to be operating as 'normal'. The scheme would disincentivise recycling, demanding a continual stream of waste. It is critical that the democratic decision of CCC is respected.

368. Helen Humphreys <sup>283</sup> supports CCC's reasons for refusal. The WWRF would be completely out of scale with the Fenland landscape. Tree planting would not change this. It would be close to Denny Abbey. Health problems caused by dangerous emissions are a concern for the many people who will live within range of the fall-out. Traffic generation would add to GHG emissions from the facility. Recycling would reduce resulting in wasted valuable resources.

369. Derek Douglas <sup>284</sup> considers that the scale of the WWRF would dominate the landscape and degrade visual amenity across the region. Its volume would be between two and three times that of Ely Cathedral. It would be visible from one of the few elevated viewpoints in the area at the Cambridge American Cemetery and Memorial. Figure 1 shows that both Ely Cathedral (24 km) and the WWRF (12 km) would lie in a north-easterly direction from the Cemetery, and photographs are included of Ely Cathedral. An original consideration in selecting Madingley was to permit the airmen there remembered to have some sight and reference to the airfields on the Fens from where they flew. The WWRF would be a betrayal of our inheritance in this beautiful landscape. Superior waste management solutions should be pursued.

370. AG Whitaker <sup>285</sup> local resident questioned the viability of the proposal in its regional context taking into account the effects of changes in waste

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<sup>281</sup> Written submissions in the lead up to the Inquiry are in Folder WR2, those submitted during the Inquiry are ID.

<sup>282</sup> WR1(16), WR2(25) and ID7.

<sup>283</sup> WR2(14) and ID11.

<sup>284</sup> WR2(26) and ID12.

<sup>285</sup> WR2(34) and ID25.

composition on efficiency and electricity production. Future developments in bio-digestion and bio-char production will further deplete the available calorific value in waste streams to EfW plants. Typically, domestic waste is up to 25% plastic by weight, which can provide up to 50% of the useful heat from incineration. So, any change in the plastic content of feed stock will have a large effect on the efficiency of EfW. But plastic materials are carbon rich resulting in high CO<sub>2</sub> emissions on incineration. Government policies are therefore directed towards reuse and recovery of chemical feedstock before incineration. The impact of these changes has not been fully taken into account in considering the long-term viability of the scheme. Nevertheless, there will still be some residual plastic waste which cannot be recycled. But incineration of this waste is the least environmentally favourable option. It would be better used as feedstock in far more efficient routes to energy generation, temporary storage for future chemical recovery processes or high carbon content sequestration by permanent deep burial. Furthermore, the incineration option hampers the development of recycling and recovery.

371. Sandra Archer and Colin Coe <sup>286</sup> local residents do not think that CCC fully understood the potential risks to human health for the WWRF and associated traffic, given the proximity of Cottenham and planned social housing and new schools. PHE research shows an increase in the number of miscarriages and birth defects in areas close to incinerators but draws no causal link. Cottenham High Street could be used by HCVs because the A10 is at high capacity. Pollution of SSSIs at Cam Washes and Wicken Fen is a concern, as well as demands on the water supply. EfW is not RE nor a low carbon form of energy. Waste should be stored in sealed landfill sites until it can be satisfactorily recycled.
372. Helen Seamarks <sup>287</sup> local resident suggested a UK wide incineration tax of £10 per tonne to fund health studies for the next 30 years, along with a 2p per tonne for a social fund. The effects on the existing education centre and local cottages and residents has not been properly considered. The development at WNT has toned down building heights, whereas the WWRF would be an overbearing structure impacting on the Fenland Museum and Denny Abbey, which is a living heritage site. The impact on the ancient causeway has not been considered. Nor have the overdevelopment effects on the WWMP and its workforce.
373. The proposal is premature pending the outcome of the A10 study, given the accident data, and a pedestrian/cycle link to CRP is necessary. Biodiversity impacts are claimed to be acceptable if the plant is run correctly, but the number of fires and EA breaches indicates that this may not be so. The scheme will not be delivering a district heating scheme for WNT. Any limits on the tonnage of waste could be increased in future. CCC has proven that there is no demand for the WWRF. In terms of conditions if approved, the WWMP should not provide for both mass incineration and mass landfill, and so a site limit of 471,000 tpa should be imposed.

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<sup>286</sup> ID30.

<sup>287</sup> WR1(35) and ID33.

374. John Buckley <sup>288</sup> local resident objects to the scheme as it is not needed. The National Infrastructure Commission's assessment in July 2018 states that EfW plants have been valuable in the past for diverting waste from landfill, but alternatives with lower carbon emissions are now required, and that any new EfW plant should supply useful heat into a local demand. A high recycling strategy would result in a surplus of EfW plants in 2035. CCC's 2019 WNA notes that Peterborough/Cambridgeshire was a net importer of 1.4 Mt of waste from surrounding areas compared with total waste arisings of 2.8 Mt in 2017. Net imports are expected to reduce with more self-sufficiency. There is no viable local demand for heat from the WWRF.
375. Ruth Moulder <sup>289</sup> objects to what would be a retrograde method for rubbish disposal with an unknown pollution potential for planned new houses. Amey has a poor environmental record. Surrounding villages would be impacted, not least by increased traffic.
376. Joanne Horley <sup>290</sup> is concerned about toxic pollutants affecting air quality and organic vegetables, diesel pollution from additional lorries and recent fires at the WWMP. There is a waste reduction scheme in place and a community that cares, so there are alternatives.
377. Alan and Dawn Mustill <sup>291</sup> local residents object on the grounds that CCC has sufficient capacity to process its own waste, especially with improved sorting systems and recycling. EfW is not an efficient way of generating energy, emits GHGs contributing to global warming and climate change, contrary to the objectives of the NPPF. The WWRF would be visually intrusive and destroy the fragile historic setting of Denny Abbey. The appellant has failed to consult effectively with the public.
378. Gemma Bradford <sup>292</sup> local resident is concerned about the health impact on vulnerable people with PM spread over a wide area. The appellant wants to minimise and brush off the potential health impacts for local people. People will move away for health reasons. The WWRF would dominate the landscape and historic Denny Abbey. Amey is incapable of managing their current site. EfW is old technology and more ambitious and sustainable solutions should be employed. WNT is being marketed as a 'green' place, but could gain an instant bad reputation with the WWRF undermining that vision.
379. Mrs Mechthild Clarke <sup>293</sup> local resident quoted from the NPPG about considering cumulative effects of previous waste disposal facilities on a community's wellbeing, including environmental quality, social cohesion and inclusion and economic potential. Lives have already been affected by odours from the existing facility for the last 10 years. Residents were advised to close their windows during recent fires at the WWMP. PHE has given assurances but Amey's track record gives reason for concern. The proposed recreational walking and cycling corridor along an old causeway from Waterbeach to Denny

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<sup>288</sup> WR1(39) and ID34.

<sup>289</sup> ID47.

<sup>290</sup> WR2(16).

<sup>291</sup> WR1(90) and WR2(4).

<sup>292</sup> WR2(6).

<sup>293</sup> WR2(7).

Abbey would be completely ruined by a large chimney and building in close proximity to this historic site, as the magic of the place would be lost. The A10 is a bottleneck for local people. The cumulative impact of all the development proposed would be huge – local people have suffered enough.

380. Lauren Stabler<sup>294</sup> a PhD Researcher at the Global Sustainability Institute at Anglia Ruskin University objects to the proposal, citing scientific evidence that the UK reached over-capacity for waste incineration in 2017, which is now a barrier to achieving a municipal recycling rate above 63%. The WWRF would directly contradict Defra's 2018 ambition to "maximise the amount of waste sent to recycling instead of incineration and landfill". The EC has urged member states to gradually phase-out public support for EfW, introduce or raise incineration taxes, and to carefully consider the risk of 'stranded assets' when supporting EfW. This is particularly so in the UK where separate collection and recycling obligations have not been met, and improvements in recycling would reduce available feedstock over the lifespan of new EfW plants.
381. Edward Leigh<sup>295</sup> opposes the scheme because it would go against policies to address both the climate crisis and public health crisis around toxic air pollutants. The landfill tax has created a perverse economic incentive to build EfW plants. Incineration converts waste into GHG and other waste products rather than into reusable materials. Technologies exist to process unrecyclable plastic into oil. The National Infrastructure Commission directs policy towards recycling instead of incinerating and burying waste, but adds that EfW plants incinerate waste that cannot be recycled, producing electricity and providing heat where there is demand nearby. However, lower cost, lower carbon options exist for some types of waste, in particular food and plastics. Even with the best and most reliable air-filtration systems, incineration releases toxic pollutants which can accumulate and concentrate in certain weather conditions. The negative health effects of air pollution on morbidity and mortality are gradually emerging, and so there should be no complacency about what are "safe" levels of exposure.
382. Girton Parish Council<sup>296</sup> objects to the proposal based on its proposed size/height in a flat terrain, its sustainability in the light of a potential 'incineration tax' and disincentives for the use of plastic, lack of consideration of potential alternatives, and significant health risks due to diminished air quality. The A14 passes through Girton and there is concern about small particle pollution from vehicles. Monitoring of PM<sub>1.0</sub> and PM<sub>0.1</sub> is considered to be essential in all areas affected by the proposed WWRF. The possibility of release of toxic elements and dioxins must be eliminated before the scheme could be approved.
383. Graham Lingley<sup>297</sup> local resident comments that due to its significant negative impacts incineration must not be considered until all recycling options have been explored. A large incinerator would generate less recycling. The WWRF is about profiteering from waste and not about dealing with it appropriately, in a climate changed environment.

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<sup>294</sup> WR1(68) and WR2(12).

<sup>295</sup> WR2(13).

<sup>296</sup> CD9.29, WR1(50) and WR2(18).

<sup>297</sup> WR1(62) and WR2(19).



384. Alexandra Priestley<sup>298</sup> local resident objects on the grounds that an EfW facility of this magnitude has no place so near to human and wildlife habitation. There has been a serious fire at WWMP. The WWRF would harm the Fenland landscape and neighbouring Denny Abbey. The offer of money to the farmland museum and landscaping would not mitigate the harm. WRAP states that incinerators ideally should not be located within proximity of residential properties, protected wildlife sites or areas of historic interest. The Government announced in 2016 investigations into the need for an incineration tax and to review a charge for nitrogen oxide emissions to support recycling. A cautious approach should be taken using incineration to avoid landfill tax. There are also dangerous and unknown impacts for the health of future communities. The impact of the plant would go against clear guidance from WRAP, the NPPF and the WasteSPD.
385. Dr Arthur Flutter<sup>299</sup> local resident and Chartered Engineer wrote in support of the proposal. Britain requires about 70 GW of 24/7 generating plant. Solar and wind power can make a useful contribution but cannot guarantee to operate 24/7. The maximum demand is now mainly provided by gas-fired plant, with a large carbon footprint. However, this can only be replaced by other 24/7 power plant, such as nuclear and EfW. In Britain there are about 60 EfW plants each with an output of about 20 MW, and so have already replaced the equivalent of one large coal-fired power station. So EfW should be encouraged.
386. A 60 m chimney operated at Cheddars Lane in Cambridge from the Victorian era until 1968. This was replaced by an open tip at Milton, which itself was replaced by landfill at Waterbeach. Emissions at ground level is the worst arrangement, as chimneys disperse pollution into the upper atmosphere. This occurs at the 80 m chimney at Addenbrooke Hospital's EfW plant. The Chimneys at Cheddars Lane and Addenbrooke are not an eyesore and the proposed stack at Waterbeach would be no different. Generating power locally is more efficient because of lower transmission losses, reduced transmission infrastructure and reduced need for fossil-fuelled standby capacity. Smaller local power plants fail less dramatically than larger plants and so reduce the risk of regional blackouts.
387. It is wrong for East Anglian waste to be transported elsewhere for processing. The WWRF should be approved and if it fell short of expectations there should be further improvements, the motivation for doing so would be that the facility is in the 'backyard' of the local community.
388. Antonia Irvine<sup>300</sup> objects to the proposal because of the impact on air quality and human health from small particle emissions. The carbon footprint of the WWRF would be worse than landfill even accounting for energy production. An 80 m high structure between Cambridge and Ely would impact on the Fens, which are flat and rural with uninterrupted views of wide-open skies and a striking landscape. The scheme would impact on the historic setting of Denny Abbey and the nearby deserted medieval village. Continual erosion of this

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<sup>298</sup> WR1(1) and WR2(20).

<sup>299</sup> WR2(21).

<sup>300</sup> WR2(22).

setting would render this heritage asset worthless. There would be no incentive to improve recycling or make best use of resources. Additional traffic movements would add to air pollution, noise and congestion in the area. Monitoring of emissions is inadequate, and the EA accepts that modern incinerators can produce dioxins many times over the permitted limit for months at a time, while deemed to be operating as 'normal'. Amey has a poor safety record. Consultation about the proposal has been inadequate, with insufficient time to review and comment on detailed submissions.

389. Jack Stevens<sup>301</sup> local resident considers that people will not want to live within the fallout zone for dangerous emissions from the proposed incinerator. Within that zone are parts of the River Cam and River Great Ouse, two National Trust sites, one English Heritage site and multiple schools. The WWRF would be a major local public health concern. There have been two fires at WWMP in the last four years and expanding operations would open up the possibility of larger, potentially more catastrophic accidents.
390. Andrew Williamson<sup>302</sup> local resident is concerned that monitoring measures would ignore very fine particles and that the EA described Amey as having "a history of non-compliance". Efforts should be directed towards developing benign recycling measures which would create more jobs. The appeal should be dismissed for the good of public health and the greater climate good.
391. Timothy Jones<sup>303</sup> local resident objects to the proposal because of air pollution and because the size of the WWRF would dwarf the surrounding area. It would be completely out of place in what is a rural edge of a growing residential area. It would also add to high traffic levels on the A10. If combustion temperature is not high enough, for example due to the water content of feedstock, toxic by-products would be generated. Neither the site operator nor the EA could be relied upon to ensure that the combustion process was safe.
392. George and Camilla Sprague<sup>304</sup> local residents oppose the incinerator because it would reduce air quality and increase toxic emissions. The appellant appears to oppose proper initial baseline monitoring. The very minimal ongoing monitoring, albeit within legal limits, would not put residents' health first. Amey already has convictions for HSE breaches. CCC should be exploring other ways to promote waste reduction and recycling, which would create more jobs. Incineration adds more carbon emissions than would landfill. The energy production from the WWRF would be very small when seen against other RE production methods.
393. Cambridgeshire Chambers of Commerce<sup>305</sup> notes that whilst businesses try hard to reduce, reuse and recycle, inevitably there is some waste that needs managing. Landfill can no longer be relied upon. The WWRF offers a strong solution for Cambridgeshire. It would reinforce the local electricity grid (generating enough to power 63,000 homes) and provide the potential to heat local homes and businesses. Cambridge Econometrics demonstrates that the

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<sup>301</sup> WR2(24).

<sup>302</sup> WR2(31).

<sup>303</sup> WR2(32).

<sup>304</sup> WR2(36).

<sup>305</sup> ID48.

scheme would deliver significant economic benefits, including; construction generating £45m in Gross Value Added (GVA) within the local area, up to 876 direct and indirect construction jobs, 48 new jobs, when operational the WWRF would add 10% to the WWMP's existing GVA of £27m per annum. It would reduce landfill and associated CO<sub>2</sub> emissions by 35,000 tpa. There is interest by local businesses in the opportunities the scheme would provide. The Chamber welcomes the proposal and its £200m investment which would support the Cambridgeshire economy.

394. Dr Alan James BSc Tech PhD MBCS CITP MIMMM CEnv <sup>306</sup> in a personal statement considers that the scheme should be refused permission because it would lead to additional and avoidable emissions of GHG, and because it would be a high hazard site close to a significant human population, including schools.
395. CBWIN's consultant has shown that the proposal would give rise to between 11,393 and 28,336 tonnes of CO<sub>2</sub> equivalent per year more than would arise from sending the same waste to landfill. But this does not take into account additional emission from HGVs transporting waste over long distances. Surface transport is the largest single source of GHG in the UK. Climate change is the single greatest challenge facing humanity. Locally, climate change is likely to lead to the loss of large parts of the Fens by the end of this century due to sea level rise. A flood warning has been issued for Cottenham Lode, which includes the area around the appeal site. Climate change effects should be a major consideration in determining this appeal.
396. Many recent reports demonstrate the seriousness of air pollution. The EU Air Quality Directive, implemented in the UK by the Air Quality Standards Regulations 2010 makes clear that there are no safe limits to PM<sub>2.5</sub>.
397. Monica Bijok <sup>307</sup> commented that the growth in Cambridgeshire and Hertfordshire over the last decade means that the water supply is now unsustainable. More water is used than is recharging the aquifer. Chalk streams are disappearing and trees showing signs of drought stress. The WWRF would use quite a lot of water and should be vetoed on lack of water supply grounds.
398. English Heritage Trust (EHT) <sup>308</sup> is responsible for the Denny Abbey SAM, which is open to the public and managed by The Farmland Museum. The EHT fully endorses the objection to the scheme by HE. The SAM is in a comparatively isolated rural location. Proximity to an overbearing industrial development would radically change visitor perceptions. Notwithstanding the mitigation proposals the proposed development would significantly degrade this resource. It would harm public enjoyment and appreciation of the site and have a serious impact on visitor numbers and income that would harm the site's sustainability.
399. EHT confirmed that the package of measures in the draft section 106 agreement would help offset the adverse effects of the development proposals on the historic significance and business sustainability of the Denny Abbey and

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<sup>306</sup> ID54.1 and ID54.2.

<sup>307</sup> ID35.2.

<sup>308</sup> CD9.16, WR1(86) and ID18.

Farmland Museum site. Relocation of the access and car park would significantly reduce the visual intrusion of the WWRF as visitors arrived and exited the SAM, and would accord with SCLP Policy SS/6 11.c.iv. concerning WNT which requires a review of the access arrangements to the SAM. Structural landscaping to the east of the A10 would lessen the impact of views of the WWRF from parts of the SAM, particularly the west end of Denny Abbey, and as experienced by visitors entering the SAM along the medieval causeway from WNT.

400. Trustees of the Farmland Museum<sup>309</sup> consider that the WWRF would have a negative effect on the experience of visitors to the museum, which is an important cultural and recreational asset for residents in the region. It is a unique and serene place with a sense of isolation and peace despite the proximity of the A10. If the appeal succeeds mitigation would be critical to protect as much as possible of the story of what this rapidly changing region was like. Early preparation for screening using native trees and hedges would be essential.
401. Anonymous<sup>310</sup> local resident who considers that confusing information has been spread by opponents of the scheme. The size of the chimney would be most evident near to the plant and would not adversely affect the setting of Ely Cathedral 10 miles away and sited on a hill. The WWRF would be visible from the Haddenham Ridge and other high viewpoints, but with a foreshortening effect its height would not be particularly relevant, and it would not be any more prominent than the existing Amey buildings on the site. References to 'open Fen landscapes' are misleading because in views to the west from Denny Abbey the land has been built up by landfill that already obscures the view. The sheer bulk of the WWRF would adversely affect the view from Denny Abbey, especially from the existing car park, but it would not adversely affect the experience of a visitor looking around the abbey and the museum. Odours from the WWMP have come from composting, which would have nothing to do with the proposed EfW project. Properly incinerating the residual waste which currently goes to landfill would be environmentally preferable and would improve rather than degrade the health effects of the site.
402. A petition compiled by CBWIN<sup>311</sup> was submitted to the Inquiry. It is headed "No to Giant incinerator at Waterbeach PETITION" and the 5,323 signatories stated that they are "...opposed to the giant Amey Cespa waste incinerator proposed for Waterbeach".

*Written representations from other consultees*

The following sets out the views of other consultees, where these are not summarised elsewhere in this report.

403. Heidi Allan former MP<sup>312</sup> wrote about concerns regarding the health effects of ultrafine particles not subject to measurement. PHE states that these are thought to cause many adverse outcomes including systemic inflammation.

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<sup>309</sup> WR1(53).

<sup>310</sup> ID58.

<sup>311</sup> The petition is included in a separate folder.

<sup>312</sup> CD11.23.

Defra states that exposure is associated with adverse health effects. A question from David Drew MP showed that there is no specific limit set for PM<sub>1</sub> emissions from incinerators. The potential for an incineration tax has not been sufficiently considered in this proposal which could affect its economic viability.

404. Burwell Parish Council<sup>313</sup> understands that Burwell would be within the fall-out area depending on wind direction and is concerned about pollutants affecting wildlife. The chimney may also be visible from a distance.
405. Cambridge Fire and Rescue Service<sup>314</sup> considered provisions for emergency water supplies adequate in principle, but the main design and hydrant provision would need to comply with the relevant code of practice.
406. Cambridge International Airport<sup>315</sup> has no objection and confirmed that a red warning light on the stack would not be required under the Air Navigation Order 2016. There were no comments from the Civil Aviation Authority.
407. East Cambridgeshire District Council<sup>316</sup> supports the proposal in principle based on the environmental benefits of EfW, but reiterated the importance of assessing potential impacts on air quality and traffic movements.
408. Environment Agency<sup>317</sup> (EA) supports the principle of the proposal as an EfW facility which would provide an opportunity for C&I and municipal residual waste to produce energy and heat, reducing dependency on landfill. All waste arriving at the WWRF should have previously been treated for reuse and recycling. The proposed visitor/education centre would encourage a sustainable society. Any subsequent EP application would need to address; reception and storage areas should be such that no odours, litter or dust could cause harm to the environment; contingency measures would be required to deal with incoming wastes in the event of a breakdown; controls on the acceptance of waste to ensure that it contained no unacceptable substances and how any such waste would be quarantined and disposed.
409. The EA's internal briefing note on UKWIN article July 2018 states that emissions of PM<sub>10</sub> and PM<sub>2.5</sub> from modern EfW plants are so low that they cannot be accurately specifically measured using currently available technology, but that this is not a problem as all EfW plants continuously monitor emissions of total PM (TPM), which includes particles of all sizes including PM<sub>10</sub>, PM<sub>2.5</sub>, PM<sub>1</sub> and ultrafine particles. EfW plant operators report their continuous monitoring resulting, including TPM, to the EA every three months and these are placed on the public register. Annual reports of emissions are submitted to the EA's Pollution Inventory which in future will include estimates for PM<sub>10</sub> and PM<sub>2.5</sub>.<sup>318</sup>
410. Haddenham Parish Council<sup>319</sup> is concerned about traffic through the village and considers that section 106 monies should be used to address this,

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<sup>313</sup> WR1(21) and CD11.9.

<sup>314</sup> CD9.19 and CD11.25.

<sup>315</sup> CD9.5 and CD9.28.

<sup>316</sup> CD9.32 and CD11.19.

<sup>317</sup> CD9.12 and CD11.14.

<sup>318</sup> This note is dated 17 August 2018 and is attached to ID61.

<sup>319</sup> WR1(18), CD9.9, CD9.23 and CD11.4.



along with the impact on views and any potential pollutants emitted from the plant. The A10 improvements should be undertaken before any construction work commenced.

411. Public Health England<sup>320</sup> (PHE) advised that it had no significant concerns regarding risk to the health of the local population from potential emissions providing that all appropriate measures were taken to prevent or control pollution in accordance with technical guidance or best practice. An EP would set out operating requirements to protect the environment and human health, and the PHE would request further information at that stage if necessary. PHE's published position statement on the health impact of emissions to air from municipal waste incinerators found that while it was not possible to rule out adverse health effects from modern, well-regulated facilities with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. It added that the Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment concluded that any potential risk of cancer due to residency near to municipal waste incinerators is exceedingly low and probably not measurable by the most modern techniques.
412. PHE's statement on modern municipal waste incinerators (MWIs) study dated 15 October 2019 refers to the results of a major study published by the Small Area Health Statistics Unit at Imperial College London. The two papers published in November 2018 and May 2019 found no evidence of an increased risk of infant mortality for children living close to MWIs. A final paper published in June 2019 found no evidence of increased risk of congenital anomalies from exposure to MWI chimney emissions, but a small potential increase in risk of congenital anomalies for children born within 10 km of MWIs. The authors acknowledge the increase in risk of congenital abnormalities linked to distance from MWIs is the cruder of the two measures and may well be down to not fully adjusting the study for factors, such as other sources of pollution around MWIs or deprivation. A causal association between the increased risk of congenital abnormalities for children born close to MWIs has not been established. PHE's risk assessment remains that modern, well run and regulated MWIs are not a significant risk to public health. While it is not possible to rule out adverse health effects from these incinerators completely, any potential effect for people living close by is likely to be very small.<sup>321</sup>
413. The Highway Authority has no objection to the proposed development subject to conditions requiring an environmental construction management plan and traffic management plan. Provision should also be made for the installation of two bus stops on the A10, and to make good any damage to the highway from construction vehicles. The proposal would have no implications for the high level A10 study.
414. Histon and Impington Parish Council<sup>322</sup> has concerns over potential pollution, particularly dioxins, heavy metals and ultrafine particulates given the number of residents proposed at WNT. These are matters for the EA, but it is

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<sup>320</sup> CD9.27 and CD11.10.

<sup>321</sup> This guidance by PHE is attached to ID61.

<sup>322</sup> CD11.24.



entirely natural for populations near to the proposed plant to be concerned at the apparently weak testing regime and the lack of some relevant research. If permitted conditions should require better monitoring and publication of results online in real time, along with a watching brief on research. Additional traffic on the A10 prior to it being a dual carriageway, and diversion onto the B1049, should be avoided by imposing a condition that HCVs carrying waste from out of the county is not permitted during defined peak traffic times.

415. Historic England (HE) <sup>323</sup> HE's consultation letter to CCC dated 11 January 2018 referred to the history and significance of Denny Abbey, which has very high national importance. HE noted that its historic setting is that of an important medieval institution, deliberately sited on the Fen edge. Before draining of the Fens the Abbey was sited on a small island of raised dry land on the Fen edge connected to Waterbeach by a raised causeway. This historic landscape setting is still legible notwithstanding modifications in the present-day landscape. Modern structures which would detract from this open landscape are absent or largely hidden in views from Denny Abbey, enabling its setting to evoke a sense of seclusion and remoteness on this Fen edge monastic site. The landscape setting is an important aspect of its significance, reflecting the importance that monastic houses placed on an isolated location to sustain spiritual life, along with a need for an agricultural estate. Views from the monastery over the Fens can be regarded as 'intentional' or 'designed' views, that are highly sensitive to visual impacts from intrusive development.
416. The form and location of existing plant in the area has a negligible impact on views from Denny Abbey, but the proposed WWRF would introduce a large structure, of uncompromising massing, with its 80 m high stack with plume and external lighting, of alien character and materials. The juxtaposition would dramatically detract from the current views west of Denny Abbey, introducing an industrial character. The effect would be to reduce the ability to experience what the current setting contributes to an understanding of the significance of Denny Abbey.
417. HE recommended, given the severity of harm from the proposal to the significance of designated heritage assets, that in weighing the public benefits against the serious harm to these irreplaceable assets, to consider whether other potential uses identified in the allocation, which would not be harmful, should not be preferred. HE noted that alternative sites for the proposed development had not been considered. HE objected to the proposed development on heritage grounds. If it would not provide any wider public benefits that would convincingly outweigh this harm, as required by the NPPF, then HE recommended that the application be refused.
418. In commenting on the additional information submitted concerning the landscape and visual assessment HE advised on 14 May 2018 that the intended condition would not materially reduce the level of harm to the significance of Denny Abbey, when considered against the aims and objectives of the NPPF. HE's 11 January 2018 advice remained unaltered.
419. HE's letter dated 29 May 2018 assessed the proposed design and landscaping measures in the heritage mitigation package. A number of

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<sup>323</sup> ID17.

measures would enhance the visitor experience and the sustainability of Denny Abbey and the farmland museum as a visitor attraction. The landscaping would have a limited ability to mitigate the visual impact of the proposed development, given its height, scale and massing. The mitigation package has the potential to bring heritage benefits to the site in support of paragraph 131 of the NPPF. This would help to address the concerns of the English Heritage Trust and the Farmland Museum regarding operational matters. However, whilst welcome, these measures would not offset the harm which would be caused to the significance of the SAM from the impact of the development on the setting of Denny Abbey.

420. In June 2019 HE submitted a commentary on its January 2018 letter. Reference was made to HE's Good Practice Advice Note 3 the Setting of Heritage Assets (2017) concerning a staged approach to assess the significance of heritage assets and the impact of a proposed development on that significance. The harm to Denny Abbey would be very serious, that is at the high end of less than substantial. The appellant's assessment of moderate adverse impacts considerably underplays the level of harm. HE concluded that the measures offered for enhancement and mitigation would not make a material contribution to offsetting the harm which the development would cause to the significance of Denny Abbey.
421. CCC's heritage expert discussed the appellant's heritage expert's evidence to the Inquiry with HE. The notes of this meeting were subsequently endorsed by HE in an email dated 24 October 2019. In relation to WNT the note records that HE had extensive pre-application discussions regarding the northern extent of built development and open space/landscape buffers, as well as the siting of the taller elements of the scheme, in such a way as to minimise their impact on the setting of Denny Abbey. The limit of development is roughly in line with the industrial/technology development west of the A10, which is not prominent in views to and from the SAM. Harm to the significance of Denny Abbey from WNT would be of a lesser order due to the recessive layout, significant landscape buffer and siting of taller buildings, when compared with the impact of the proposed WWRF, whose proximity, height and massing would be so alien and dominant in the setting of the SAM. The note also comments on issues regarding seclusion/remoteness of the Abbey, as well as intentional/designed and key views.
422. An extract from the main issues report dated July 2010 for the then emerging MWSSP notes that English Heritage (before becoming HE) welcomed the inclusion of the 9<sup>th</sup> bullet point in the site profile for W1K, which recognises the proximity of the site to Denny Abbey and the need to preserve its setting.
423. Landbeach Parish Council <sup>324</sup> objects to the proposal because of concerns about toxic emissions during a system breakdown or malfunction being spread over a wide area. Binding requirements on the operator would be necessary to plan for, monitor, publicly acknowledge and rapidly respond to faults, including shut-down of the plant.
424. The Lead Local Flood Authority and the Old West Internal Drainage Board have no objections subject to the imposition of conditions.

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<sup>324</sup> WR1(14), CD9.8 and CD11.16.

425. Natural England <sup>325</sup> (NE) considers that the proposal would not have significant adverse impacts on Wicken Fen SSSI and Ramsar site, a compound of the Fenland SAC, and has no objection. The additional information provided in April 2018 regarding the *Wealden* decision shows that the proposal would not have an adverse effect on the integrity of the Fenland SAC. A likely significant effect can be ruled out. Mitigation measures should be secured for bridge crossings to address any adverse impact on local wildlife.
426. South Cambridgeshire District Council's (SCDC) <sup>326</sup> consultation response states that the proposal would have a significant and adverse visual impact on the local character and surrounding countryside due to its prominence, large scale and industrial appearance. The sheer size and proximity of the WWRF would harm views of Denny Abbey and its setting. Night-time lighting has the potential for adverse visual impacts on the landscape and heritage assets. SCDC's Planning Committee considered that the proposal would lead to 'substantial harm' to Denny Abbey. The proposed 'heritage mitigation package' would not be sufficient on its own to outweigh the 'substantial harm' to the setting of the listed group at Denny Abbey.
427. SCDC also has concerns about the effects on local air quality and human health. The WWRF has the potential to pose a risk within South Cambridgeshire and therefore warrants additional consideration beyond EP requirements. The strategic development of WNT would result in dwellings within approximately 500 m of the WWRF. Any uncertainties associated with emissions could result in impacts on locally sensitive air quality. Future traffic movements would also contribute to local air pollution. Planning conditions concerning air pollution and monitoring were suggested if permission was granted. These included establishing baseline air quality for six months prior to construction so as future impacts of the WWRF could be monitored. Ecology conditions were also suggested. SCDC accepted that noise could be controlled by condition.
428. The reduction in landfill and associated GHG emissions, displacement of fossil fuel generation and the creation of RE would represent economic and environmental benefits. However, SCDC expects harmful impacts to be given sufficient weight. Clarification is necessary as to how the proposed heat pipe connection from the WWRF to WNT would be secured and delivered and by when.
429. Wicken Fen Parish Council <sup>327</sup> appreciated the need for such a facility and relied upon very stringent environmental monitoring.
430. Wilburton Parish Council <sup>328</sup> has concerns about air pollution, traffic congestion, the visual impact of the stack and management of the site given the two recent fires.

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<sup>325</sup> CD9.10 and CD11.8.

<sup>326</sup> CD9.33.2 and CD11.17.

<sup>327</sup> CD9.20.

<sup>328</sup> CD11.21.

431. The Wildlife Trust for Bedfordshire, Cambridgeshire & Northamptonshire<sup>329</sup> agrees with the ES that the proposal would not be likely to have significant impacts on statutory nature conservation sites. However, the construction of two new road crossings of Beach Ditch would result in the loss of sections of ditch bank habitat. Consideration should be given to enhancement of Engine Drain County Wildlife Site by re-profiling of ditch banks to benefit water voles, creating backchannels and planting native species.
432. Witchford Parish Council<sup>330</sup> objects to the proposal because of concerns about traffic on the A10 and increased littering. The WWRF is not needed, would lead to a decrease in recycling and there are greener methods for disposing of waste, which should be dealt with locally. The site is not suitable because it is too close to residential areas.

## **Conditions and obligations**

### *Conditions*

433. CCC and the appellant agree about the imposition of planning conditions in the event that planning permission were granted.<sup>331</sup> The need for these and appropriate wording is considered in the Conclusions section of this report.
434. Suggested Condition 5 would limit the throughput of waste at the WWRF to 250,000 tpa, but suggested Conditions 6 and 7 concerning the treatment of waste arising from the WWMP and the proportion of waste arising from a defined catchment area do not refer to these limitations applying per annum. But it is clear from suggested Condition 8 about annual reporting that the parties' intention is to apply these restrictions annually.

### *Obligations*

435. The section 106 agreement, which is summarised in Annex A to this report, includes a clause that if the Secretary of State concludes that any of the obligations are not compatible with any of the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs) and attaches no weight to that obligation then that obligation shall cease to have any effect and there shall be no obligation to comply with it. How the obligations square with this requirement, and the weight that should be given to each obligation, is dealt with in the Conclusions section of this report.

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<sup>329</sup> CD9.13.

<sup>330</sup> WR1(25).

<sup>331</sup> ID64.

## Conclusions

### Preliminary matters

436. The following conclusions are based on the written submissions, the evidence given by those who appeared at the Inquiry, and my inspections of the appeal site and its surroundings. The figures in parenthesis [ ] at the end of paragraphs and sections indicate source paragraphs from this report. [9]
437. I am satisfied that the ES and FEI submitted for the appeal scheme, which were available for comment during the appeal proceedings, reasonably comply with the requirements of the EIA Regulations. In considering the appeal, and in making my recommendation, I have taken into account the Environmental Information, which includes all the evidence adduced at the Inquiry. In doing so I have come to a different view about the significance of, and weight to be given to, some environmental effects from that set out in the ES and FEI. [4]
438. The WWRF would be a conventional combustion plant based around a main building containing; a waste reception hall with shredder, waste bunker and a potential conveyor link to the WWMBT, boiler house hall and de-mineralisation plant, turbine hall, flue gas treatment facility, air pollution control reagent and residue silos, and staff facilities. The main building would be 141 m long, with the width varying between 55-91 m. The highest section of the building towards its western end housing the boiler hall would be 41.7 m high. The stack would be 80 m high with a diameter of 4.5 m. Part of the appeal site is a vehicle turning head. The remainder of Levitt's Field has no other planning history. [47-58]
439. CCC refused the application, against an officer recommendation for approval, because the scale and massing of the proposed development in relation to the landscape and harm to the visual amenity of local residents, along with the harm to the setting of the Denny Abbey Complex heritage asset, was not outweighed by the benefits of the proposal. Many representations were made supporting CCC's decision and submitting that its democratic determination of the application should be respected. [5-8,195,367]
440. At the Inquiry the appellant requested that the description of the proposed development be amended to omit the reference to "up to 250,000 tonnes... per annum". If the Secretary of State declines the request, and permission were to be granted on the basis of the original description, then the judgment in *Finney* would mean that it would not be possible to gain approval to treat more than 250,000 tpa, other than by means of a successful full application for a new planning permission, unless the revised tonnage would be a non-material change.<sup>332</sup> If the revised description were accepted as an amendment to the proposed development at the appeal stage, and permission were to be granted on that basis with a condition imposed to set a tonnage limit, then it would be possible to gain approval to treat more than 250,000 tpa by means of a successful application pursuant to section 73 of the TCPA 1990. [11,248-249]

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<sup>332</sup> *Finney v Welsh Ministers, Carmarthenshire County Council and Energiekontor (UK) Ltd*; Date: 29 October 2019; Ref: [2019] EWCA Civ 1868.

441. Section 73(2) makes it clear that the decision maker “shall consider only the question of the conditions subject to which planning permission should be granted.” The NPPG provides that in deciding an application under section 73 decision makers must only consider the disputed condition/s that are the subject of the application. It is not a complete re-consideration of the application. However, in granting permission under section 73 new conditions could be imposed if they did not materially alter the development that was subject to the original permission and were conditions that could have been imposed on the earlier planning permission.
442. Retaining the tonnage limit in the description of development, so that the restriction could not be varied without a complete re-consideration of the merits of the proposal in a full application, would provide a degree of certainty about the likely scale of the operation that would not exist if varying the limit could potentially be achieved by a section 73 application. The difference in confidence levels would arise from the limitations under section 73, requiring an application only to consider the limiting condition, and that new conditions could be imposed only if they did not materially alter the permitted development and could have been imposed on the earlier planning permission.
443. But the issue here is whether the proposal would be substantially different with the revised description, and whether anyone would be prejudiced by the alteration being made at this stage in the appeal process, having regard to the *Wheatcroft* and *Holborn* judgments.<sup>333</sup> The proposed alteration to the description would not materially change the scheme that has been considered in the ES. Prior to the 29 October 2019 *Finney* judgment the expectation would have been that a future section 73 application to increase the tonnage was a possibility, notwithstanding the terms of the description. [250,251]
444. Therefore, accepting the amended description would, effectively, just restore the circumstances regarding the proposed development that applied before the *Finney* judgment, about which many submissions were made at both the application and appeal stages. These included representations expressing concern about the possibility of future proposals to increase the tonnage of waste treated if the WWRF were permitted. CBWIN thought that a limit of 250,000 tpa should be applied and that any extension of the operation beyond this limit should be reviewed by the responsible planning authorities before further permission was granted. [164,239,373]
445. The request for the amendment was made towards the end of the Inquiry. Interested persons who had already appeared may not have been made aware of the request or had time to properly consider its implications. Nevertheless, given the circumstances that apply here, where all the third party written representations and submissions to the Inquiry were either knowingly, or unknowingly, made with an appreciation that section 73 potentially would provide a means to increase the tonnage, it is difficult to see who might be prejudiced by accepting the amended description. CCC’s closing submissions to the Inquiry opposed the amendment on the grounds that procedural constraints should not be too relaxed, and not for such a poor reason as allowing a clear run at a section 73 application in the future. [64,65,252]

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<sup>333</sup> *R (Holborn Studios Ltd) v LB Hackney*.



446. However, I find that it would be reasonable to accept the amended description and to deal with the appeal on that basis because it would not materially alter the proposed development and would be unlikely to result in any prejudice. If the Secretary of State considers that there is a realistic prospect of prejudice, the request should be declined, and the appeal determined on the basis of the original description of the proposed development.
447. Some objectors commented on what they considered to be inadequate consultation about the proposal, and a lack of engagement by the appellant. However, there is evidence that the pre-submission public consultation undertaken exceeded the requirements of CCC's adopted Statement of Community Involvement. But even if this were a relevant consideration it is not a matter that should be given much weight in determining the appeal on its planning merits given the opportunity for public involvement and comment during the appeal process. CBWIN submitted a petition opposing the scheme with 5,323 signatures. [8,150,172,173,189,234,361,362,377,388,402]
448. Local residents commented on the operation of the WWMP in the past and referred to recent fires and breaches of pollution controls by Amey, which it was argued should be taken into account in determining the appeal. Many considered that Amey could not be trusted to operate the WWRF in a safe and responsible manner. However, it was made clear at the Inquiry that the appellant does not seek a personal planning permission and that any grant of permission would run with the land. Amey's operational record is not, therefore, a material consideration. For similar reasons, neither are the financial circumstances of the appellant nor the ownership of the WWMP. [152,153,173,184,186,199,237,238,242,355,363,373,378,379,384,388-390,392,430]
449. Some submissions questioned the technology proposed for the WWRF, claiming that superior methods and management solutions for dealing with waste by energy recovery should be preferred. However, MWCS Policy CS2 states that a flexible approach will be taken in terms of the types of technology suitable on different waste management sites. Furthermore, the Waste Management Plan for England states that the Government does not express a preference for one technology over another, since local circumstances differ. This is reinforced in NPS EN-1, which notes that it is for the industry to propose new energy infrastructure projects and that the Government does not consider it appropriate for planning policy to set limits on different technologies. CCC's view that Government policy is to move to encourage other forms of EfW technology and particularly away from combustion technology is not supported by any specific policy statements to this effect. Grate combustion is included in technologies for waste combustion plants in EN-3. Direct combustion is included in the different technologies in the Review of Waste Policy that aside from AD are available for recovering energy from waste. The technology proposed for the WWRF should not be influential in deciding this appeal. [159,173,174,181,186,192,198,236,239,326,369,371,376,378,380,381,392,432]
450. Suggestions have also been made that a smaller scheme would have less impact on the local environment, or that a facility could be sited further from sensitive receptors on other parts of the WWMP. No specific alternative proposals were put to the Inquiry to enable any meaningful assessment of comparative performance. There is nothing to indicate that any of these

alternative suggestions would be viable. This is not a case where consideration of a less harmful alternative development becomes a material planning consideration. References to the previous proposal for Levitt's Field by Donarbon, which did not proceed past the EIA scoping stage, are not helpful in determining this appeal. Furthermore, speculation about what form of development would be likely to gain planning permission on the W1K allocated site should form no part of the current deliberations, and the appeal scheme should be judged on its own planning merit.

[79,99,126,127,136-138,146,197,256,258,357-359,382]

### Main considerations

451. The Secretary of State's reasons for recovering the appeal state that the appeal involves proposals for development of major importance having more than local significance. However, the direction did not include details of any matters about which the Secretary of State particularly wishes to be informed for the purposes of considering this appeal. The evidence indicates that the main considerations here are as follows. [7]
- (1) The effects of the proposed development on the character and appearance of the area.
  - (2) The effects on heritage assets.
  - (3) The effects on the local amenity of the area and living conditions.
  - (4) The effects on the local road network and on highway safety.
  - (5) The effects on biodiversity, hydrology and other issues.
  - (6) The effects on employment and the economy.
  - (7) The effects on Greenhouse Gas (GHG) emissions and the extent to which the proposed development would be consistent with Government policy and NPPG concerning renewable and low carbon energy and climate change.
  - (8) The need for the proposed development and its implications for waste management in the locality and the wider area.
  - (9) The extent to which the proposed development would be in accordance with the development plan for the area.
  - (10) The extent to which the proposed development would be in accordance with the National Planning Policy Framework (NPPF), National Planning Policy for Waste (NPPW) and the National Planning Practice Guidance (NPPG).
  - (11) The planning balance.
  - (12) Whether any permission should be subject to planning conditions or obligations and, if so, the form these should take.
452. The remainder of this report addresses the matters outlined above, using the following approach. For each of the main considerations 1-8 above the report considers the likely effects of the proposed development. Impacts are described and significance assessed, taking into account necessary planning conditions and obligations.
453. The significance of effects is a matter of judgement, and for consistency within this report a rating scale is used for the negative and positive effects of the appeal scheme (harm and benefits); negligible, minor, moderate, substantial and major significance. In considering the relative weight to be given to various considerations in the planning balance, another scale is used; negligible (little or no weight), slight, moderate, substantial, and great weight.

However, there is scope within these bands for varying degrees of fit, and reference to these categories implies no mathematical or objective basis for analysis across the range of considerations involved in this case. These terms have their normal meaning rather than the specific definitions for the same or similar terms applied in the ES and other professional assessments of effects.

454. My recommendation is based on these findings.

*(1) Character and appearance*

Introduction

455. The WasteSPD states that the siting of facilities should not be harmful to the character, appearance, and setting of the historic environment and specific historic assets. It adds with respect to rural locations that facilities should reflect the scale and design of agricultural buildings, but provides for innovative design, in accordance with good design principles and local distinctiveness, which is an important consideration. It refers to screening low level activity but adds that in open rural areas where additional planting may not be appropriate given local landscape characteristics, greater attention will have to be given to building form and construction materials. It notes that there will be occasion in environmentally sensitive areas where it will not be possible to site a facility without being harmful to the character, appearance and setting of the site, and in such cases development should be avoided.
456. The WasteSPD also states that EfW facilities are typically characterised by large buildings with tall chimneys, and likely to generate high volumes of traffic, particularly heavy commercial vehicles (HCVs), requiring sites in the range of 2-5 ha. It adds that facilities are likely to be large in scale and need sizeable sites to accommodate the plant and associated site works. An urban or rural location could be appropriate. With good quality design and mitigation, facilities could be located up to 250 m from sensitive receptors. Potential impact and mitigation measures for landscape and visual impact set out in the WasteSPD include; that the design of the building and stack will depend on the local context but take an appropriate form, massing and size; careful consideration of chimneys; along with tree and hedgerow planting and boundary treatment.
457. The landscape experts who appeared at the Inquiry used different methodologies in their approach to the assessment of effects. In considering the evidence, I have had regard to GLVIA3 and applied my own judgement to the information before the Inquiry, which includes the submitted ZTVs and what I saw on my site visits. [12,13,212]
458. The appeal site is situated about 6.7 km north of Cambridge and about 12 km south of Ely. Figure JM1 shows the appeal site in relation to the WWMP to the north and west, and the DAC to the east over the A10.<sup>334</sup> It also indicates the location of Ely Road industrial estates, and Cambridge Research Park (CRP), which comprises contemporary hi-tech industrial and office buildings, to the south of the appeal site. The proposed site for Waterbeach New Town (WNT), for

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<sup>334</sup> Figure JM1 is at AC2/B. Figure JM10 includes an aerial view of CRP and imagery for the proposed WNT development.

approximately 8,000 to 9,000 dwellings on the site of the former Waterbeach Barracks, is to the south of the DAC. [29-36]

#### Landscape character

459. In the 2014 National Character Area profile the appeal site lies within NCA88 Bedfordshire and Cambridgeshire Claylands, but close to NCA46 The Fens. The appeal site lies within regional character type Lowland Village Farmlands (RCT13), but close to RCT22 the Planned Peat Fen. In the county assessment the appeal site lies at the transition between Area 3: Western Claylands and Area 8: Fenland. [38-41]
460. The appeal site and about 75% of the land within a 10 km radius of it lies within District LCA E. The Fen Edge. I concur with the appellants that The Fen Edge in SCDC's District assessment is much more closely matched in terms of relevance to the assessment of effects than are the higher-level assessments at county, regional and national level. But since this LCA was described in 2010 there has been additional development off the A10 in the vicinity of the appeal site, more landfill on the WWMP and now a commitment to develop WNT. Nevertheless, many of the key characteristics of The Fen Edge remain as described in the 2010 assessment. The District Design Guide SPD provides that new development should not intrude upon the skyline, with the exception of specifically agreed features selected as landmarks. [42-43]
461. The national, regional, county and district landscape character assessments together indicate that the area containing the appeal site is a transition zone between the Claylands/Lowland Village Farmland type landscapes to the south and west, and the more open expanses of the Fen type LCAs to the north and east. The latter is a flat, low-lying and sparsely populated landscape with large arable fields and wide views to distant, often dramatic skies. There is almost no tree cover for large expanses, but in some places in this flat landscape the scattering of clumps of trees, poplar shelterbelts and occasional hedgerows merge together to produce a feeling of a more densely tree-covered horizon. Fen islands, some elevated an almost imperceptible metre or two, are significant in the landscape as most are occupied by settlements or farmsteads with associated tree cover providing greater prominence. Isolated agricultural and other buildings are often prominent against a background of a constantly changing sky. The few large built structures that do exist exhibit a strong vertical visual influence, with church towers and spires creating significant landmarks in this context. The straight lines cutting across the flat landscape created by 'lodes', drains, ditches and droves are distinctive features. The raised banks of rivers and lodes, in places marked by lines of willows, offer wide views over the lower land.
462. The sense of rural remoteness and tranquillity becomes less apparent in the southern part of this transition zone. The land to the south and west of the appeal site is a low-lying, predominantly intensive agricultural landscape with sparse woodland and trimmed hedgerows. This area has a higher density of settlement, which includes the larger villages of Cottenham and Waterbeach. This along with major transport infrastructure interspersed with large developments, such as the CRP and WWMP makes it a busier, yet essentially rural landscape. Notwithstanding the influence of built development, extensive

vistas and huge skies with changing cloudscapes are a feature of the area.  
[262]

463. Key landscape receptors for the area that contains the appeal site are:
- (1) A flat low-lying landscape with open views and extensive vistas.
  - (2) Long level horizons with pronounced skylines.
  - (3) Huge skies with dramatic cloudscapes.
  - (4) The dominance of horizontal over vertical features in the flat landscape emphasised by wide horizons, and linear 'lodes', drains and droves.
  - (5) The significance of church towers and spires as landmarks.
  - (6) An historic landscape reflecting a settlement pattern that results from the development of Fen islands.
  - (7) A rich and varied intensive agricultural land use with scattered trees, shelterbelts and occasional hedgerows.
  - (8) Modern development spreading onto low-lying land.
464. The change from an open grassed field to the WWRF would fundamentally alter the landscape fabric of the appeal site itself. However, Levitt's Field is of low sensitivity in terms of its fabric, given that its north-western corner already contains a turning head for HCVs that serve the WWMBT. With the proximity of the WWMBT buildings and activity, along with raised landfill to the west of the appeal site, the WWRF would not be out of context in land use terms. However, the proposed landscaping, including both on-site and off-site planting, would not screen a large part of the building or the stack. The scale and height of the WWRF would dominate the area. During the construction period, and for the time that it would take for tree planting to mature, the impact would be even greater. [2]
465. The appellant acknowledges a significant adverse impact on the landscape character of the area with 1.5 km of the WWRF. However, it seems to me that this understates the likely landscape effects of the proposal beyond this localised impact. In this flat landscape such a large structure would have a greater impact on landscape receptors and over a wider area than is accepted by the appellant.
466. Modern development in the wider area, and particularly that associated with the A10, has given parts of the local landscape a much more urbanised feel. However, existing building heights are considerably lower than that which is proposed for the WWRF. Limits imposed on the WNT would also ensure that multi-storey buildings did not exceed 30 m in height. Furthermore, the site for the WNT lies in a less sensitive location because it will be sited between the CRP and Waterbeach. [29-31]
467. Loss of the remaining part of Levitt's Field would have a negligible effect on the wider agricultural context for the site. The proposed planting, although criticised for appearing as a solid wall of trees and for its durability in the local weather conditions, would not be out of keeping in landscape terms with the existing poplar shelterbelts scattered throughout the wider area. Appendix 2 of the LandscapeSPD provides planting lists for buffer areas, which includes Hybrid Black Poplar in the large tree section. The raised landfill to the west of the appeal site has completely changed the topography of what might once have been part of a Fen island. The proposed development would, therefore,



have no appreciable impact on the historic settlement pattern in the local area. [154,190,280-282]

468. However, the height, scale and overall massing of the WWRF would be an intrusive structure in this flat low-lying landscape that would impinge on the open views and extensive vistas that are a feature of the area. The scattered vegetation, particularly to the west, north and east of the proposed development would filter rather than completely mask views of the WWRF for those moving through this landscape. Notwithstanding the comparative size of trees near to viewers, the scale of the proposed structure would be apparent and would be a dominating influence in the local landscape. It would break up the long horizon from many vantage points and the resultant impact on skylines would detract from one of the areas key characteristics. The proposed stack, with a plume at times, would introduce a man-made element into the huge skies that are a valued feature of this landscape. A plume would be intermittent depending upon operational and atmospheric conditions, but when present it would, at times, contrast with the dramatic cloudscapes that currently occur. [152]

469. The tall structures of the WWRF would exhibit a strong vertical influence in a landscape that is characterised by an emphasis on horizontal features. This would be a particularly jarring effect that would significantly harm the distinctive Fenland landscapes in a sensitive transition zone. The few church towers and spires in the local landscape are local landmarks of some importance in providing orientation in this wide and open landscape. They are subtle features that would be dwarfed by the scale of the WWRF and its stack. The dominance of the WWRF would diminish the significance of these modest church towers and spires in the local landscape. However, given the separation distance from the nearest boundary of the Cambridge Green Belt the WWRF would not have a significant effect on the Green Belt. [156]

470. Taking all the above into account, the proposal would harm important landscape receptors. I consider that the WWRF would have a harmful effect on the landscape character of the south-eastern corner of NCA46, and the southern parts of both RCT22 and County Area 8. It would also harm the existing character of a significant part of District LCA E The Fen Edge. The impact would not be so severe for some northern parts of NCA88 and RCT13, or for parts of the north-eastern corner of County Area 3, where these areas contain more built development and where intervening trees/vegetation would provide greater assistance in screening distant views of the WWRF. Nevertheless, I find overall that the WWRF would have an adverse effect on the landscape character of the area, in both the short and long term, of moderate/substantial significance.

[93-96,155,156,183,185,187,190,195,201,213,241,257,263-265, 269-272,278,279,363,367-369,378,391,426]

#### Visual impact

471. The proposed tree planting would never screen a large part of the building or the stack. Design measures are proposed to deal with the roof shape, external materials and colours, which for a building of this type would be acceptable design features. But these would do little to mitigate the visual impact of such a large structure seen above the tree screens. There are local



concerns about lighting, but there is confirmation that red air safety warning lights would not be required for the stack, and the discharge of planning conditions could ensure that external lighting at lower levels around the building would be no more intrusive than that already existing along this part of the A10. The plume would be a transient feature, but when present would draw attention to the building so enhancing its visual impact. [44,124,152,157,172,176,199,280,309,363,386,406,426]

472. The appellant's and CCC's landscape experts submitted ZTVs using slightly different parameters and methodologies and so the results are not directly comparable. Small differences in the models result here in considerable variation between the predicted ZTVs in this flat landscape. Nevertheless, both show visibility of the WWRF within a wide area that extends out in places to the 10 km study area. The ZTV for the building itself generally indicates greater visibility from the areas located to the north of the appeal site, with more restricted visibility in the direction of Cottenham and Waterbeach. This is less so in the ZTV for the 80 m high stack. But wherever there is a raised vantage point in this flat landscape potential views would be available over long distances, such as from parts of the Devil's Dyke and Burwell to the east and from the Haddenham Ridge to the north. [176]
473. The appellant's assessment found a significant adverse visual effect from only three viewpoints, all located to the immediate east of the appeal site and in the vicinity of the DAC. From the evidence submitted and from my site visits I consider that this assessment understates the likely harm to the visual amenity of the area that would result from such a large building, with a stack and plume at times. In considering the effects on visual receptors, those living, working or visiting the area and travelling through it on PRow, roads and the railway, I have first assessed the likely impact from the immediate surrounds of the appeal site, and then consider more distant views from all directions.

#### Immediate surrounds

474. The WWRF would be a prominent structure in many views within 1.5 km of the appeal site. Existing views from the A10 and DAC access road are shown at MVP1 and FVP1-6. The WWRF would tower over Denny Abbey Cottages in views from the DAC car park (PM17 which is 400 m from the appeal site). Part of the roof and all the stack above it would be visible from this vantage point even if the proposed poplar planting could be maintained at a height of 27 m. From further to the east, along what is planned to be a pedestrian link to WNT, the WWRF would be a dominating feature, appearing in this view much higher than the adjoining WWMBT (PM20 which is 570 m from the appeal site). The WWMBT, which is itself a large building, does not appear to be much higher than Denny Abbey Cottages in this view, and is partially screened by roadside vegetation.
475. MVP24 indicates the roof of the WWMBT again partially screened by roadside vegetation. There is no photomontage from this location, which will in future be within the WNT, but it is evident from PM22 (2 km) taken from the other side of the WNT, that the stack and part of the roof would be visible unless screened by new buildings within the WNT. FVP90 and MVP8 are near to the CRP. There is no photomontage from this area, but WF2 (3.1 km) is taken from a location about 2 km to the south-west and indicates the stack

prominently. Buildings within the CRP would screen out some views of all or part of the WWRF, but given its size and proximity it would likely be a significant feature in some views out from the CRP and its surrounds.

476. From Long Drove to the south-west of the appeal site (MVP9 FVP24) the CRP buildings sit low within the landscape and are largely screened by vegetation. This would not be so for the WWRF and its stack. MVP3 is located towards the other end of Long Drove to the north-west of the appeal site, where the WWRF would be sited behind, but only partially screened by the WWMP landfill. There are no photomontages from Long Drove, but the likely visual impact can be extrapolated from PM7, which is located further to the west.

#### Views from the west

477. PM7 on Twenty Pence Road, 1.7 km from the appeal site, indicates that from this vantage point the existing landfill screens out views of the WWMBT. In this context the WWRF would appear as an isolated and dominant structure. Other buildings located to the south of the appeal site within the WWMP and the industrial estates off the A10 are set well below the finished height of the landfill. By contrast the Year 15 photomontage shows the WWRF building about twice the height of the landfill, with the stack projecting as much again into what would otherwise be an expansive sky. Similar views would be available from MVP6 and FVP36-43.

478. The view from near Rampton is shown on WF4 (5.15 km). From this vantage point the stack would appear about the same height as Cottenham Church tower, but it would be located further into the distance. Nevertheless, from these distant vantage points a plume when it existed would attract the eye and draw attention to the stack. A similar orientation and views would apply to FVP25-30, which are closer to the appeal site than WF4.

479. Further to the west near Willingham WF5 (6.6 km) indicates that parts of the roof of the WWRF and the stack would be visible on the horizon, appearing higher in the wider landscape than Cottenham Church tower. At this distance, with relatively flat topography, there is more likelihood that intervening vegetation would soften or screen views of the WWRF, as is evident from FVP31-35.

#### Views from the north-west

480. To the north-west of the appeal site near to this part of the River Great Ouse WF9 (2.4 km) there may be some views of the WWRF where it was not obscured by vegetation, as is clear from MVP5 and FVP51 showing the existing WWMP landfill on the horizon. But as is evident from WF9, FVP50 and FVP52 where vegetation does exist it would effectively screen views of the WWRF in this flat landscape.

481. Further to the north the land rises up towards Wilburton. WF8 (5 km) is located on this rising land and indicates that the WWRF would be a prominent feature on the skyline. The long horizon here mostly comprises trees at various distances (MVP16 FVP53-56 FVP61), but most of the WWRF building and all the stack would be visible above the treed horizon.

482. Higher up on Haddenham Ridge (WF10 at 6.25 km MVP15) the WWRF would be highly visible projecting above the horizon when atmospheric conditions provided good visibility at this distance. However, given the separation distance there would be more occasions when, as I saw on some of my site visits, weather and light conditions would limit views of the WWRF. On the other hand, on very clear days, with possibly a temperature inversion, any plume would be a significant feature in the wide skies that characterise views from this ridge. Similar views would be possible from FVP47. Further down from the ridge and closer to the River Great Ouse (WF7 5.4 km) only the stack would be visible. Similar views from lower areas down from the ridge would apply from FVP44 FVP46 FVP49.

#### Views from the north-east

483. PM25 (3 km) represents views along this part of the Ouse Valley Way. The WWRF would be of a height that would make it visible above most of the intervening vegetation from vantage points in this area. In this riverside context it would be perceived as a large industrial type structure that appeared isolated from any other buildings in the landscape. The WWRF would be on a completely different scale to the nearer wind turbines at Chittering. Similar views but at a slightly greater distance, and in some cases with more intervening vegetation, would be possible from FVP57-60. Further to the north-east (WF6 at 5.6 km) intervening trees and vegetation would make for intermittent views of the WWRF as people moved within this area, but there would still be some more open views (MVP14). The same would apply to views from the area around Newmarket Road and PRoW near to the River Great Ouse (FVP67-75). More distant views from more elevated vantage points would be possible from FVP62-65, but views from within Stretham would more likely be screened out by nearby buildings (FVP66).

#### Views from the east

484. In the area around Chittering (FVP76-79) the WWRF would be a prominent structure in views from local roads and PRoW. FVP88 is about 500 m east of the railway line. Although there is no photomontage from this area, it is apparent from the relatively open landscape and representation of the scale of the WWRF in PM10, which is about 500 m to the west of the railway line, that at least some of the roof and the stack would be apparent to rail passengers. This is confirmed by the ZTV which indicates that the building would be visible from the railway line for most of its length from east of Stretham to north-east of Milton. Further to the east in the vicinity of Upware PM26 (5 km) on the Fen Rivers Way indicates that generally the higher parts of the roof and stack of the WWRF would be visible above intervening trees. The stack would again be an intrusive feature on this treed skyline. This is a popular boating and walking area and where visible (FVP84-87 FVP89) the WWRF would be an incongruous feature in this open Fenland landscape. Similar considerations apply to viewpoints further to the north on the River Cam (FVP80-83).

#### Views from the south-east

485. To the south-east of the appeal site and north of Waterbeach PM10 (2 km) and WF1 (2.14 km) the WWRF would be an isolated industrial type structure in a deeply rural landscape (FVP7-14). One of the few other buildings seen in views from these vantage points is Denny Abbey. Development of WNT would

not affect the direct line of sight between this area and Denny Abbey/WWRF, with the higher buildings within the WNT located further to the south. The scale and mass of the WWRF would reduce the significance of Denny Abbey in these views. It is currently possible to appreciate the existing landscape with Denny Abbey on a slightly elevated former Fen island, but this subtle variation in topography would be overwhelmed by the comparatively enormous isolated of the WWRF. This would harm appreciation of the historic landscape in views from these vantage points. The raised banks of the River Cam would provide occasional views of the WWRF building, and more frequent views of the stack, for walkers using this popular route (ZTV FVP15-18). The WWRF would be a disruptive influence in this rural context.

#### Views from the south

486. PM22 (2 km from the appeal site) is representative of views from within the Waterbeach barracks that will be redeveloped for WNT. There potentially could be some views of the WWRF from the WNT, but these would likely be much screened by buildings and vegetation. From vantage points in and around Landbeach (WF3 at a distance of 3.85 km) it is likely that vegetation and buildings would mostly screen out views of the WWRF. But more open views would be possible from the surrounding area where the stack would be visible (FVP19-21 MVP13). Closer to the appeal site it is likely that nearby vegetation would not always obscure views of the WWRF (FVP91). Further to the south any views would likely be heavily filtered by vegetation (FVP22-23). To the south-west of the appeal site (WF2 at a distance of 3.1 km and MVP12 FVP92) in an area with more trees and small woodlands, the distance and intervening trees would limit views to glimpses of the stack and possibly parts of the WWRF's roof. The same would also apply to more distant views (FVP94).
487. There is local concern about the impact of the WWRF on views from the Cambridge American Cemetery and Memorial at Madingley. This is a Grade I listed registered Historic Park and Garden. It is an important elevated viewpoint overlooking the Cambridgeshire countryside. The horizon and skyline to the north of the memorial is in large part screened by trees and vegetation, but there are some gaps through which it is possible to see Ely Cathedral some 24 km to the north-east if weather conditions permit. The WWRF would be sited some 12 km in a similar direction, although not in a direct line with the Cathedral. It might rarely be the case that the WWRF would be visible from the memorial, but on those occasions, it would detract from the outlook over the countryside between the memorial and Ely Cathedral. [155,185,188,190,217,369]
488. Taking all the above visual effects into account, I consider that the proposed development would have a harmful effect on the visual amenity of the area of moderate/substantial significance.

[97-98,100,101,149,173,183,185,186,191,199,201-204,213-216,257,268, 273-277,363,369,377,382,388,391,401,404,426,430]

#### Conclusions on character and appearance

489. The appellant's assessment that the WWRF would have a localised impact understates the likely harm to the landscape character and visual amenity of the area. Overall, I find that the proposed development would have an adverse

effect on the character and appearance of the area of moderate/substantial significance, which is a consideration that should be given moderate/substantial weight in the planning balance. This harm would bring the proposal into conflict with SCLP Policy NH/2, which provides that development would only be permitted where it respects and retains or enhances the local character and distinctiveness of the local landscape. The scheme would conflict with the design principles set out in SCLP Policy HQ/1 concerning the preservation of the character of the rural area (1.a) and compatibility with its location (1.d). It would also be at odds with objective b. of SCLP Policy S/2 to protect the character of South Cambridgeshire. The proposal would also conflict with the WasteSPD as it would be harmful to the character, appearance and setting of the site. It would also be at odds with the objective of SCDC's Landscape in New Developments SPD March 2010 to promote high quality landscape, by amongst other things, respecting landscape character with appropriate design, including scale.

[80,83-92,150,283-286,288-290]

## (2) Heritage assets

490. The appeal site lies some 135 m from the nearest part of Denny Abbey Scheduled Ancient Monument (SAM), with the furthest parts of the SAM about 870 m from the site. The SAM comprises a monastic priory complex, which includes Grade I and Grade II listed buildings. Collectively these heritage assets, which have an acknowledged group value, are referred to as the Denny Abbey Complex (DAC). Denny Abbey is unusual in housing three different religious orders successively from the 12<sup>th</sup> to the 16<sup>th</sup> centuries, and it is the only known Franciscan nunnery in England to have surviving architectural remains. Apartments were provided for the Countess of Pembroke, the Order's principal benefactor. It is the only property in England transferred directly from the Benedictines to the Knights Templars. There is a series of earthworks including a causeway to the south-east, which once connected the religious settlement with the village of Waterbeach, along with a hollow way to the north. Earth banks representing field and stock enclosures are located to the south and west, and there are two rectangular fishponds in the field to the west of the current DAC access. Following the Dissolution of Monasteries, the property was converted to a working farm. [3]
491. Historic England (HE) notes that this important medieval institution was deliberately sited on the Fen edge on what was then a small island of raised dry land. It is a reasonable assumption that the siting of the monastic house in this location was at least in part influenced by a preference for an isolated location appropriate for the spiritual life of the occupants, along with proximity to an agricultural estate for sustenance and income. It is also likely that, although modest by comparison with Ely Cathedral, the Abbey church was a building of significance in its local context, to be seen in an elevated position in the low-lying landscape, and which provided views over the adjoining agricultural land. This landscape setting continues to make an important contribution to the significance of the DAC. [415-416]
492. The NPPG states that where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm in order to identify which NPPF policies apply. Within each



category of harm the extent of the harm may vary and should be clearly articulated. Amey and CCC agree that the WWRF would cause less than substantial harm in the terms of NPPF paragraph 196 to designated heritage assets. The dispute is one of magnitude within the scale of 'less than substantial' harm and whether the public benefits under paragraph 196 outweigh the harm.

493. The appellant considers that the WWRF would result in 'less than substantial' harm at the bottom of the scale for the Grade I listed refectory and Grade II listed barn, and at the lower end of the scale for the SAM, Grade I listed Abbey church, Grade II listed gate piers and Car Dyke, and that any harm to Cottenham and Landbeach conservation areas should be in the balance. CCC considers the harm to be at the higher or highest end of the 'less than substantial' bracket. SCDC's Planning Committee considered that the proposal would lead to 'substantial harm' to Denny Abbey. HE recommended, given the severity of harm from the proposal to the significance of designated heritage assets, that in weighing the public benefits against the serious harm to these irreplaceable assets, to consider whether other potential uses identified in the allocation, which would not be harmful, should be preferred. HE objected to the proposed development on heritage grounds finding that the harm to Denny Abbey would be very serious and at the high end of less than substantial. [106,291,292,304,398,417,420,426]
494. The remains of the 12<sup>th</sup> century Benedictine Abbey church, a Grade I listed building, is about 430 m from the appeal site. The siting of this building on raised land within an agricultural landscape is an important part of its historic significance. This relationship with a wider setting is still very apparent to the north, east and south (FVP6 WF1) of the building, but less so to the west, where there are more modern buildings associated with the Farmland Museum and development along the A10. The original isolated rural context of the monastic priory complex would be further eroded to some extent by development of WNT to the south, albeit measures are proposed to limit this impact on the setting of the DAC. [421]
495. Incremental erosion of the setting of Denny Abbey enhances the value that should be attached to those elements of its historic setting that remain. Notwithstanding the modern development to the west of the Abbey church it is evident that this building retains a close association with the agricultural land up to Denny Cottages and the roadside vegetation along the A10. This area also contains important earthworks associated with the Abbey. Whilst the open agricultural landscape to the west that would have prevailed when the DAC was used as a monastic complex no longer exists, the setting that remains to the west still makes an important contribution to the significance of the Abbey.
496. The likely impact of the WWRF on this part of the Abbey's setting is indicated in PM17 and PM20. The WWMBT, with part of its roof visible above the trees, and the rising landfill behind Denny Cottages have a limited impact on this western part of the Abbey's setting. But by comparison the WWRF would be a much more imposing structure, industrial in character with modern external materials, that would transform how the fields between the Abbey and the A10 were perceived. This change would far exceed the impact that the existing development and the raising of the landfill to the permitted height will be likely to have on the historic setting. The proposed screen planting (CD92),



albeit appropriate in landscape terms, would have a similar enclosing effect to the WWRF itself in terms of its impact on the historic setting of Denny Abbey. What remains of a sense of historic association of nearby rural land with a monastic priory within this part of the Abbey's setting would be largely lost. [151,418]

497. The WWRF would dominate the setting of Denny Abbey in the wider perspective. This effect would be particularly pronounced from the northern end of the causeway that leads from DAC to Waterbeach past Soldier's Hill, and which is proposed to be reinstated.<sup>335</sup> Those heading north on this path would see Denny Abbey slightly to their left, in a rural setting, with the WWRF seen further to the left above the existing and proposed tree planting, but dominating this part of the listed building's historic setting. Furthermore, any appreciation of the Abbey church as a significant Fenland feature located on a gentle rise in a wide flat agricultural context would be deadened by the scale and vertical dominance of the WWRF seen behind or to the side of Denny Abbey in views from the east (WF1). I consider that the appellant's assessment understates the contribution that the remaining setting makes to the historic significance of the Grade I listed Abbey church, and so has underestimated the likely harm that would result from the WWRF. From the evidence before the Inquiry and from my site visits, I consider that the harm to this asset, which is of the highest significance, would be toward the highest end of the 'less than substantial' scale. [372,379]
498. The 14<sup>th</sup> century refectory is also a Grade I listed building that forms part of the monastic priory complex, and so some of the findings regarding the wider context within which the DAC is seen also apply to the refectory. However, it is less prominent because of the proximity of other buildings. Nevertheless, there would be some vantage points where the WWRF because of its height and scale would impinge upon the historic setting of the refectory. Given that the refectory is an asset of the highest significance, I place this harm in the mid-range of the scale of 'less than substantial' harm.
499. The Grade II listed 17<sup>th</sup> century barn is an important part of the DAC's life as a working farm. Its setting in a wider agricultural context adds to its significance. However, it is well contained by other buildings, including more modern structures, and the proximity of nearby trees. Glimpses of the WWRF or parts of it from within the immediate setting of the barn would likely be heavily filtered. The WWRF would, for the reasons set out above, impact on the wider agricultural setting of the DAC, and this would result in some harm to the setting of the listed barn. I find that this harm would be in a mid-lower range of the scale of 'less than substantial' harm.
500. The Grade II listed gate piers at the entrance to the SAM off the A10 are sited close to the appeal site. The piers appear to comprise parts of a column from the Abbey church, that have been placed at the entrance to the estate as a means of drawing it to the attention of those entering and exiting via the A10. The setting for this asset is therefore limited to this part of the road and

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<sup>335</sup> PM20 does not include the Abbey church, which lies out of the photograph to the right, but this orientation is evident in the annotated aerial photograph entitled 'Strategic Vision' at ID9 and the photograph from the causeway also in ID9.

its immediate surroundings. With mature landscaping the WWRF would be largely screened in views from this part of the A10. But for those exiting the DAC, possibly some of the building and probably most of the stack, would be visible in the background behind the listed piers. This would result in some harm to their setting. I find that this harm would be in a mid-lower range of the scale of 'less than substantial' harm.

501. The WWRF would be a prominent and dominant new feature in views from the SAM. This would harm the appreciation of historic earthworks associated with monastic and agricultural use of the DAC. The DAC as a group of heritage assets has very high national importance. The WWRF would harm the setting of the DAC and reduce the significance of this important group of heritage assets. This impact on group value, and on the SAM, would indicate harm towards the higher end of the 'less than substantial' scale.
502. The Fen edge villages of Cottenham and Landbeach retain an important historic relationship with the open agricultural land to the north of these settlements. The central core of both villages is designated as a conservation area. There would be some views of the WWRF, particularly the stack, from the northern and eastern parts of Cottenham Conservation Area in the vicinity of the church. These views may be filtered through vegetation, but where apparent the WWRF would adversely affect the appreciation of the historic relationship between the conservation area and the surrounding landscape. This would result in some harm to the setting of the conservation area that would, to a slight degree, adversely impact on the historic interest of the village. But this harm would be well towards the lower end of the scale of 'less than substantial' harm in NPPF terms. Similar considerations would apply to views over adjoining open agricultural land to the north of Landbeach Conservation Area. The impact here would also be slight, but nonetheless the WWRF would result in some harm, albeit well towards the lower end of the scale of 'less than substantial' harm. [103]
503. The appellant acknowledges that the WWRF would result in slight harm to Car Dyke that would be sufficient to engage NPPF paragraph 196 with a low level of 'less than substantial' harm. I do not consider that the WWRF would have a significant effect on the setting of Ely Cathedral given the separation distance. I have considered the evidence about other designated and undesignated heritage assets in the wider area, but do not consider that the proposed development would have a material effect on the setting of these assets. The imposition of an appropriate planning condition would address archaeological considerations on the appeal site. [151]
504. The appellant argues that the heritage mitigation measures set out in the section 106 agreement would reduce the harm to heritage assets, or should be considered as public benefits, but not both, to avoid double counting. These measures would provide, a Conservation Management Plan (CMP), an Audience Development Strategy (ADS), a Landscape Strategy (LS), and Interpretation Strategy (IS), along with a new access road and car park for the DAC and if these were not possible additional funds. However, it seems to me that the mitigation measures, whilst potentially public benefits, would not lessen the harm to the setting of designated heritage assets and the contribution that this setting makes to the significance of the assets. Section (12) of this report addresses compliance with the CIL regulations and whether the mitigation

measures are material considerations that could lawfully be taken into account as public benefits for the purposes of the balancing exercise in paragraph 196 of the NPPF. Given my finding that the heritage mitigation measures should be considered as possible public benefits rather than factors that would reduce harm to the assets, this is a matter that is considered in more detail in the planning balance section (11) of this report.  
[119-121,153,305,306,384,399,419,420]

505. The proposed development would harm the setting of important designated heritage assets that comprise the DAC, and this would significantly reduce the contribution that this setting makes to the significance of the assets. This is particularly so for the Grade I listed buildings and for the group value of the assets in the SAM. Overall, I find that this harm would be towards the higher end of the scale of 'less than substantial' harm for the purposes of applying the NPPF.

506. Given this finding, the WWRF would not gain support from SCLP Policy NH/14 and would be at odds with objective b. of SCLP Policy S/2 concerning the built heritage. Compliance with MWCS Policy CS36 and SCLP Policy CC/2 depends upon the outcome of the planning balance. The proposal would conflict with the Listed Buildings SPD, which provides, amongst other things, that there is a presumption to resist proposals that would; dominate listed buildings in scale, form, massing or appearance; damage the context, attractiveness or viability of a listed building; harm the visual, character or morphological relationship between the building and its formal or natural landscape surroundings, or built development; or impact adversely on a conservation area.

507. The harm I have identified should be weighed against the public benefits of the proposal. In doing so considerable importance and weight should be given to the harm to the designated heritage assets.

[25,45,46,102,104-118,157,185,187,190,195,199,203,204,218,241,  
293-303,364,367,368,372,377,378,384,388,398,400,401]

### *(3) Local amenity and living conditions*

#### Residential development in the locality

508. The closest residential properties to the appeal site are Denny Croft Cottage located to the immediate south of the south-eastern corner of Levitt's Field, and Denny Abbey Farm Cottages, four terraced dwellings located about 25 m to the east of Levitt's Field on the opposite side of the A10. There are other scattered dwellings and farms in the wider area. The nearest villages are Chittering (1.5 km), Waterbeach (2.4 km), Cottenham (2.9 km) and Landbeach (3.5 km). The proposed site for WNT is, at its nearest to the appeal site, some 500 m to the south. The consented scheme for WNT comprises 6,500 homes, four schools, along with leisure and community centres. SCLP Policy SS/6 provides for a new town of approximately 8,000 to 9,000 dwellings for the WNT on the site of the former Waterbeach Barracks. Many local residents raised concerns about the possible harmful effects from the WWRF on the local amenity of the area and on their living conditions. Most concerns relate to emissions and possible health implications. [371,378,379,384,427,432]

509. Planning decisions should, in accordance with NPPF paragraph 181, sustain and contribute towards compliance with relevant limit values or national objectives for pollution, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Paragraph 183 provides that the focus of decisions should be on whether the proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes), and that these regimes should be assumed to operate effectively.

#### Air quality and health

510. Air quality and health is not an issue for CCC, but is a major concern for local residents, and particularly so for vulnerable members of the local community. This was an issue raised by objectors with CCC during consultation on the application, and in many written and oral submissions to the Inquiry. However, Public Health England (PHE) advised that it had no significant concerns regarding risk to the health of the local population from potential emissions providing that all appropriate measures were taken to prevent or control pollution in accordance with technical guidance or best practice. The EA supports the principle of the proposal as an EfW facility and noted that any subsequent EP application would need to address matters including reception and storage areas so that no odours, litter or dust could cause harm to the environment, contingency measures to deal with incoming wastes in the event of a breakdown, along with controls on the acceptance of waste to ensure that it contained no unacceptable substances and how any such waste would be quarantined and disposed.

[27,162,163,176,181,184,185,187,189,191,192,196,199,201,202,205,363,368,371,375,381,382,384,389-392,401,403,404,407,408,411,412,414,427,430]

511. The NPPG states that the role of the EP, regulated by the EA, is to provide the required level of protection for the environment from the operation of a waste facility. EPs aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level, and to ensure that ambient air and water quality meet standards that guard against impacts to the environment and human health. However, many objectors have reservations about the ability of the EA to deal effectively with breaches of pollution controls. Friends of the Earth has serious doubts about the adequacy of monitoring. Nevertheless, the NPPF states that planning decisions should assume that the pollution control regime will operate effectively. [150,163,171,173,184,196,202,221,242,356,388,391,414]

512. Many objectors have reservations about the control and monitoring of particulate matter emissions, especially PM<sub>10</sub>, PM<sub>2.5</sub>, PM<sub>1</sub> and ultrafine particles PM<sub>0.1</sub>. The EA notes that EfW plants continuously monitor emissions of total PM (TPM) which includes particles of all sizes, and operators report their continuous monitoring results to the EA every three months with these placed on the public register. In addition, annual reports of emissions are submitted to the EA's Pollution Inventory, which in future will include estimates for PM<sub>10</sub> and PM<sub>2.5</sub>. It is reasonable to assume that TPM is all PM<sub>10</sub> or all PM<sub>2.5</sub> for the purposes of assessing predicted emissions against recommended limits, but this is unlikely to provide much reassurance to those concerned about the ability of fine particles to penetrate deep into lung tissue or to transfer to

unborn babies across the placenta.

[149,152,154,163,167,168,173,175,186,200,207,210,221,223,245,307,367,378,382,388,396,409]

513. There is concern about the control of dioxin and furan emissions from incomplete combustion or system breakdown or malfunction resulting in birth defects. Some submissions cited a note from David Drew (then MP for Stroud) entitled "Our investigation reveals the need for much tighter regulation of incinerators" and considered that the precautionary principle should apply. Reservations about pollution affecting children attending local schools is understandable. But modelling predicts that expected PM at ground level from the WWRF would be many times smaller than recommended limits. With planned reductions in the emission limits for cadmium and thallium from waste incineration, the WWRF's modelled concentrations at the nearest proposed WNT school would have a negligible impact on school children. [151,163,167,172,189,196,198,200,208,224,363,367,394,403,423]
514. PHE advised that while it is not possible to rule out adverse health effects from these incinerators completely, any potential effect for people living close by is likely to be very small. Published articles also state that there is no threshold for some of the potential pollutants from the WWRF below which health effects do not occur. Many expressed a view in written submissions and evidence to the Inquiry that there should be no complacency regarding safe levels of dangerous pollutants. Local fear and anxiety about the likely effects on air quality and possible health implications is not irrational. The concerns of residents and parents for vulnerable people is understandable. [205,207,245,371,379,411]
515. Suggested Condition 35 would require an Emissions Monitoring Protocol providing for the publication on the operator's website of average daily emission levels of oxides of nitrogen, sulphur dioxide, carbon monoxide, hydrogen chloride, VOCs and total mass of particulate matter. Periodic monitoring required for an EP would record dioxins and furans, cadmium and thallium, along with the metals; antimony, arsenic, lead, chromium, cobalt, copper, manganese, nickel and vanadium. The Protocol could provide for baseline monitoring if considered necessary. The monitoring results would be published on the operator's website within one week of the results being submitted to the EA. However, I do not think that these provisions would be sufficient to assuage local fear and anxiety about pollution and associated health impacts. [166,175,178,206,307,378,390,392,414,423,429]
516. Local concerns about odour is understandable given past incidents at the WWMP. However, the tipping of waste delivered to the WWRF would take place inside the building. Operation of the WWRF in accordance with EP restrictions would be unlikely to result in odour emissions that would impact adversely on the amenity of the local area. [309,379,401]
517. There is local concern about the deposition of pollutants resulting in the accumulation of heavy metals and toxins in the productive agricultural land in the vicinity of the WWRF. But the predicted concentrations are a small percentage of the Soil Guideline Values and the evidence indicates that the proposed development would not have a significant risk for the contamination of agricultural land. [151,167,173,177,178,184,189,198,225,367,376,382]



518. Objectors refer to experience from other EfW facilities in the UK and abroad to support concerns about pollution and health risk. However, the FGT proposed for the WWRF would use bag filters which are Best Available Technique for EfW plants, and the other plants cited either used different emission control equipment, or included bypasses, or are not directly comparable with the WWRF because of the waste stream treated. The evidence from other plants is not convincing because there is usually some feature distinguishing them from the appeal scheme. [169,173,222,381]
519. Notwithstanding controls that could be imposed by the planning and pollution regimes, anxiety about pollution and possible adverse health effects in the long term is a material consideration here that is sufficient to bring the proposal into conflict with SCLP Policy SC/2, which requires new development to have a positive impact on the health and wellbeing of residents. However, there are no amenity grounds for imposing planning conditions that would be more onerous than would be expected to be included in controls imposed under the pollution regime. Suggestions that the WWRF should be a Control of Major Accident Hazard (COMAH) site are not supported by the evidence about the quantities of dioxins likely to be stored on the site. [225,308,381,386,427]

#### Noise

520. NPPF paragraph 180 states that potential adverse noise impacts should be mitigated and reduced to a minimum – and should avoid noise giving rise to significant adverse impacts on health and the quality of life, having regard to the *Noise Policy Statement for England* (NPSE). Local objectors also raised concerns about noise from HCVs serving the WWRF and during its operation. However, the technical evidence indicates that subject to the imposition of appropriate planning conditions setting noise limits at nearby sensitive receptors, the proposed development would not result in significant adverse impacts on health and the quality of life by reason of noise. I find no conflict with the aims of the NPSE, or with local policy concerning noise. [152,199,231,309,427]

#### Outlook

521. The WWRF would be a tall structure, but it would be set towards the western side of Levitt's Field where it would maximise the separation distance from the nearest residential properties. Taking into account the scale of the WWRF and this separation distance, I do not consider that it would have such an overwhelming and oppressive impact on the outlook from any nearby dwellings and associated amenity space that it would result in unsatisfactory living conditions to the extent that it would unacceptably affect amenities and the use of land and buildings that ought to be protected in the public interest. There are no grounds to find against the proposal because of its likely impact on the outlook from nearby residential properties. [123]

#### Conclusions on local amenity and living conditions

522. I consider that the appeal scheme would have an adverse effect on the living conditions of residents and on the amenity of the area of minor significance because of health fears. This is a material consideration which gives rise to conflict with SCLP Policy SC/2 and should be given slight weight in the planning balance. However, subject to the imposition of appropriate



planning conditions, and effective pollution controls, I find no conflict with SCLP Policies SC/10, SC/12 and SC/14 or Policy HQ/1.n concerning development that would be overbearing or create an unacceptable impact from noise, odour, emissions or dust.

*(4) Highway safety*

523. There is local concern about the effects of the WWRF on the local road network and for the safety of highway users. The requirement that at least 75,000 tpa of the residual waste arising from other waste management facilities on the WWMP would be treated at the WWRF would mean that some of the vehicles serving the WWRF would already be using local roads. Nevertheless, the scheme would increase the number of HCV's using the A10.
524. In addition, Schedule 7 of the section 106 would set a limit of 571,000 tpa of waste imported for treatment and/or disposal at WWMP, which would be beneficial in terms of limiting the total number of HCVs on local roads. There is no technical evidence to indicate that the likely traffic effects of the proposal would result in an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe and so justify refusing the proposal on highway grounds in accordance with the NPPF. Measures are proposed to control routing HCVs through unsuitable village roads. The Highway Authority has no objection to the proposal.
525. Possible improvements to the A10 are at an early stage of consideration and would not justify delaying a decision about the WWRF until more detailed proposals come forward. Provision of bus stops to serve the facility would be necessary, but the development would not justify constructing a pedestrian/cycle link from the appeal site to CRP. Other suggested junction and highway improvements would not be necessary to render the scheme acceptable in highway terms. Neither would a limit on the maximum number of HCV movements.
526. I find no reason to dismiss the appeal on highway safety grounds and, subject to the imposition of appropriate planning conditions, consider that the proposal reasonably conforms with MWCS Policies CS23 and CS32, and with SCLP Policies TI/2, TI/3 and TI/8. This is a consideration that has a neutral effect in the planning balance.

[37,150,152,154,165,173,175,180,191,195,196,204,206,233,241,364,371,373,375,379,388,391,407,410,413,414,430,432]

*(5) Other considerations*

*Biodiversity*

527. Levitt's Field itself is of limited nature conservation interest. The proposed reed beds, along with landscaping and tree planting, both on-site and off-site, would, depending upon future management, have the potential to provide some biodiversity interest in the longer term. However, the scheme would result in potential for some harm to biodiversity from the construction of bridge crossings over Beach Ditch, which is a County Wildlife Site, and for on-going disturbance from noise and activity associated with the WWRF to wildlife that currently does make some use of the area. Taking these opposing effects into account, I consider that the scheme would have a negligible net impact on local

biodiversity for the appeal site and its immediate surroundings.  
[384,425,427,431]

528. In the wider context there is local concern about the effects of air pollution from the WWRF on Wicken Fen SSSI (5.4 km from appeal site) and Cam Washes SSSI (4 km). Wicken Fen is part of a designated European site (Special Area of Conservation (SAC) and Ramsar site). The appellants submitted a report at the Inquiry to inform a Habitats Regulation Assessment, which was not disputed by CCC. [14,26,149,151,152,163,232,367]
529. Emissions to air from the 80 m high stack would present a potential pathway producing elevated concentrations and deposition rates of pollutants at the SAC. However, dispersion and deposition modelling using worst-case meteorological data from five years predicts that none of the values compared with the relevant environmental quality standards would exceed the EA's 1% long-term (annual mean) or 10% short-term (24-hour) screening thresholds. This finding is dependent upon applying the acid deposition process contribution for neutral rather than acid grassland. The reasons why this would be more appropriate for Wicken Fen were not challenged at the Inquiry. I have no reason to find otherwise. Background levels for nitrogen deposition already exceed the lower (but not the upper) critical load for the qualifying habitats here, but the process contribution from the WWRF would be inconsequential.
530. Process contributions below these screening thresholds can be considered as *de minimis* and do not require further in-combination assessment with other sources. These predictions do not rely on any mitigation measures specifically designed to reduce effects on designated conservation sites, which are precluded from application at this screening stage by the *People over Wind* judgment. The FGT proposed in the WWRF would be required by the Industrial Emissions Directive, in which emission limits are not dependent upon the sensitivity of the receiving environment.<sup>336</sup> I consider that the proposed FGT here is an integral part of the proposed development and not mitigation for the purposes of applying the Habitats Regulations.
531. The Institute of Air Quality Management guidance draws a distinction between industrial point sources and impacts from traffic-generating developments in local plans, where the *Wealden* judgment indicates that in-combination effects below screening thresholds should be considered. Additional contributions from vehicles serving the WWRF and associated with the WNT would be unlikely to pass within 250 m of the SAC and so would be unlikely to significantly contribute to levels of deposition at the SAC. Neither would the CHP plant associated with the permitted glasshouse development given its location some 4 km from the SAC. [30]
532. CCC does not consider that an Appropriate Assessment (AA) is needed. NE has no objection and considers that a likely significant effect on Wicken Fen SSSI and Ramsar site can be ruled out. Taking into account the *Wealden*

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<sup>336</sup> PINS Note 05/2018, concerning the *People over Wind* judgment, is cited in ID22 and states that there is no definition of what constitutes avoidance and reduction measures and what could be viewed as an integral part of a works or development proposal. If a measure is being introduced to avoid or reduce an effect on a European site, then it can be viewed as mitigation. However, it notes that mitigation can also include 'embedded mitigation'.

judgment, NE considers that the proposal would not have an adverse effect on the integrity of the Fenland SAC. [144,425]

533. On the basis of the objective information submitted, along with the advice from NE, I am satisfied that there is no reasonable scientific doubt here that the proposed development, either individually or in combination with other plans or projects, is not likely to have a significant effect on a European site. However, if the Secretary of State considers that the stack FGT is 'embedded' mitigation, or that any breach of the 1% screening threshold automatically triggers a requirement for an AA, then the necessary information has been provided in the ES, FEI and ID22 to enable an AA to be undertaken. If the Secretary of State undertakes an AA, it seems to me that the evidence submitted indicates that the WWRF would not adversely affect the conservation objectives of the Fenland SAC, or its component attributes and targets, and so it can be concluded that there would be no adverse effect on the integrity of the SAC. [312-314,425]
534. The primary habitat for the Cam Washes SSSI is lowland damp grassland, which does not appear to be sensitive to nitrogen or acid deposition because no critical levels are defined for this habitat. The dispersion modelling predicted ground level concentrations of pollution from the WWRF at the nearest point of the SSSI would be negligible. [314]
535. Given these findings, I do not consider that the proposal would have an adverse effect on Wicken Fen and Cam Washes SSSIs or on the County Wildlife Sites by deposition of pollutants. These conclusions represent my assessment of the evidence presented to the Inquiry, but do not represent an AA, as this would be a matter for the Secretary of State to undertake as the competent authority. [371,431]
536. CPRE refers to an initiative which aims to create a RouteMap for discussion with UNESCO about creating a Biosphere for the Fens. Biosphere Reserves are the only globally recognised designation for demonstrating excellence in sustainable development. Designation would potentially be a material consideration, but the process for designating the Fens is at an early stage. Little weight can be given to the Fens Biosphere initiative in determining this appeal. [161,315]
537. If it is determined that the proposal would not be likely to have a significant effect on nearby SSSIs and the Fenland SAC, or an AA finds that there would be no adverse effect on the integrity of the SAC, then the WWRF would, overall, have a neutral effect on biodiversity, and would not conflict with MWCS Policy CS35 or SCLP Policy NH/4.

#### Hydrology

538. The flood risk in this low-lying area has been properly considered in the appeal documentation. The WWRF would not substantially add to local demands on the water supply. Even with more variability in rainfall recently affecting river flows it is unlikely that the appeal scheme would have a material impact. With appropriate planning conditions the WWRF would not result in water pollution or be likely to adversely affect the aquifer. There are no hydrological grounds to find against the proposal, and I find no conflict with

MWCS Policy CS39 or SCLP Policies CC/4, CC/7, CC/8 and CC/9.  
[149,185,189,232,311,371,397,405,424]

Other issues

539. Reference has been made to a proposal for an NSIP EfW facility at Wisbech. There is concern that if this was permitted along with the WWRF there would be a surplus of incinerator capacity locally. However, this would be a matter for the market, which should not be influential in considering this appeal.  
[153,160,236,244]
540. Levitt's Field is classified as Grade 2 agricultural land. The scheme would therefore result in the loss of about 6 ha of Best and Most Versatile (BMV) agricultural land. However, the site is allocated in the MWSSP for development, and so it is unlikely that it will be available for agricultural use in the future. I find no conflict with MWCS Policy CS38, SCLP Policy NH/3 or provisions in the NPPF regarding the loss of BMV agricultural land. [261]
541. Some objectors believe that allowing this appeal would be premature pending adoption of the eMWLP. However, this emerging plan is at an early stage and the NPPF notes at paragraph 50 that refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination. In this case there are outstanding objections to the eMWLP, and dismissal of the appeal on the grounds of prematurity could not be justified. [158,173]
542. There have been fires at the WWMP, which have heightened local concerns about the WWRF placing an undue burden on the fire and emergency services. However, fire risk is a matter that would be addressed by the EA in issuing an EP. There is no convincing evidence that the proposal would result in an unacceptable fire risk that would preclude granting planning permission. [405]
543. The WWRF would not affect the use of the existing education centre in the WWMBT. Any effect of the proposal on property prices would not be a material consideration. [153]

*(6) Employment and the economy*

544. The proposal would require a workforce of about 300 during the construction period, but this would be for a limited time. The operation of the WWRF would provide full-time equivalent employment for 32 staff. This would be a very modest contribution to the 22,000 additional jobs cited in SCLP Policy S/5. The additional jobs would be beneficial notwithstanding concerns about the WWRF acting as a deterrent to the attraction of highly skilled staff moving to take up employment in the Cambridgeshire high-tech and specialist sectors. The WWRF would contribute to the local economy both directly and indirectly, through supply chain requirements and promotion of businesses associated with the operation. It would also contribute business rates. The low unemployment rate in the Cambridge area, and the number and scope of new developments in progress or planned in Cambridgeshire, should not diminish the significance of the contribution that the WWRF would make towards economic growth. The scheme would gain support from Government policies and guidance that encourage business investment, and that aim to build a strong, responsive and competitive economy, and to drive productivity

improvements by, amongst other things, delivering clean growth.  
[203,316,317,393]

545. Amey has the waste contract with CCC to manage its residual waste until 2036. The appellant argues that the WWRF would reduce cost to CCC (and thus to the taxpayer) by diverting waste away from landfill and thereby avoiding the increasing burden of landfill tax. But if planning permission were granted for the WWRF it would run with the land. There is no guarantee that any landfill tax reduction benefits would be passed onto the local community. I do not consider that this is a factor that can be given much weight. [334,335]
546. The same reservations apply to the appellant's arguments about the proposal being self-funding and not reliant on any public funding or subsidy. The appellant acknowledges that any planning permission may be implemented by whoever has control of the land, and that the precise identity of the applicant, their reasons or motives for the application, along with their perceived competence are not material planning considerations. How the scheme was funded would also be a matter for those implementing the permission. Given that there is no guarantee that this would be Amey, it is difficult to see how 'self-funding' here could be a material consideration. Furthermore, no detailed evidence was submitted to the Inquiry about how the WWRF would be funded and, if a material consideration at all, the possibility of a self-funding scheme should be given negligible weight. [135,336]
547. The WWRF would contribute to the local economy and for this reason would benefit from objective a. of SCLP Policy S/2 to support economic growth. It would also gain some support from section 6 of the NPPF, which is entitled 'Building a strong, competitive economy', and refers to the Government's *Industrial Strategy: Building a Britain fit for the future* setting out a vision to drive productivity improvements across the UK, and includes a delivery programme to make the UK a leader in, amongst other things, clean growth. Nonetheless, given the number of jobs that would result, I consider that the contribution that the WWRF would make to the economy would be a benefit of minor significance, which should be given slight weight in the planning balance. [203]

*(7) Renewable and low carbon energy and climate change*

548. Many objectors commented on the GHG emissions from the WWRF and its climate change implications in a low-lying area, where sea level rise has the potential to flood large areas of the Fens and impact adversely upon some of the most productive agricultural land in the UK. Some thought that climate change effects should be a major consideration in determining this appeal. [149,153,158,162,174,178,189,191,192,196,198,221,363,367,377,381,383,390,395]
549. The WWRF would export 24.4 MW of electricity. This would be a significant contribution to the baseload on the network that would be dispatchable, without the intermittency of weather affected solar and wind power. It would also have the potential to export an average of 6.35 MW of heat to users. As a domestic energy supply, it would also add to the UK's energy security. This energy output would be partially renewable energy (RE), to the extent of the proportion of the overall calorific value derived from the biogenic fraction of the feedstock. The NPPF states that applications for renewable and low carbon development are not required to demonstrate an overall need, and that even



small-scale projects provide a valuable contribution to cutting GHG emissions. It adds that applications should be approved if the impacts of the development are (or can be made) acceptable. CCC agrees with the appellant that the WWRF would have a material beneficial impact in reducing overall GHG emissions from the landfilling of waste and would displace the need for conventional fossil fuel generation. SCDC acknowledges that the reduction in landfill and associated GHG emissions, displacement of fossil fuel generation and the creation of RE would represent economic and environmental benefits. These are benefits that attract significant weight.

[143,172,226,371,385,386,392,393,428]

550. There is no doubt that the WWRF could be designed to meet R1 standards of efficiency, so that it would be a recovery and not a disposal operation in the waste hierarchy, but that would not necessarily make the facility a low carbon energy supply system. The NPPF defines low carbon technologies as those that can help reduce emissions compared to conventional use of fossil fuels. The 'low carbon' credentials of the WWRF technology itself would depend upon the overall efficiency of the plant and the nature of the feedstock. However, taking account of landfill displacement would affect the overall carbon impact of the appeal scheme. [193,227]

551. Based on 2016 waste flows to and from the WWMP, with a biogenic content of 58.6%, and with all fossil fuel carbon and 50% of the biogenic carbon sequestered within landfill, the appellant predicts that the WWRF would lead to a net reduction over landfill in GHG emissions of 36,500 tonnes of CO<sub>2e</sub> per year if it only exported electricity. This would rise to 45,300 tonnes if heat was also exported. Using waste data from 2017 and 2018 would increase these reductions. The appellant considered the sensitivity of these calculations to different waste compositions, different grid displacement factors and different landfill gas (LFG) recovery rates, producing a range of net reductions from 21,900-116,900 tonnes of CO<sub>2e</sub> per year when exporting electricity only. [318-322]

552. Many objectors commented that the carbon footprint of the WWRF would be greater than a comparable landfill operation. CCC submits that if there was an increase in food waste collection, and so a reduction in the biogenic content of waste that would otherwise go to landfill but is now assumed to be burnt in the WWRF, the net carbon benefit would reduce. CCC recognises the uncertainty regarding improvements in recycling through waste separation, and has not considered future shifts towards low or no carbon energy generation as the grid comparator for electricity and the residential comparator for heat output. On this basis CCC has given the carbon benefit of the appeal scheme "significant positive weight" in the planning balance. The appellant argues that even if it can be assumed that the policy mechanisms relied on by CCC for a change in waste composition are effective, any change to the biogenic content of the feedstock would have at most a small effect on the carbon assessment and climate benefits of the WWRF, and it would continue to provide significant carbon benefits in any event. CBWIN/UKWIN consider that the appellant's carbon assessment fails to either credit landfill with 'negative emissions' for the biogenic sequestered material or include the additional release of this biogenic carbon on the incineration side of the equation. Applying such a correction CBWIN/UKWIN calculate that the WWRF would give rise to between 11,393-



28,336 tonnes of CO<sub>2e</sub> per year more than would arise from sending the same waste to landfill. [133,134,173,177,179,180,184,193,228-230,327,388,395]

553. The appellant's carbon assessment should not be criticised for following Defra's endorsement of the convention that biogenic CO<sub>2</sub> released is ignored in this type of carbon comparison as it is considered 'short cycle', i.e. it was only relatively recently absorbed by growing matter (CD17.33 paragraph 40). However, sequestered biogenic carbon is taken into account in considering the net efficiency of EfW plants in Defra's *Energy recovery for residual waste A carbon based modelling approach* (CD18.4 section 6.3). This notes that the preferred way to take account of the additional effect of landfill acting as a partial sink for biogenic carbon in this analysis is to estimate the amount of biogenic carbon sequestered and to include the CO<sub>2</sub> produced from the same amount of carbon in the EfW side of the model (or to subtract it from the landfill side). This analysis found that taking into account sequestered biogenic carbon in landfill will require greater EfW efficiency and/or biogenic content. CBWIN/UKWIN rely on this reference and other published research articles for applying the correction to the appellant's carbon assessment. But these references do not mean that CBWIN/UKWIN's approach is endorsed by Defra for the purposes of undertaking the type of comparison in the appellant's carbon assessment.
554. Nevertheless, Defra makes clear that the approach taken to these assessments simplifies the arguments and that there are many more factors being balanced than the key issues identified (CD17.33 paragraph 44). These other issues include; the changing biogenic content of residual waste over time; how the biogenic CO<sub>2</sub> is counted; the fact that not all the biogenic material breaks down in landfill; the level of LFG capture and allowance for the fact that LFG is released over many years; the impact of recycling metals; and the impact of pre-treatments on stabilising waste. The IPCC Guidelines state that biogenic emissions should not be included in national total emission estimates, but for EfW adds that biogenic emissions should be estimated and reported as an information item. The appellant considers that the IPCC Guidelines support the exclusion of biogenic emissions from its carbon assessment, but accepts that this is a simplification of the guidance (AC4/D2 paragraph 3.14). Deciding how to employ the appellant's carbon assessment in determining this appeal should properly take into account the fact that the reality is likely to be more complicated. The appellant's sensitivity analysis indicates that variations in the parameters used in the assessment can result in large differences in the outcome.
555. Defra's modelling identified potential balance points beyond which EfW could perform worse than landfill in carbon terms. It notes that long-term changes in the energy mix being offset by EfW will mean that the overriding determinant in the primacy of EfW over landfill in carbon emissions will become the biogenic content of the feedstock. It adds that there is a risk of EfW plants only continuing to be better than landfill in carbon terms when using high biogenic content waste streams, potentially greater than that currently found in unsorted mixed municipal waste (CD17.33 pages 245 and 246).
556. The appellant is confident that the bioenergy content of waste treated at the WWRF would be between 50-60%. It might be possible for an operator to increase the biogenic content of the waste treated by, amongst other things,

removing plastics. But there would be commercial pressure to treat waste with a high calorific value to maximise energy output. The only planning controls proposed on feedstock for the WWRF are a requirement for residual waste, of which at least 75,000 tpa suitable for thermal treatment would arise from other WWMP facilities. Neither would guarantee a high biogenic content. On the contrary, the definition of residual waste as that left over when all the recycling possible has been done could result in a lower biogenic content in the waste stream as methods are devised and implemented in future to recycle waste with biogenic content that is currently difficult or uneconomic to do at present. Whether an operator could at all times maintain the appropriate biogenic content of waste treated in the WWRF introduces some doubt, over the lifetime of the WWRF, about the actual climate change benefits that would result from the scheme attributable to a significant reduction in GHG emissions when compared with landfill. [370]

557. CBWIN/UKWIN also query the appellant's use of CCGT as the marginal electricity source for the grid displacement factor. The energy mix for electricity generation on the grid is changing and with increasing decarbonisation the appropriate comparator for electricity generated by the WWRF would change. Whilst becoming more dated with the passage of time, Defra's 2014 advice that CCGT is a reasonable comparator as the most likely technology for new power stations, remains extant guidance (CD17.33 page 21). It is therefore reasonable to apply this comparator in making carbon assessments today, but to also acknowledge that the rate of future decarbonisation of electricity generation for the grid could have a significant effect on the outcome of these assessments in the longer term.
558. The appeal scheme would be CHP ready and includes provision for a heat offtake pipe extending southwards along the A10 to the CRP roundabout. The proposed plant would have the potential to become a CHP facility if a viable user for the heat was available. If the plant were to operate successfully by providing heat to other users, its CHP ability would add significantly to its overall efficiency in energy terms and the contribution that the WWRF would make to GHG emissions and climate change objectives. However, there are currently no firm proposals to take advantage of the heat. There is no evidence that any of the existing businesses and commercial enterprises nearby in the industrial estates and CRP have made any commitment to take heat from the WWRF.
559. WNT with a planned 8,000 to 9,000 dwellings and associated urban infrastructure could potentially use some of the heat at times, but there is no provision to do so in the first phase of this development. Furthermore, there is nothing to indicate a likelihood that subsequent phases would do so. In the absence of a heat user that could make effective use of the heat consistently throughout the year it is difficult to see how a viable CHP scheme could be achieved here. I consider that more substantial evidence about likely commitments from potential heat users would be necessary for any meaningful weight to be given to the CHP benefits of the WWRF. Otherwise, I find that it is a potential that should not be given much weight in determining this appeal. [132,153,179,235,243,323,328,428]
560. The appellant's carbon assessment takes into account, based on conservative assumptions, emissions from HCVs transporting waste. Recycling

metals and recycled aggregate from IBA would displace virgin materials and so would have some carbon benefits. These would, over the lifetime of the plant, assist in offsetting the carbon costs of constructing the WWRF.

[180,183,194,233,368]

561. For the reasons set out above there is some doubt about the extent to which the WWRF would help to reduce carbon emissions over the lifetime of the scheme compared with alternative means of dealing with waste and other ways of generating the same amount of energy. The proposal would reasonably accord with the provisions of MWCS Policy CS22 concerning GHG emissions and RE from generating energy from waste. The WWRF would not conflict with national policy, but there is some uncertainty about how much support the proposal would gain from Government policy and guidance concerning renewable and low carbon energy and climate change objectives. [324,325]
562. Taking all these considerations into account, I consider that the scheme would be likely, over its lifetime, to provide GHG and climate change benefits of moderate significance. This benefit should be given moderate weight in the planning balance. I find reasonable grounds to be cautious about the GHG benefits of the WWRF, but if I am wrong about this and the appellant's substantial weight should apply, then I have included this option in the planning balance scenarios in section (11) of this report.

#### (8) Waste management

563. The NPPW refers to the *Waste Management Plan for England* and to planning playing a pivotal role in delivering the country's waste ambitions through, amongst other things, delivering sustainable development and resource efficiency including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (as set out in Appendix A to the NPPW), encouraging communities and businesses to take more responsibility for their own waste in line with the proximity principle, and helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.
564. The appellant notes that about 445,000 tpa of waste generated in Cambridgeshire and Peterborough is of a code suitable for EfW, but instead goes to landfill. CCC agrees that there is a need for new infrastructure in the UK to facilitate sustainable waste management in order to move the management of municipal solid waste and other similar commercial and industrial wastes up the waste hierarchy, including from landfill. The most recent statement of Government policy on waste *Our Waste, Our Resource: A Strategy for England 2018* focusses on eliminating avoidable plastic waste by recycling, reusing or composting plastics, and eliminating food waste in landfill. But it acknowledges that if AD or composting are not possible that food waste should be treated via EfW in preference to landfill. [69,132,195,235,377]
565. Notwithstanding measures to minimise waste and to encourage recycling, it is likely given the current and planned urban expansion and other industrial/commercial growth in Cambridgeshire, that there would be 250,000 tpa of residual waste available for treatment in the WWRF over its lifetime. It would help meet an identified need in Cambridgeshire because it would allow more waste to be managed further up the waste hierarchy and would reduce

waste sent to landfill. The appeal scheme would gain support from national and local policies that incorporate these objectives. The waste management benefits of the scheme weigh significantly in favour of granting planning permission. But there are some factors here to indicate that the appellant has overstated the weight this should be given in the planning balance.

[153,170,174,181,192,202,220,329-332,373,374,393,401,407,429]

566. The WWRF would be sited adjacent to the WWMBT and the scheme includes provision for a conveyor link between the buildings. However, there is no planning requirement for this to be used and there are no binding controls on the tonnage of CLO from the WWMBT that would contribute to feedstock for the WWRF. The section 106 agreement gives priority to the treatment of residual wastes suitable for thermal treatment arising from the WWMBT in the residual wastes disposed of at the WWRF. However, in terms of planning conditions the co-location benefits of the proposal are limited solely to a requirement that would be imposed by suggested planning Condition 6 for at least 75,000 tpa of the residual waste arising from other WWMP waste management facilities that are suitable for thermal treatment to be processed by the WWRF. The remaining capacity of 175,000 tpa could potentially be treated at the WWRF without any co-location benefits arising from its siting adjacent to the WWMP. This might not be Amey's intentions, but circumstances could change over the lifetime of the WWRF. Although MWCS Policy CS2 encourages co-location of uses, reliance on only suggested Condition 6 and the provisions in the section 106 agreement to achieve co-location benefits limits to some extent the weight that can be given to the co-location of waste management facilities here as a significant advantage of the appeal scheme. [237,333]

567. There is local concern that experience with other EfW facilities indicates a likelihood in future that the operator of the WWRF, if permitted, would apply to process additional tonnage of residual waste. Suggested Condition 7 specifies that not less than 70% of the waste imported to the WWRF shall originate from a catchment area comprising Cambridgeshire and Peterborough, along with Milton Keynes, and the following areas; Hertfordshire, Suffolk, Essex, Norfolk, Luton, Bedford, Central Bedfordshire, Northamptonshire, Rutland and Lincolnshire, including any waste being processed through any waste transfer station within the defined catchment area. This would permit 30% of the waste imported to the WWRF, some 75,000 tpa, to be sourced from outside the defined, but extensive catchment area. Given the distances involved here, there is potential for a significant tonnage of waste to be transported long distances. The cost of transport would be a factor determining the extent that this would be likely to occur in practice, but the potential here would be at odds with the application of the proximity principle.

[150,152,154,162,164,170,173,180,184,189,192,196,204,235,246,374,395]

568. There is local concern about the WWRF treating nappies and sanitary waste. However, an EP would specify what waste could be received at the plant and this is a matter that should properly be addressed by the pollution rather than the planning regime. There would be some waste management benefits from the proposed education facility included in suggested Condition 38. The possibility of a Government incineration tax was raised as a consideration that might in future affect the commercial viability of the scheme, but in the absence of any specific provisions for such a tax speculation about this should not be influential in determining this appeal. Local objectors are also

concerned that the WWRF would discourage people from recycling and make it more difficult to reduce single-use plastic. But it is likely that other factors would be determinative about future attitudes towards recycling. There are no grounds to require the appeal scheme to incorporate an anaerobic digestion plant or a state-of-the-art recycling centre, as some suggested. The proposal must be determined on its own merit and such schemes would be different proposals.

[150,152,159,172,173,177,184,186,189,191,192,198,199,209,243,364,365,367,368,370,372,380,382-384,388,403,432]

569. Dismissal of the appeal would be likely to result in some delay in moving away from disposal to landfill of waste in Cambridgeshire. Some weight should be attributed to this in assessing the overall effect on waste management in the area. Nevertheless, for the reasons set out above, I do not consider that the weight awarded by the appellant to the waste management benefits of the WWRF is justified. However, the proposal would reasonably accord with the provisions of MWCS Policy CS29 regarding need and concerning a restricted catchment area, along with controls on the tonnage and type of waste treated. But because of the effect on landscape character and visual intrusion the WWRF would conflict with MWCS Policies CS33 and CS34. The harm identified from the WWRF to the character and appearance of the area would not provide the high quality or standard of design required by MWCS Policies CS2 and CS24.
570. Taking all the evidence before the Inquiry into account, I find that the waste management benefits of the scheme are a consideration of moderate significance, which should be given moderate weight in the planning balance. However, if I am wrong about this and the substantial weight considered appropriate by the appellant should apply, then I have included this option in the planning balance scenarios outlined in section (11) of this report.

#### *(9) Development plan*

571. The development plan comprises the Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document 2011 (MWCS) and the South Cambridgeshire Local Plan 2018 (SCLP), along with the adopted Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document February 2012 (MWSSP). CCC found the proposal contrary to MWCS Policies CS33, CS34 and CS36. The application was determined in the context of the then adopted South Cambridgeshire Development Control Policies DPD 2007 and was found to be contrary to Policies DP/2 (Design), DP/3 (Development Criteria), NE/4 (Landscape) and CD/4 (Listed Buildings). This plan was superseded with the adoption of the SCLP in September 2018. Relevant development plan policies are summarised in Annex B to this report. [6]
572. I concur with the appellant and CCC that the emerging Cambridgeshire and Peterborough Draft Minerals and Waste Local Plan (eMWLP) is at an early stage of development and carries limited weight.<sup>337</sup> However, if the eMWLP progresses to a stage where it can be given more weight before this appeal is determined it would be appropriate to consult the parties about any implications for the proposed development. [18,68,243]

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<sup>337</sup> SoCG paragraph 5.15 at CD119.



573. The WWRF would be a recovery scheme and an EfW use. A detailed assessment of impacts and mitigation has been submitted that addresses those matters set out in the implementation issues cited in MWSSP Policy W1K. This includes taking Denny Abbey and its setting into account and discussions with English Heritage, now HE. The proposal therefore complies with MWSSP Policy W1K. If it is the case that this allocation incorrectly applied the criteria for assessment, as CCC alleges, that would not alter the construction and application of the adopted development plan policy. [125,128-130,259,422]
574. The WWRF would also accord with the provisions of MWCS Policies CS22 and CS29 concerning climate change and need. It would contribute to the local economy and so would benefit from objective a. of SCLP Policy S/2 to support economic growth and make a very modest contribution to the 22,000 additional jobs cited in SCLP Policy S/5. Given that the proposed development would require an EP no conflict with SCLP Policies SC/12 and SC/14 would arise, but for the reasons set out in section (3) of this report the WWRF would not have a positive impact on the health and well-being of new and existing residents, and so would be at odds with SCLP Policy SC/2.
575. The appeal scheme would conflict with MWCS Policies CS33 and CS34 and with SCLP Policies S/2 b., HQ/1 and NH/2. A development for this site which would result in the harm identified from the WWRF to the character and appearance of the area would not provide the high quality or standard of design required by MWCS Policies CS2 and CS24.
576. The WWRF would not gain support from SCLP Policy NH/14. Whether it would comply with MWCS Policy CS36 and SCLP Policy CC/2 would depend on whether the harm to heritage assets was outweighed by the public benefits of the scheme. This is dealt with in the planning balance section (11) of this report. Compliance with the development plan as a whole is therefore left for consideration in the Overall conclusions section of this report.

[15-17,66,67,78,122,139,253-255,260,354]

*(10) NPPF NPPW and NPPG*

*NPPF*

577. NPPF paragraph 170 provides that decisions should contribute to and enhance the natural and local environment by, amongst other things; recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of BMV agricultural land, and of trees and woodland; minimising impacts on and providing net gains for biodiversity; preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution. Development should wherever possible, help to improve local environmental conditions such as air and water quality. Paragraph 180 provides that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. [287]



578. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay, or where the policies which are most important for determining the application are out-of-date, granting permission unless: the application of NPPF policies that protect areas or assets of particular importance, including designated heritage assets, provides a clear reason for refusal, or any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies taken as a whole.
579. CCC and the appellant disagree about which development plan policies should go into the basket of policies for determining whether those most important for determining the appeal are out-of-date for the purposes of applying paragraph 11 of the NPPF. The appellant considers that this basket should contain MWCS Policies CS24, CS29, CS33, CS34, and CS36 and SCLP Policy HQ/1.a. CCC referred to a much longer list at the Inquiry. Irrespective of whether a two or three stage process is involved, the Court has held that it is necessary to identify the basket of policies from the development plan that constitute those most important for determining the appeal, and to decide whether that basket, viewed overall, is out-of-date as a matter of judgement.<sup>338</sup> [70,71,131,140-142]
580. It seems to me that in deciding which policies should go into the basket greater consideration should be given to those policies that indicate some potential and significant benefit or harm resulting from the proposal, rather than those that, possibly with the imposition of conditions, may be relevant, but would be likely to have a more neutral or marginal effect. On this basis, and taking into account submissions by the appellant, CCC and third parties, I consider that the most important policies for determining this appeal are; MWCS Policies CS2, CS22, CS24, CS29, CS33, CS34 and CS36; MWSSP Policy W1K; and SCLP Policies S/2, CC/2, HQ/1, NH/2, NH/14, SC/2, SC/12 and SC/14.
581. The appellant considers that MWCS Policies CS33, CS34, and CS36 a. and SCLP Policy HQ/1.a are inconsistent with the NPPF. These are considered in more detail below. But for the other policies I consider to be most important here, I find a high degree of consistency with the NPPF, having regard to paragraph 213, for the following reasons. MWCS Policies CS2, CS22, CS24 and CS29 generally accord with provisions in the NPPF and NPPW concerning waste management, as does MWSSP Policy W1K. SCLP Policy S/2 sets out strategic objectives that are consistent with the NPPF. Policies CC/2 and NH/14 reasonably reflect NPPF provisions concerning heritage assets. Policy NH/2 accords with paragraph 170 of the NPPF concerning decisions contributing to and enhancing the local environment. Policies SC/2, SC/12 and SC/14 are reasonably consistent with section 8 of the NPPF concerning healthy and safe communities, and with paragraphs 180 and 181 regarding air quality and pollution.
582. MWCS Policy CS33 provides that waste management development will only be permitted where it can be demonstrated that it can be assimilated into its

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<sup>338</sup> *Wavendon Properties Ltd v SSHCLG & anr and Paul Newman Homes Ltd v SSHCLG & anr.*

surroundings and local landscape character area in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related supplementary planning documents. 'Assimilation' does not require development to be identical to other development in the countryside, or to be invisible. Compliance could be achieved by development being 'absorbed' into its surroundings. Furthermore, this 'assimilation' is required to be in accordance with documents, such as landscape assessments, that themselves incorporate recognition of the intrinsic character and beauty of the countryside. Read this way the policy is not inconsistent with NPPF paragraph 127 concerning development adding to the overall quality of the area and sympathetic to local character, including landscape setting, while not discouraging appropriate innovation or change. The NPPF must be read in conjunction with the NPPW. The 4<sup>th</sup> bullet point of NPPW paragraph 7 provides that waste management facilities should be well-designed, so that they contribute positively to the character and quality of the area in which they are located. Policy CS33 is not inconsistent with this requirement for a positive contribution. I find a high degree of consistency with national policy. [72,73,337]

583. The appellant argues that the reference to 'no significant harm to the environment' in MWCS Policy CS34 is inconsistent with the NPPF, and that the correct approach is to consider whether the effect is acceptable, even if it is significant in nature. Policy CS34 permits waste management development only where there would be no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential or other amenities. The appellant's submission about 'acceptability' is not supported by NPPW paragraph 1, which states that positive planning plays a pivotal role in delivering the country's waste ambitions through, amongst other things, helping to secure recovery of waste without endangering human health and without harming the environment. The latter provision expresses a similar sentiment to Policy CS34, and so this policy is reasonably consistent with national policy. [74,338]
584. MWCS Policy CS36 a. provides that waste development will not be permitted where there is an adverse effect on any designated heritage asset, historic landscape, or other heritage asset of national importance, and/or its setting unless there are substantial public benefits that outweigh that harm or loss. The terminology used in NPPF paragraph 195 applies 'substantial public benefits' to substantial harm, whereas 'less than substantial harm' only requires that harm to be weighed against public benefits and does not say anything about the substance of those benefits (paragraph 196). There is some force in CCC's argument that to overcome the 'great weight' in paragraph 193 to be given to the conservation of an asset the public benefits would need to be considerable. But the distinction in the NPPF must be given some meaning. There is, therefore, a degree of inconsistency between the provisions of Policy CS36 a. and the NPPF. No convincing arguments were advanced to justify such a departure from national policy on the basis of local circumstances. [75,77,339-342]
585. SCLP Policy HQ/1.a seeks to preserve or enhance the character of the local urban and rural area and respond to its context in the wider landscape, 1.b to conserve or enhance important natural and historic assets and their setting, 1.d requires development to be compatible with its location and appropriate in

terms of scale, density, mass, form, siting, design, proportion, materials, texture and colour in relation to the surrounding area, and 1.n to protect the health and amenity of occupiers and surrounding uses from development that is overbearing or would create unacceptable impacts such as noise, odour, emissions and dust. Such provisions aim to achieve high quality design, which is consistent with section 12 of the NPPF. Policy HQ/1's provisions apply "As appropriate to the scale and nature of the development...". This provides for some flexibility in its application depending on the characteristics of the development, which distinguishes HQ/1.a and 1.b from the statutory tests in the LBCAA 1990. HQ/1.d reflects NPPF paragraph 127(c) regarding planning policies ensuring that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. HQ/1.n accords with NPPF section 8 and paragraph 127(f) concerning health and well-being. Overall, Policy HQ/1 has a fairly high degree of consistency with the NPPF. This finding is reinforced by the October 2019 addition to the NPPG Design: process and tools, which provides that planning policies can set out the design outcomes that development should pursue. [76,343,344]

586. In my view, the 16 most important development plan policies here are generally consistent with the provisions of the NPPF, except for MWCS Policy CS36. This unjustifiably sets the bar in the balancing exercise for development likely to result in 'less than substantial harm' to designated heritage assets higher than does the NPPF. However, it is necessary to form an overall judgement as to whether or not, taken as a whole, these 16 policies are to be regarded as out-of-date for the purposes of deciding this appeal. In my judgement, the extent to which Policy CS36 is inconsistent with the NPPF is not sufficient to render the whole basket of most important development plan policies out-of-date for the purposes of applying NPPF paragraph 11.d).
587. If the Secretary of State concurs that any inconsistency here is insufficient to render the whole basket of most important development plan policies out-of-date for the purposes of applying NPPF paragraph 11.d) then the planning balance that applies in determining this appeal is a straight flat balancing of the benefits against the harm.
588. However, if the Secretary of State comes to a different conclusion about the basket of most important development plan policies in this case, or for other reasons, comes to a different judgement about whether the basket of most important policies as a whole are out-of-date, then the appropriate planning balance would depend upon whether or not the application of NPPF policies concerning designated heritage assets provided a clear reason for refusing the proposed development. This is dealt with in section (11) of this report. How the proposal squares with the NPPF overall depends upon the outcome of the planning balance.

#### NPPW

589. The proposal would gain some support from the NPPW by driving waste management up the waste hierarchy, but the WWRF would not contribute positively to the character and quality of the area. Whether the proposal gains any support from the NPPW is dependent on whether the planning balance falls in favour or against the scheme. [143]

## NPPG

590. Relevant provisions of the NPPG have been taken into account in assessing the appeal scheme and in informing the conclusions in this report. [21-23,384]

### *(11) Planning balance*

#### Benefits

591. In considering the planning balance that applies here it is first necessary to identify the benefits of the proposed development and to assess the weight they should attract. For the reasons set out in the relevant sections of this report, I find that the benefits of the WWRF to the economy should be given slight weight. In terms of the effects of the proposal on GHG emissions and overall beneficial impact on climate change I have found that the appeal scheme should attract moderate weight. Moving the treatment of waste up the waste hierarchy would be beneficial, but for the reasons set out in section (8) of this report I believe that the appellant has overstated the likely waste management advantages of the WWRF, and in my view this should attract moderate weight in the planning balance.

592. Turning to heritage mitigation measures, the NPPG states that for NPPF paragraphs 195 and 196 public benefits should flow from the proposed development, but could be anything that delivers economic, social or environmental objectives as described in NPPF paragraph 8. Off-site landscaping is an integral part of the overall scheme and so should be taken into account in assessing the harm to the significance of designated heritage assets. It should not, therefore, be considered a benefit. The CMP would be useful, but by itself might not achieve any tangible public benefits, and if it did so it would be difficult at this stage to quantify those benefits in a way that would enable them to be included in the planning balance. The ADS would explore potential opportunities to increase the use of Denny Abbey by visitors and educational groups. This similarly would have potential to be of benefit to the public, but there is no basis to quantify how to take this into account without more details about the specific measures that would apply and an assessment of their likely effectiveness. However, the IS would include a detailed topographic survey/3D laser scanning of the earthwork remains located to the north and west of the Abbey building, along with interpretation. This would be beneficial and can be given some weight. Omitting consideration of a new access/car park for the DAC, which is dealt with in the next paragraph, I find that the above heritage mitigation measures are material considerations, but that their beneficial impact should only be given slight weight in the planning balance. [119-121]

593. For the reasons set out in section (12) of this report I do not consider that provision of the new access/car park or alternative funding would be a material consideration that could properly weigh in the planning balance. However, if the Secretary of State considers that the section 106 agreement provision for a new access/car park is a material consideration, it is one that in my view should attract limited weight for the following reasons. There is no certainty that the new access and car park would gain planning permission in this sensitive area. If it proved not possible to construct these works there are no details about what the financial contribution would be spent on, and how effective the measures would be, as a basis for assessing the extent to which

the obligation would be a public benefit. If found to be a material consideration, I consider that the provisions for a new access/car park would only raise the weight to be given to beneficial heritage mitigation measures from slight to slight/moderate.

594. Negligible weight should be given to any biodiversity benefits of the proposal for the reasons set out in section (5) of this report. I find no other benefits to be weighed in the balance.
595. How NPPF paragraph 11 applies in this case is a matter for the Secretary of State. So too, is where the extent of the harm to designated heritage assets sits within the scale of 'less than substantial' harm for the purposes of applying NPPF paragraph 196. If the Secretary of State agrees with the appellant's case regarding the waste management and GHG benefits of the WWRF then it would be appropriate to give both substantial weight in the planning balance. Whether the Denny Abbey new access and car park provision in the heritage mitigation package is a material consideration or not will also determine whether this can weigh in the balance. Given these options the following planning balance is set out in two scenarios depending upon whether the most important policies are out-of-date or not. Within these scenarios, consideration is given to possible different outcomes for the planning balance depending upon whether heritage harm is at the high or low end of the 'less than substantial' scale, what weight the waste management and GHG benefits should attract, and whether the new access/car park provision for Denny Abbey is a material consideration. In each scenario considerable importance and weight should be given to the harm identified to the designated heritage assets.

Planning balance - most important policies not out-of-date

596. If the Secretary of State finds that the basket of most important policies, as a whole, is not out-of-date then the planning balance is a straight weighing of benefits against harm. If the harm to designated heritage assets is towards the high end of the 'less than substantial' scale, which is the case advocated by CCC and HE, then if the waste management and GHG benefits were given moderate weight, and the Denny Abbey access/car park provisions were immaterial, I consider that this harm to designated heritage assets would outweigh the combined public benefits of the scheme for the purposes of applying NPPF paragraph 196. The other public benefits would comprise benefits to the economy (slight weight) and those heritage mitigation measures that I consider to be material (slight weight). The proposal would conflict with MWCS Policy CS36 and SCLP Policy CC/2. Moderate/substantial harm to the character and appearance of the area and slight harm to the amenity of the area by reason of health fears would tip the balance even further against the proposal. If the waste management and/or GHG benefits were given substantial weight, and the heritage mitigation measures including Denny Abbey access/carpark provisions were material considerations attracting slight/moderate weight, the outcome would be more finely balanced. Nevertheless, in my judgement the planning balance would still fall against the proposal in this scenario.
597. If the harm to designated heritage assets is towards the low end of the 'less than substantial' scale, which is the case advocated by the appellant, then if



the waste management and GHG benefits were given moderate weight, and the Denny Abbey access/car park provisions were immaterial, I consider that the combined public benefits of the scheme would outweigh this harm to designated heritage assets for the purposes of applying NPPF paragraph 196. Again, the other public benefits would comprise benefits to the economy (slight weight) and those heritage mitigation measures that I consider are material (slight weight). The proposal would comply with MWCS Policy CS36 and SCLP Policy CC/2. But it seems to me that the benefits would not be sufficient to also outweigh the moderate/substantial harm to the character and appearance of the area and the slight harm to the amenity of the area from health fears. Therefore, the planning balance would fall against the proposal. However, if the Secretary of State considers that the waste management and/or GHG benefits should be given substantial weight then that would tip the balance in favour of the WWRF, even more so if the Denny Abbey access/carpark provision were found to be a material consideration.

Planning balance - most important policies out-of-date

598. If the Secretary of State finds that the basket of most important policies, as a whole, is out-of-date then the planning balance is either a straight weighing of benefits against harm, where harm to designated heritage assets provides a clear reason for refusal, or if not, the tilted balance in NPPF paragraph 11.d)ii. Again, two scenarios are considered depending upon whether the harm to designated heritage assets is high or low on the scale of 'less than substantial' harm. And again, consideration is given to whether substantial weight to waste management or GHG benefits would alter the balance in each scenario, along with the effects of whether the Denny Abbey access/carpark provision is material.
599. If the harm to designated heritage assets is towards the high end of the 'less than substantial' scale, which is the case advocated by CCC and HE, then if the waste management and GHG benefits were given moderate weight, and the Denny Abbey access/car park provisions were immaterial, I consider that this harm to designated heritage assets would outweigh the combined public benefits of the scheme for the purposes of applying NPPF paragraph 196. In this scenario the other public benefits would again comprise benefits to the economy (slight weight) and those heritage mitigation measures that I consider are material (slight weight). This finding would result in a clear reason for refusal applying NPPF paragraph 11.d)i. and Footnote 6. The proposal would conflict with MWCS Policy CS36 and SCLP Policy CC/2. The NPPF paragraph 11 presumption would be disapplied. But in this scenario, it would still be necessary to undertake a flat balance with all relevant material considerations taken into account. In my judgement, this planning balance would fall against the proposal, even if substantial weight was given to the waste management and/or GHG benefits of the scheme and slight/moderate weight was given to the heritage mitigation benefits including the Denny Abbey access/carpark provision.
600. If the harm to designated heritage assets is found to be towards the low end of the 'less than substantial' scale, which is the case advocated by the appellant, then if the waste management and GHG benefits were given moderate weight, and the Denny Abbey access/car park provisions were immaterial, I consider that the combined public benefits of the scheme would



outweigh this harm to designated heritage assets for the purposes of applying NPPF paragraph 196. Again, the other public benefits would comprise benefits to the economy (slight weight) and those heritage mitigation measures that I consider are material (slight weight). The proposal would comply with MWCS Policy CS36 and SCLP Policy CC/2. There would be no clear reason for refusal and so the NPPF paragraph 11 presumption would not be disapplied. It would be necessary to consider limb ii. of paragraph 11.d). However, it seems to me that in this scenario the adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies taken as a whole, and so the tilted balance would fall in favour of the proposal. This would be even more so if substantial weight was given to waste management and/or GHG benefits, and if the Denny Abbey access/carpark provision were a material consideration.

#### Planning balance - conclusions

601. Notwithstanding the various scenarios outlined above, in my judgement, the basket of most important policies, as a whole, is in this case not out-of-date for the reasons set out in section (10) above. Furthermore, I consider that the harm to designated heritage assets would be towards the high end of the 'less than substantial' spectrum for the reasons given in section (2) above. In this scenario, I find that the flat planning balance falls against the proposal, even if the waste management and/or GHG benefits were accorded substantial weight, and the Denny Abbey access/carpark provision were a material consideration that meant that the heritage mitigation measures attracted slight/moderate weight in favour of the appeal scheme. Considerable importance and weight should be given to the significant harm identified to the designated heritage assets, and this along with the moderate/substantial weight given to the harm to the character and appearance of the area (section (1) of this report), and slight weight to amenity harm from health fears (section (3) of this report), would be sufficient to outweigh the benefits of the appeal scheme. On this basis, I conclude that the planning balance falls against the proposed development.

[59-63,81,82,219,247,345-353,366,387,401]

#### *(12) Conditions and obligations*

##### *Conditions*

602. Suggested conditions, in the event that planning permission were granted, were the subject of a roundtable without-prejudice discussion at the Inquiry. The written list of conditions submitted by the appellant includes pre-commencement conditions that are agreed. In the following paragraphs the Condition numbers are as they appear in the Schedule of Conditions attached to this report. [10,433]

603. Commencement within five years would be appropriate here and it would be necessary to give notice of commencement of specific events (Condition 1). Otherwise than as set out in the decision and conditions, it would be necessary that the development was carried out in accordance with the approved plans, to ensure that it was in accordance with the scheme considered at the Inquiry (Condition 2).

604. Provision for access from the A10 and precluding use of Long Drove would be necessary in the interests of highway safety, as would an approved routing plan (Conditions 3 and 4). Condition 5 limiting the facility to no more than 250,000 tpa of residual waste would be necessary in order to accord with the scheme considered by the ES. But there would be no need on highway safety grounds to impose a maximum number of HCVs for any period. To ensure achievement of the co-location benefits of the facility, as advocated at the Inquiry, it would be necessary to require at least 75,000 tpa of the residual waste treated at the facility to come from other waste management facilities at the WWMP (Condition 6). A condition would be required to specify the catchment area for imported waste to comply with MWCS Policy CS29 (Condition 7). The wording of suggested Conditions 6 and 7 would need to be modified to apply an annual restriction. Written records would be necessary to check compliance with Conditions 5-7 (Condition 8). Restricted hours for construction work, and for the receipt and export of waste HCVs, would be necessary to safeguard the amenity of the area in accordance with MWCS Policy CS34 (Condition 9). [154,164,206,239,434]
605. Conditions 10 and 11 would be necessary in respect of archaeology and to comply with MWCS Policy CS36. A Construction Environmental Management Plan would be required to protect the amenities and environment of residents and other sensitive receptors in accordance with MWCS Policy CS34 (Condition 12). A Traffic Management Plan would be required in the interests of amenity and highway safety (Condition 13). Provision of bus stops would be necessary for similar reasons (Condition 14). Conditions 15 and 16 would provide for a groundwater and contaminated land remediation strategy in accordance with MWCS Policy CS39 concerning pollution risk, and restrictions on piling would also be necessary (Condition 17).
606. To prevent increased risk of pollution to the water environment and to protect local amenity conditions would be necessary to control surface water drainage and disposal of foul water (Conditions 18 and 19). A scheme for aviation safety during construction would be necessary in accordance with MWCS Policy CS40 (Condition 20). External lighting controls would be required in the interests of the amenity of the area (Condition 21). Conditions to control noise emissions by use of silencers, setting noise limits at sensitive receptors and providing for a noise management and mitigation plan would be necessary to safeguard local amenity (Conditions 22-24).
607. Tree protection would be required to safeguard retained trees (Condition 25) and tree/hedgerow removal controlled in the interests of nature conservation (Condition 26). For similar reasons, clearance of bird breeding habitat would also need to be controlled (Condition 27). An ecological mitigation, compensation and enhancement strategy would be required for biodiversity reasons and to comply with MWCS Policy CS35 (Condition 28). Conditions 29 and 30 requiring hard and soft landscaping would be necessary to accord with the scheme considered in the ES and to comply with MWCS Policy CS33 and SCLP Policy NH/2.
608. The application does not include sufficient details about the proposed bridge works and so a condition requiring submission of details for approval would be necessary (Condition 31). No open storage of waste should be permitted in the interests of the amenity of the area (Condition 32). Details of external building

materials would need to be approved for appearance reasons (Condition 33). A feasibility review for a combined heat and power scheme would be required to comply with national policy and MWCS Policy CS22 to take account of climate change for the lifetime of the development (Condition 34). An emissions monitoring protocol would be necessary here to publicise information about potential pollutants in the interests of the amenity of the area and for verification of compliance with MWCS Policy CS34.

609. A travel plan for the operation of the facility would be required for highway safety and sustainability reasons (Condition 36). Condition 37 concerning the provision and retention of electric vehicle charging points would be necessary to assist with minimising GHG emissions. A scheme to deliver education benefits regarding waste management would encourage public engagement and so result in climate change benefits in accordance with MWCS Policy CS22 (Condition 38). Provision for decommissioning the facility, in the interests of the appearance of the area, would be required (Condition 39). The scheme relies on benefits from generating electricity and so should not operate unless there is a connection to the electricity distribution network (Condition 40). A bird hazard management scheme would be required to comply with MWCS Policy CS40 (Condition 41).

610. It would not be necessary to impose any other conditions. Some minor changes to the wording of conditions suggested by the parties are necessary to ensure that a permitted scheme would accord with the details of the proposal that was considered at the Inquiry, and to ensure that conditions were precise and enforceable. These changes are included in the Schedule of Conditions. [182,206,239,372,373,414,433,434]

#### *Obligations*

611. A summary of the obligations in the section 106 agreement is included at Annex A to this report. CIL Regulation 122 provides that planning obligations included in the section 106 agreement may only constitute a reason for granting planning permission if they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Whether an obligation is, or is not, a material consideration is a matter of law. Immaterial considerations cannot be taken into account. In this case Clause 3.2 of the section 106 agreement has a similar effect. This provides that the owner shall not be obliged to comply with, and shall not be in breach of, undertakings covenants restrictions and requirements if the Secretary of State expressly states that it does not satisfy one or more of the tests in CIL Regulation 122. This would mean that if an obligation in this case is found not to be CIL compliant it can be given no weight in the planning balance. [10,28,435]

612. A Conservation Management Plan (CMP) would be necessary because the WWRF would affect the setting of the DAC and a strategy would be required to conserve and enhance the significance of the heritage assets. A Landscape Strategy would be required to provide planting to help minimise views of the WWRF from within the DAC. It would also be reasonable, in the event that the Access Road was not provided, that £25,000 be paid towards landscape mitigation that would have otherwise been provided. Audience Development (ADS) and Interpretation Strategies (IS) to enhance appreciation of the DAC by public visitors and education groups would be necessary, as would the £8,000

interpretation contribution, to render the development acceptable given the adverse effects of the WWRF on the DAC. This contribution would be spent in accordance with the section 106 agreement.

613. Schedule 7 would set a limit of 571,000 tpa of waste imported for treatment and/or disposal at the WWMP. It would also give priority to the treatment of residual wastes suitable for thermal treatment arising from the WWMBT in the residual wastes disposed of at the WWRF. There is currently no tonnage limit for throughput at the WWMP and this obligation would be necessary having regard to the potential cumulative impact of the WWRF in combination with the existing operations at the WWMP. Support for this is derived from MWCS Policy CS32.
614. These public benefits would flow from the proposed development, and would deliver economic, social or environmental objectives in accordance with the NPPF/NPPG. I find that these obligations would be necessary, directly related to the development, and fair and reasonable with regard to the scale and kind of the appeal scheme, and so would be CIL compliant. I find no grounds to disagree with CCC's CIL compliance statement for these obligations. I also consider that they would be for a planning purpose, fairly and reasonably related to the proposed development, and reasonable in all other respects. In my view, the above obligations are material considerations that can be taken into account in the planning balance. I consider what weight they should attract in section (11) of this report. [10]
615. Schedule 6 of the section 106 agreement concerns an alternative access road and car park for Denny Abbey. The WWRF would be particularly prominent for those using the existing DAC access onto the A10 and the existing car park. If the alternative access and parking arrangements or other appropriate provisions should weigh in the planning balance, they would have to be necessary. The obligation cannot guarantee the construction of an alternative access and car park because these would be located outside the appeal site and would require separate planning consideration. The references to alternative access/car parking for Denny Abbey in the ES/FEI submitted for the appeal scheme would not obviate the need for specific consideration of effects to accompany any planning application for these works. The section 106 agreement deals with this lack of certainty by providing for an Access Road Fund (£437,500) to be paid in the event that planning permission was refused, or reasonable circumstances prevented construction.
616. If CCC agreed, the Access Road Fund would be paid to CCC and then transferred to English Heritage Trust and Historic England as the defined Heritage Parties. The fund would be used to implement recommendations identified in the CMP and ADS unless otherwise agreed between the Parties. The Parties are defined as the owner and CCC. I have reservations about whether the obligation would be a material consideration. This is a matter for the Secretary of State to determine. There is nothing in the section 106 agreement that would, in these circumstances, prevent the Access Road Fund from being used for a purpose unrelated to the use of land, or which may not be for a proper planning purpose. Furthermore, the discretion the obligation gives to the owner/CCC could potentially be exercised in a way that did not provide sufficient connectivity with the proposed development to qualify as a material consideration. It might be argued that CCC would be unlikely to agree

to any spending that was not for a planning purpose, but there would be nothing in the section 106 agreement to prevent it from doing so. In my view that affects how the obligation should be dealt with in determining this appeal. I am not convinced that this obligation is a material consideration. However, if the Secretary of State finds that it is, then this should be reflected in the planning balance.

617. Suggestions for obligations that would not be justified in the circumstances that apply here include; provision of an AD plant and off-site educational and recycling centre; a social fund levy; use of the heat for a swimming pool; a contribution towards off-site highway improvements; a contribution to a district heating scheme; and provisions to safeguard against financial insecurity. These would not be CIL compliant. [154,166,239,243,410]

Overall conclusions

618. The Secretary of State is required to decide this appeal having regard to the development plan, and to make the determination in accordance with it, unless material considerations indicate otherwise.

619. I consider for the reasons given in section (11) of this report that the planning balance here falls against the proposal, and that the scheme would conflict with SCLP Policy CC/2 and MWCS Policy CS36, although the latter policy conflict can be given less weight because of Policy CS36's inconsistency with the NPPF. Having regard to my findings in section (9) of this report the overall policy conflict would, in my judgement, be sufficient to bring the proposal into conflict with the development plan as a whole. Therefore, NPPF paragraph 11.c) does not apply.

620. The proposed development would not contribute positively to the character and quality of the area and so would be at odds with the NPPW. The impacts are not acceptable and cannot be made so. The proposal would therefore gain no support from NPPF paragraph 154(b) concerning RE. The conflict with national policy concerning landscape and designated heritage assets would bring the proposal into conflict with the NPPF as a whole. I find no material considerations to indicate that the appeal should be determined other than in accordance with the development plan. On this basis, I conclude that the appeal should be dismissed.

621. If the Secretary of State finds that the planning balance falls in favour of the proposal, and considers that the scheme would comply with MWCS Policy CS36 and SCLP Policy CC/2, then it seems to me that the overall policy support the scheme would gain from relevant development plan policies would be sufficient to outweigh the conflict with MWCS and SCLP landscape/design policies and with SCLP Policy SC/2. In this scenario, the proposed development would reasonably comply with the development plan as a whole and would gain support from the NPPF and NPPW. In the absence of material considerations in this scenario requiring that the appeal be determined other than in accordance with the development plan, this finding would indicate that the appeal should be allowed. But as set out above, I have come to a different conclusion. [145-148,195,197,211,240,360]

## **Recommendations**

622. I recommend that the Secretary of State deals with the appeal on the basis of the revised description of the proposed development requested at the Inquiry, which would delete reference in the description to the tonnage of residual waste treated per annum.
623. I recommend that the appeal should be dismissed for the reasons set out above. However, if the Secretary of State is minded to allow the appeal and to grant planning permission, then the conditions considered necessary to be imposed are set out in the Schedule of Conditions attached to this report.

*John Woolcock*  
Inspector



## APPEARANCES

### FOR CAMBRIDGESHIRE COUNTY COUNCIL:

James Burton  
of counsel

Instructed by LGSS Law Ltd

He called

Mark Flatman CMLI Dip LA BA(Hons)	Director Liz Lake Associates
Helena Kelly BSc MCIFA	Director Heritage Archaeology Ltd
Rachel Jones BSc(Hons) Dip TP MRTPI	RSJ Planning Ltd

### FOR THE APPELLANT:

David Elvin QC  
Matthew Henderson

Instructed by Trowers and Hamlins LLP

They called

Jon Mason BSc(Hons) Dip LA MLI	Technical Director AXIS PED Limited
Dr Jonathan Edis BA(Hons) MA PhD MCIFA MIHBC	Director HCUK Group
Stephen Othen MA MEng CEng MChemE	Technical Director Fichtner Consulting Engineers Ltd
David Adams MA MRTPI	Director AXIS PED Limited

### INTERESTED PERSONS:

Jane Williams	Local resident
Barbara Bull	Local resident
Waterbeach Parish Council	Presented by Barbara Bull
Cambridge and Peterborough CPRE	Presented by Dr Alan James BSc Tech PhD MBCS CITP MIMMM CEnv
James Bull	Labour Party candidate for MP
Nigel Seamarks	Local resident
Cambridge Friends of the Earth	Presented by Ian Ralls
Heather Macbeth-Hornett	Local resident
Michael Lynch	Local resident
Herts for Waste	Presented by Dr John Webb
Rev Norman Setchell	Retired Army Chaplain and local resident
Barry Garwood	Local resident
Jasmine Seamarks	Local resident
Clare Cambridge	Local resident
Guinevere Glasfurd-Brown	Local resident

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Andrew Ashworth	Local resident
Damien Glasfurd-Brown	Local resident
Matthew Brown	Superintendent Cambridge American Cemetery
Susan Johnson	Local resident
Jamie Buchanan	Local resident
Paul Bearpark	Local resident
Ros Hathorn	Extinction Rebellion
Ellie Crane	Local resident
Lucy Frazer	Conservative candidate for MP
Pippa Heylings	Liberal Democrat candidate for MP
Colin Stroud	Local resident
John Cattermole	Headteacher Waterbeach
Mary Shemilt	Local resident
Andrew Snelson	Local resident
Alex Biddle	Local resident
Cottenham Parish Council	Presented by Christine Ward
Jude Sutton	Local resident
CBWIN	Presented by Guinevere Glasfurd-Brown and Jude Sutton
Jane Coston BEM	Local resident

PROOFS OF EVIDENCE and APPENDICES

Appellant

AC1	David Adams AC1/A Proof of Evidence AC1/B Appendices 1-5 AC1/C Summary
AC2	Jon Mason AC2/A Proof of Evidence AC2/B Appendices JM1, JM2 Figures 1-7, Figures Appendices 1-11 AC2/C Summary AC2/D Rebuttal Appendices A-D Figures 1-5 AC2/E Scott Schedule
AC3	Jonathan Edis AC3/A Proof of Evidence AC3/B Appendices 1-15 AC3/C Summary AC3/D Rebuttal
AC4	Stephen Othen AC4/A Proof of Evidence AC4/B Appendices 1-5 AC4/C Summary AC4/D Rebuttal AC4/D2 Second Rebuttal [submitted at Inquiry]

Continued -

Cambridgeshire County Council

CC1	Rachel Jones CC1/A Proof of Evidence inc Summary and Appendix 1 CC1/B Rebuttal including Appendices 1-6
CC2	Helena Kelly CC2/A Proof of Evidence CC2/B Appendices 1-3 CC2/C Summary
CC3	Mark Flatman CC3/A Proof of Evidence inc Summary and Appendix A-G CC3/B Scott Schedule

SCHEDULE OF PLANS AND DRAWINGS

Application plans and drawings

Drawing No.17013 PL03 Proposed Site Plan 25.10.17  
Drawing No.17013 PL04 Floor Plans 25.10.17  
Drawing No.17013 PL05 Floor Plans 25.10.17  
Drawing No.17013 PL06 Roof Plan 25.10.17  
Drawing No.17013 PL07 Longitudinal Section 25.10.17  
Drawing No.17013 PL08 Cross Section 25.10.17  
Drawing No.17013 PL09 Cross Section 25.10.17  
Drawing No.17013 PL10 Cross Section 25.10.17  
Drawing No.17013 PL11 Proposed South West Elevation 25.10.17  
Drawing No.17013 PL12 Proposed North West Elevation 25.10.17  
Drawing No.17013 PL13, Proposed North East Elevation 25.10.17  
Drawing No.17013 PL14 Proposed South East Elevation 25.10.17  
Drawing No.17013 PL15 Gatehouse 25.10.2017  
Drawing No.17013 PL16 Ancillary Buildings 25.10.2017  
Drawing No.17013 PL17 Ancillary Buildings 25.10.2017  
Drawing No.17013 PL18 RevA Fencing and Gating Plan 25.10.17  
(received 24.4.18)  
Drawing No.17013 PL19 Beach Ditch Crossing Typical Design 25.10.17  
Drawing No.17013 PL20 Heat Pipe Trench 25.10.17  
Drawing No.17013 PL21 Cycle Shelters GA Layout & Details 25.10.17  
Drawing No.17013 PL22 Replacement Culverted Bridge Typical Bridge  
Design 25.10.17  
Drawing No.1970-01-SK001 Landscape Scheme November 2017

## ANNEX A Summary of section 106 agreement

Schedule 1 includes Plans 1-4.

Schedule 2 provides for a Conservation Management Plan (CMP), based on heads of terms set out in Annex 1, to be prepared with English Heritage Trust, Historic England, Denny Abbey Farmland Museum and CCC prior to the commencement of development. The CMP would be developed in consultation with English Heritage Trust, Historic England, Denny Abbey Farmland Museum and CCC. Annex 1 is entitled aims and objectives of the CMP. It states that the CMP would guide proposals for changes to or developments at Denny Abbey to ensure that its significance is preserved and if possible, further revealed or enhanced. CMP policies would help guide investment and improvement of the Denny Abbey site in order to realise its potential to provide a key cultural resource in South Cambridgeshire. The CMP would establish a baseline for the asset from which conservation principles could be set out. Once agreed these principles would be used to test the compatibility of future proposals for maintenance, repair, interpretation or development with the conservation and enhancement of the Abbey's significance.

Schedule 3 provides for a Landscape Strategy (LS), based on heads of terms set out in Annex 2, to be prepared and developed by English Heritage Trust, Historic England and Denny Abbey Farmland Museum for the written approval of CCC prior to the commencement of development. Annex 2 provides that the LS seeks to minimise views of the proposed development from locations within Denny Abbey through landscape planting. The LS would be developed in consultation with English Heritage Trust, Historic England, Denny Abbey Farmland Museum, JH Martin and CCC. The LS would be implemented by the owner in accordance with the approved timetable and maintained for a minimum period of five years. In the event that the Access Road Fund (see Schedule 6) is payable, the owner shall pay the Landscape Strategy Fund (£25,500) to CCC in lieu of implementing the LS, and CCC would transfer this to English Heritage Trust and Historic England setting out what it would be spent on to ensure that the fund was spent in accordance with the section 106 agreement.

Schedule 4 provides for an Audience Development Strategy (ADS) based on heads of terms set out in Annex 3, to be prepared with English Heritage Trust, Historic England, Denny Abbey Farmland Museum and CCC prior to the commencement of development. The ADS, which would explore potential opportunities to increase the use of Denny Abbey by visitors and educational groups, would be developed in consultation with English Heritage Trust, Historic England, Denny Abbey Farmland Museum and CCC.

Schedule 5 provides that within six months of the submission of the ADS an Interpretation Strategy (IS) based on heads of terms set out in Annex 4, prepared with English Heritage Trust, Historic England and Denny Abbey Farmland Museum shall be submitted to CCC. The IS would seek to increase the understanding and appreciation of the significance of Denny Abbey. It would primarily relate to the earthwork remains located to the north and west of the Abbey building and would be informed by detailed topographic survey/3D laser scanning. The IS would be developed in consultation with

English Heritage Trust, Historic England, Denny Abbey Farmland Museum and CCC. The owner would pay the Interpretation Strategy Delivery Fund (£8,000) to CCC within two months of CCC's written approval of the IS. CCC would transfer this to English Heritage Trust and Historic England setting out what it would be spent on. Interpretation may take several forms including physical interpretation panels, web access and/or digital applications including for example augmented reality.

Schedule 6 concerns an alternative access road and car park for Denny Abbey. On commencement of development the owner would use reasonable endeavours to secure the Access Road Planning Consent and thereafter to construct the Access Road. The owner would pay the Future Car Park Allowance Fund (£291,000) to CCC prior to service commencement. This fund would be used for either the construction of the Future Car Park; or the implementation of recommendations identified in the CMP and/or the ADS. The Access Road shall be designed in consultation with CCC, English Heritage Trust, Historic England, the owner and Denny Abbey Farmland Museum, based on the Preliminary Design Layout shown on Plan 2. If planning permission was granted for the Access Road the owner would implement the consent. Appendix 1 includes an Access Licence dated 6 February 2019 to allow access in order to carry out accessway and planting works in accordance with the terms of the agreement.

In the event that planning permission for the Access Road was refused and/or reasonable circumstances would prevent its construction, the owner would write to CCC to seek approval to forgo its construction and default to pay the Access Road Fund (£437,500). If CCC refused dispute resolution procedures would apply. If CCC agreed the fund would be paid to CCC and transferred to English Heritage Trust and Historic England. The fund would be used to implement recommendations identified in the CMP and ADS unless otherwise agreed between the Parties, which are defined as the owner and CCC.

Schedule 7 sets a limit of 571,000 tpa of waste imported for treatment and/or disposal at the WWMP. Priority would be given to the treatment of residual wastes suitable for thermal treatment arising from the WWMBT in the residual wastes disposed of at the proposed WWRF. Written records would be kept of the quantities of waste treated at the WWMP and an annual statement provided. In the event that the annual statement revealed that the limit was exceeded the owner shall inform CCC setting out the reasons for the excess and confirming the measures in place to ensure that the tonnage limit would be adhered to in the future.

In the event that any new planning permission(s) were granted by CCC pursuant to section 73 of the 1990 Act, unless agreed between the parties, the obligations in the agreement would continue to bind the appeal site without the need to enter into a deed of variation or new section 106 agreement [Section 8]. The owner shall not be obliged to comply with, and shall not be in breach of, undertakings covenants restrictions and requirements if the Secretary of State expressly states that it does not satisfy one or more of the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 [Clause 3.2].

## ANNEX B Summary of relevant development plan policies

### Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document July 2011 (MWCS)

CS2 Sets out a strategic vision and objectives for sustainable waste management development. These include reference to a new generation of facilities which will achieve higher levels of waste recovery and recycling in line with the relevant targets. They will be of a high quality in their design and operation, contributing towards addressing climate change, and minimising any impacts on the environment and communities. A flexible approach will be taken in terms of the types of technology suitable on different waste management sites. Indicative uses will be provided, and co-location of uses encouraged.

CS14 Deals with the scale of waste management provision.

CS15 Provides for a network of waste management facilities, and that sites to deliver this network will be identified in the MWCS and MWSSP.

CS22 Requires waste management proposals to take account of climate change for the lifetime of the development, through minimising GHG emissions and measures to ensure adaptation to future climate change. Proposals should set out how this will be achieved, including quantifying and monitoring GHG emissions, and setting out how it would make use of RE including opportunities for generating energy from waste, and use of decentralised and RE and low carbon energy.

CS23 Concerns sustainable transport of waste.

CS24 Requires all proposals for waste management development to achieve a high standard in their design and mitigation of environmental impacts including climate change, along with consistency with CCC's The Location and Design of Waste Management Facilities SPD.

CS29 Provides that proposals for new waste management development will be permitted where they meet a demonstrated need within Cambridgeshire and Peterborough. Planning permission will be dependent upon applicants entering into binding restrictions on a catchment area, tonnages and/or types of waste. Permission may be granted for development involving the importation of waste from outside the Plan area where this is demonstrated to maximise recycling and recovery of waste materials and be the most sustainable option, taking into account the principle of self-sufficiency, proximity to the point waste arising, and the waste hierarchy.

CS32 Permits waste development where, amongst other things, access and the highway network serving the site are suitable and able to accommodate any increase in traffic, and not cause unacceptable harm to the environment, road safety or residential amenity. Binding agreements covering routeing arrangements and HCV signage may be sought.



CS33 Provides that waste management development will only be permitted where it can be demonstrated that it can be assimilated into its surroundings and local landscape character area in accordance with the Cambridgeshire Landscape Guidelines, local Landscape Character Assessments and related supplementary planning documents.

CS34 Provides that waste management development will only be permitted where it can be demonstrated that there would be no significant harm to the environment, human health or safety, existing or proposed neighbouring land uses, visual intrusion or loss of residential or other amenities. Mitigation measures will be required, including where appropriate a buffer zone, between the proposed development and neighbouring existing or proposed sensitive land uses.

CS35 Concerns biodiversity and permits development where it would have no likely significant adverse impact on sites of acknowledged flora and fauna interest.

CS36 Provides that waste development will not be permitted where there is: a. an adverse effect on any designated heritage asset, historic landscape, or other heritage asset of national importance, and/or its setting unless there are substantial public benefits that outweigh that harm or loss, b. any significant adverse impact on a site of local architectural, archaeological or historic importance.

CS38 Permits waste development which affects BMV agricultural land only where there is a need for the development and an absence of suitable alternative sites using lower grade land has been demonstrated.

CS39 Concerns water resources and prevention of water pollution.

CS40 Deals with airport safeguarding and states that an approved Bird Management Plan may be required.

Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document February 2012 (MWSSP)

SSPW1K – The appeal site is allocated as W1K-Extension of Waste Management Park, Waterbeach. The Description of Proposed Use is Waste Recycling and Recovery. Potential uses include; materials recovery facility, in vessel composting, energy from waste, inert waste recycling and new waste management technologies.

South Cambridgeshire Local Plan September 2018 (SCLP)

S/1 The vision provides for sustainable economic growth with residents having a superb quality of life in an exceptionally beautiful, rural and green environment.

S/2 Sets out 6 key objectives; a. to support economic growth and South Cambridgeshire's (SC) position as a world leader in research and technology based industries, research, and education, and supporting the rural economy;

b. to protect the character of SC, including built and natural heritage, protecting the Green Belt, new development should enhance the area, and protect and enhance biodiversity; c. To provide land for housing; d. to deliver high quality well-designed development; e. to ensure new development provides or has access to a range of services and facilities that support healthy lifestyles and well-being; and f. to maximise potential for journeys to be undertaken by sustainable modes.

S/3 Accords with the presumption in favour of sustainable development as set out in the 2012 NPPF.

S/5 Development will meet the needs for 22,000 additional jobs to support the Cambridge Cluster and provide a diverse range of local jobs.

S/6 Sets out a development strategy for jobs in the following order of preference: on the edge of Cambridge, at new settlements, in the rural area at rural centres and minor rural centres.

S/7 Provides that outside development frameworks only development for, amongst other things, uses which need to be located in the countryside or where supported by other policies in the plan would be permitted.

SS/6: Waterbeach New Town. A new town of approximately 8,000 to 9,000 dwellings is proposed on the former Waterbeach Barracks.

CC/1 Provides that planning permission will only be granted for proposals that demonstrate and embed the principles of climate change mitigation and adaptation into the development.

CC/2 Provides that planning permission for proposals to generate energy from renewable and low carbon sources will be permitted subject to certain considerations. These include that the development does not have unacceptable adverse impacts on heritage assets (including their settings).

CC/3 Deals with renewable and low carbon energy in new developments. It includes, for growth areas and new settlements, that site wide renewable and low carbon energy solutions that maximise on-site generation from these sources would be sought, such as renewable and low carbon district heating systems.

CC/4 Concerns water efficiency.

CC/6 Concerns construction methods.

CC/7 Concerns water quality. It requires that all development proposals must demonstrate, amongst other things, adequate water supply and drainage.

CC/8 Concerns sustainable drainage.

CC/9 Seeks to minimise flood risk.

HQ/1 Requires high quality design. As appropriate to the scale and nature of the development proposals must, amongst other things, 1.a preserve or enhance the character of the local urban and rural area and respond to its context in the wider landscape, 1.b conserve or enhance important natural and historic assets and their setting, 1.d be compatible with its location and appropriate in terms of scale, density, mass, form, siting, design, proportion, materials, texture and colour in relation to the surrounding area, and 1.n protect the health and amenity of occupiers and surrounding uses from development that is overbearing or would create unacceptable impacts such as noise, odour, emissions and dust.

NH/2 Permits development where it respects and retains or enhances the local character and distinctiveness of the local landscape and of the individual National Character Area in which it is located.

NH/3 Provides that planning permission would not be granted for development which would lead to the irreversible loss of Grades 1, 2 or 3a agricultural land unless 1.a The land is allocated for development, 1.b Sustainability considerations and the need for the development are sufficient to override the need to protect the agricultural value of the land.

NH/4 States that new development must aim to maintain, enhance, restore or add to biodiversity.

NH/14 1. Supports development proposals when they sustain and enhance the special character and distinctiveness of SCDC's historic environment including its countryside. 2. Development proposals will be supported when they sustain and enhance the significance of heritage assets, including their settings, as appropriate to their significance and in accordance with the 2012 NPPF.

SC/2 Provides that new development will have a positive impact on the health and wellbeing of new and existing residents.

SC/9 Permits development which includes new external lighting only where it can be demonstrated that lighting and levels are the minimum required for reasons of public safety and security, and there is no unacceptable adverse impact on the local amenity of nearby properties, or on the surrounding countryside.

SC/10 States that planning permission will not be granted for development which, amongst other things, has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development, or on countryside areas of tranquillity which are important for wildlife and countryside recreation. SCDC will seek to ensure that noise from proposed commercial, industrial or transport use does not cause any significant increase in the background noise level at nearby existing noise sensitive premises.

SC/11 Concerns contaminated land.

SC/12 Provides that where development proposals would have an unacceptable impact on air quality standards they will be refused. Development will be

permitted where it can be demonstrated that it does not lead to significant adverse effects on health, the environment or amenity from emissions to air.

SC/14 States that development likely to generate malodours and emissions to air such as dust, fumes, smoke, heat, radiation, gases, steam or other forms of pollution will only be permitted where it can be demonstrated that it will not have significant adverse effects on health, amenity and the wider environment.

TI/2 Deals with planning for sustainable travel.

TI/3 Sets out indicative parking standards.

TI/8 Concerns infrastructure provision to make schemes acceptable in planning terms.

## SCHEDULE OF PLANNING CONDITIONS (Conditions 1-41)

If planning permission is granted for a waste recovery facility (Waterbeach Waste Recovery Facility), comprising the erection and operation of an energy from waste facility to treat residual waste [or "up to 250,000 tonnes of residual waste per annum" if the Secretary of State does not amend the description], air cooled condensers and associated infrastructure, including the development of an internal access road; office/welfare accommodation; workshop; car, cycle and coach parking; perimeter fencing; electricity sub-stations; weighbridges; weighbridge office; water tank; silos; lighting; heat offtake pipe; surface water management system; hardstandings; earthworks; landscaping and bridge crossings, at Levitt's Field, Waterbeach Waste Management Park, Ely Road, Cambridgeshire, in accordance with the terms of the application Ref.No.S/3372/17/CW, dated 19 December 2017, as amended [if the Secretary of State amends the description], it is recommended that the permission be subject to the following conditions:

### Definitions

Enabling Works shall mean: Demolition; Site survey; Site clearance operations; Temporary works; Archaeological works; Works for services; Soil investigations; Decontamination works; Erection of hoardings and fences; and Noise attenuation works.

The Facility shall mean: The Energy from Waste plant granted pursuant to this Planning Permission.

Service Commencement shall mean: Operation of the facility to accept residual waste following the issue of the takeover certificate by the Independent Certifier.

Commissioning shall mean: Works which involve the reception and processing of residual waste to test and certify the Facility.

Working Days shall mean: A day other than a Saturday or Sunday or public or bank holiday in England.

Residual Waste shall mean: The meaning given in Defra's *Energy from Waste - A Guide to the Debate* (December 2014) at page 1 and shall only be for non-hazardous waste. The Defra definition states that "residual waste is the waste that is left over when all the recycling possible has been done. It adds that this generally means the environmental or economic costs of further separating and cleaning the waste are bigger than any potential benefit of doing so."

WWMP shall mean: The Waterbeach Waste Management Park.

### Conditions

- 1) The Facility shall be commenced not later than 5 years from the date of this permission. Written notification of the following shall be sent to the Waste Planning Authority within 5 working days of: (a) Commencement of Enabling Works (b) Commencement of Development (c) Commencement of Commissioning (d) Service Commencement.
- 2) The Facility shall only be implemented in accordance with the application form dated 19 December 2017 and the following approved plans & details (received 19 December 2017, unless otherwise stated), except as otherwise required by any of the following conditions set out in this planning permission:
  - a) Drawing Number 17013\_PL03, Proposed Site Plan, dated 25.10.17;
  - b) Drawing Number 17013\_PL04, Floor Plans, dated 25.10.17;
  - c) Drawing Number 17013\_PL05, Floor Plans, dated 25.10.17;
  - d) Drawing Number 17013\_PL06, Roof Plan, dated 25.10.17;
  - e) Drawing Number 17013\_PL07, Longitudinal Section, dated 25.10.17;
  - f) Drawing Number 17013\_PL08, Cross Section, dated 25.10.17;
  - g) Drawing Number 17013\_PL09, Cross Section, dated 25.10.17;
  - h) Drawing Number 17013\_PL10, Cross Section, dated 25.10.17;
  - i) Drawing Number 17013\_PL11, Proposed South West Elevation, dated 25.10.17;
  - j) Drawing Number 17013\_PL12, Proposed North West Elevation, dated 25.10.17;
  - k) Drawing Number 17013\_PL13, Proposed North East Elevation, dated 25.10.17;
  - l) Drawing Number 17013\_PL14, Proposed South East Elevation, dated 25.10.17;
  - m) Drawing Number 17013\_PL15, Gatehouse, dated 25.10.2017;
  - n) Drawing Number 17013\_PL16, Ancillary Buildings, dated 25.10.2017;
  - o) Drawing Number 17013\_PL17, Ancillary Buildings, dated 25.10.2017;
  - p) Drawing Number 17013\_PL18, Rev. A, Fencing and Gating Plan, dated 25.10.17 (received 24 April 2018);
  - q) Drawing Number 17013\_PL19, Beach Ditch Crossing Typical Design, dated 25.10.17;
  - r) Drawing Number 17013\_PL20, Heat Pipe Trench, dated 25.10.17;
  - s) Drawing Number 17013\_PL21, Cycle Shelters: GA Layout & Details, dated 25.10.17;
  - t) Drawing Number 17013\_PL22, Replacement Culverted Bridge Typical Bridge Design, dated 25.10.17; and
  - u) Drawing Number 1970-01-SK001, Landscape Scheme, dated November 2017.
- 3) Except in the case of an emergency all Heavy Commercial Vehicle (HCV) vehicular access to the site shall (save in respect of emergency service vehicles) only be gained from the existing access onto the roundabout on the A10. There shall be no vehicular access to the site from Long Drive.



- 4) The routes to be used for HCV deliveries and collections during the operation of the Facility shall only be in accordance with a Routing Plan that shall be submitted to and approved in writing by the Waste Planning Authority prior to the Service Commencement.
- 5) No more than 250,000 tonnes of residual non-hazardous waste shall be treated at the Facility in any one calendar year.
- 6) At least 75,000 tonnes per annum of the residual waste arising from other waste management facilities on Waterbeach Waste Management Park, that are suitable for thermal treatment at the Facility, shall be disposed of at the Facility.
- 7) Not less than 70% of the waste imported to the Facility per annum shall originate from a catchment area which shall comprise Cambridgeshire and Peterborough, their Adjoining Areas and Milton Keynes. Adjoining Areas are Hertfordshire, Suffolk, Essex, Norfolk, Luton, Bedford, Central Bedfordshire, Northamptonshire, Rutland and Lincolnshire. For the avoidance of doubt, waste being processed through any waste transfer station within the defined catchment area shall be regarded as arising from within the catchment area.
- 8) After Service Commencement, the operator shall maintain a written record at the site of the quantities and origin of the waste treated by the Facility and on written request of the Waste Planning Authority provide an annual report for the preceding 12 months within 10 Working Days of the written request of such from the Waste Planning Authority. The report shall as a minimum identify:
  - a) The Facility throughput – the total tonnage of waste processed;
  - b) Waste catchment - the point of origin of the waste, including tonnages received from the catchment area and from the rest of the UK;
  - c) Residual site based waste arisings – total tonnage of residual waste produced and thermally treated at WWMP.
- 9) The development approved by this planning permission shall only be carried out during the following times. Construction works shall only take place between 0700 to 1900 Monday to Saturday and not at any time on Sundays, public or bank holidays, other than as prescribed for in this condition. Any construction related activities undertaken outside these hours shall be subject to a scheme to be approved in writing by the Waste Planning Authority and shall be carried out in accordance with the approved scheme. The scheme shall detail how construction related activities will not give rise to detriment to amenity from noise at the nearest noise sensitive dwelling. Continuous operation of the Facility is permitted. This includes essential maintenance and ancillary operational vehicle movements. The receipt and export of all waste HCVs (loaded or unloaded) to and from the Facility, shall only take place during the following hours: 0600 to 1900 Monday to Sunday, excluding Christmas Day, Boxing Day and New Year's Day.
- 10) No development approved by this planning permission shall commence until the implementation of a programme of archaeological work has been approved in accordance with a Written Scheme of Investigation, that has been submitted to and approved in writing by the Waste Planning

Authority. The pre-commencement aspects of archaeological works shall include:

- a) Submission of a Written Scheme of Investigation that sets out the methods and timetable for the excavation and recording of archaeological remains in the development area, and presents an appropriate outreach element, describes post-fieldwork analysis stages, defines relevant technical and publication reports and indicates archive preparation methods for deposition in an approved archaeological archive storage facility; and
- b) Completion of fieldwork and recorded in accordance with the approved Written Scheme of Investigation.

Points a) and b) set out above shall be undertaken in accordance with the approved details (including the timetable of works) prior to any development.

- 11) Service Commencement shall not commence until the following three requirements from the programme of archaeological work, approved under Condition 10, have been undertaken.
  - a) Completion of a Post-Excavation Assessment report and approval of an Updated Project Design for the analytical work to be submitted for approval within six months of the completion of fieldwork.
  - b) Completion of the approved programme of analysis and production of an archive report; submission of a publication synopsis and preparation of a publication report to be completed within two years of the completion of fieldwork.
  - c) The preparation of site archive for deposition at the Cambridgeshire Archaeological Archive facility, or another appropriate store approved in writing by the Waste Planning Authority.

Points a) to c) set out above shall be fully implemented in accordance with the timetable and provisions of the approved Written Scheme of Investigation, approved under Condition 10, prior to Service Commencement.

- 12) No development approved by this planning permission shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Waste Planning Authority. The CEMP shall include, but not be limited to, the consideration of the following aspects of construction:
  - a) Routing of construction vehicles;
  - b) Notification and approval in writing by the Waste Planning Authority of Abnormal loads, including measures to deal with any damage to the public highway as a result of the deliveries;
  - c) Location of contractor compound and stores;
  - d) Arrangements for the parking, turning, loading and unloading of vehicles during the period of construction;
  - e) Noise, vibration, dust and mud control (including wheel cleaning arrangements and any physical or management and monitoring controls to be put in place);

- f) Construction methods and phasing of development (including a timetable of proposed works);
- g) Drainage control measures including details of oil interceptors and bunds;
- h) Contractor contact details and complaints procedures;
- i) Travel Plan for the construction staff; and
- j) Artificial site illumination (including proposed hours of use).

The CEMP shall be implemented in accordance with the approved details, including the timetable of proposed works.

- 13) No development approved by this planning permission (including any site clearance and Enabling Works, other than archaeological survey related works) shall commence until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Waste Planning Authority. The TMP shall include, but not be limited to, the following aspects:
- a) Movements and control of muck away lorries;
  - b) Contractor and site staff vehicle access and parking;
  - c) Movements and control of all deliveries, including any special measures that will be required for the delivery of particular elements of the proposed building, that are outside the normal range of height and width materials that can be transported on the adopted public highway; and
  - d) Control of dust, mud and debris, in relationship to the operation of the adopted public highway.

The TMP shall be implemented in accordance with the approved details, unless alternative details have been previously submitted to and approved in writing by the Waste Planning Authority.

- 14) No development approved by this planning permission (excluding Enabling Works) shall commence until full details of the two new bus stop flags and poles at the access roundabout on the A10, including a timetable for implementation, are submitted to and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented in full accordance with the approved details prior to the development hereby permitted being brought into first use.
- 15) No development approved by this planning permission (excluding Enabling Works) shall commence until a remediation strategy, that includes the following components to deal with the risks associated with contamination of the site, have been submitted to, and approved in writing by, the Waste Planning Authority:
- a) A Preliminary Risk Assessment including a Conceptual Site Model (CSM) of the site indicating potential sources, pathways and receptors, including those offsite.
  - b) The results of a site investigation based on (a) and a detailed risk assessment, including a revised CSM.
  - c) Based on the risk assessment in (b) an options appraisal and Remediation Strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged

to be complete and arrangements for contingency actions. The plan shall also detail a long-term monitoring and maintenance plan.

- d) Unless otherwise approved as part of the remediation strategy in a) to c), Service Commencement shall not take place until a verification report demonstrating completion of works set out in the Remediation Strategy in (c) has been submitted to and approved by the Waste Planning Authority. The long-term monitoring and maintenance plan in (c) shall be updated prior to Service Commencement and be implemented as approved.

The Remediation Strategy shall be implemented in accordance with the approved details, unless alternative details have previously been submitted to and approved in writing by the Waste Planning Authority.

- 16) If, during development, contamination not previously identified is found to be present at the site then no further development, shall be carried out until the developer has submitted a Revised Remediation Strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Waste Planning Authority. The Revised Remediation Strategy shall be implemented as approved.
- 17) Piling or any other foundation design and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Waste Planning Authority. This consent shall only be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The piling and other foundation design and investigation boreholes shall be carried out in accordance with the approved details.
- 18) No development approved by this planning permission (excluding Enabling Works) shall commence until a surface water drainage scheme for the site, has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall be based upon the principles within the Outline Drainage Strategy prepared by Amey (ref: COEINT4002/DR002, Revision A) dated December 2017. The surface water drainage scheme shall subsequently be implemented in full accordance with the approved details prior to the Facility being brought into first use.
- 19) No development approved by this planning permission (excluding Enabling Works) shall commence until such time as a scheme to dispose of foul water has been submitted to, and approved in writing by, the Waste Planning Authority. The approved foul water scheme shall be implemented in full accordance with the approved details prior to the development hereby permitted being brought into first use.
- 20) No development approved by this planning permission (excluding Enabling Works) shall commence until such time as a scheme for aviation safety during construction has been submitted to, and approved in writing by, the Waste Planning Authority. The approved scheme shall include, but not be limited to, the following information;
- a) The precise location of the Development;
  - b) The date of commencement of construction;

c) The estimated date of completion of construction, with a timetable of works; and

d) The maximum extension height of any construction equipment.

The approved aviation safety scheme shall be subsequently implemented in full accordance with the approved details for the duration of construction.

- 21) The proposed development shall be externally lit in accordance with a lighting scheme to be approved in writing by the Waste Planning Authority prior to Commissioning.
- 22) No vehicle, mobile plant, equipment and/or machinery shall be operated at the site unless it has been fitted with and uses a silencer. All vehicles, mobile plant and/or machinery shall be maintained in accordance with the manufacturer's specification at all times.
- 23) The cumulative noise from all sources at the Facility shall not exceed the following rating levels at the identified receptors. The rating levels shall be determined in accordance with BS 4142:2014+A1:2019 at the locations specified in the table below.

Receptor Limit	Sound Rating Level Limit	Sound Rating Level
	$L_{A,r,T}$ 1hr dB (07:00 – 23:00)	$L_{A,r,T}$ 15mins dB (23:00 – 07:00)
Denny Croft Cottage	50	35
Denny Abbey Cottages	51	38
Denny Lodge Cottages	50	32
Highbrove	39	31
Gravel Diggers Farm	39	34

- 24) Service Commencement shall not commence until a noise management and mitigation plan, which demonstrates how the development will achieve the noise limits set out in Condition 23, has been submitted to and approved in writing by the Waste Planning Authority. The plan shall include, but not be limited to:
- the physical mitigation elements of buildings and structures, plant specifications and enclosure and barrier design and performances; and
  - the details of noise complaint procedures, including the appointment of a competent acoustic expert to undertake an assessment of noise emissions from the development to demonstrate compliance with the noise limits set out in Condition 23, and the measures the operator will take in the event the noise limits set out in Condition 23 have been exceeded.

Service Commencement shall not commence until all of the provisions of the approved noise management and mitigation plan are approved in writing by the Waste Planning Authority. The approved mitigation measures shall be thereafter retained, and activities shall take place in full accordance with the approved noise management and mitigation plan for the lifetime of the development.

- 25) No development shall commence until all trees, not previously approved by the Waste Planning Authority for removal, shall have been protected by fencing or another approved barrier. All protection measures shall conform to and be maintained in accordance with BS 5837:2012 for the duration of construction works.
- 26) No tree or hedgerow removal shall take place between 1<sup>st</sup> March and 31<sup>st</sup> July unless the tree or hedgerow has been inspected by a suitably qualified ecologist and considered acceptable for removal. Confirmation of any such inspection and removal shall be submitted to the Waste Planning Authority within 10 working days of the works taking place, including the relevant professional report received.
- 27) Clearance of suitable bird breeding habitats shall be limited to periods outside the bird breeding season (for the avoidance of doubt that should be outside the period April to end-July – early August). Any clearance works within this period should be inspected by a suitably qualified ecologist, with any areas used by nesting birds marked and avoided. Confirmation of any such removal and inspection shall be submitted to the Waste Planning Authority within 10 working days of the works taking place, including the relevant professional report received.
- 28) No development shall commence (excluding Enabling Works) until a site-wide ecological mitigation, compensation and enhancement strategy, including a timetable of works and maintenance, has been submitted to and approved in writing by the Waste Planning Authority. Such details shall be in accordance with the mitigation, compensation and enhancement measures detailed within Chapter 6 of the Environmental Statement dated December 2017. All mitigation, compensation and enhancement measures shall be maintained in full accordance with the approved timetable and strategy for the lifetime of the development.
- 29) No development shall commence (excluding Enabling Works) until full details of hard and soft landscaping works, including a long-term management plan for landscaping works, have been submitted to and approved in writing by the Waste Planning Authority. Such a scheme shall include details of all hard-surfacing treatments and all means of enclosure. Soft landscaping shall include full details of the new planting, including the number, height, type, species, and spacing; strategy for maintenance and management; and timetable for implementation; including any temporary storage of soil on site. The scheme shall also show consideration of any wider planting proposed on land within the control of the operator of the Facility. The approved scheme shall be implemented in full accordance with the approved timetable and maintenance and management strategy for the lifetime of the development.
- 30) All new soft landscaping works approved under Condition 29 shall be implemented within the first available planting season following completion of the development hereby permitted, or in line with the approved timetable, whichever is the sooner. Any trees or shrubs which are removed, die, become diseased or are harmed in any way within five years of the initial planting shall be replaced during the next planting season, with the same species, unless otherwise approved in writing by the Waste Planning Authority.



- 31) No development shall commence (excluding Enabling Works) until detailed design of the bridges proposed to cross the Beach Ditch and the ditch on the northern site boundary have been submitted to and approved in writing by the Waste Planning Authority. Details submitted shall include a mitigation strategy to ensure the protection of the Beach Ditch County Wildlife Site and water vole habitats during the construction and subsequent operation of the bridges. Details of the surface water drainage arrangements of the bridges shall also be submitted to ensure suspended solids shall not enter the Beach Ditch County Wildlife Site. The approved details shall be implemented unless alternative details are submitted to and approved in writing by the Waste Planning Authority.
- 32) There shall be no open storage of waste materials outside the confines of the buildings hereby permitted.
- 33) Notwithstanding the details shown on the approved plans, the implementation of the finishes shall not commence until details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Waste Planning Authority. The development shall not be carried out thereafter except in full accordance with the approved details.
- 34) Service Commencement shall not commence until a Combined Heat and Power Feasibility Review assessing potential commercial opportunities for the export of heat and directly supplied electricity from the Facility has been submitted to, and approved in writing by, the Waste Planning Authority. Where deliverable opportunities for the use of heat and directly supplied electricity are identified by the Review, a scheme shall be submitted for approval by the Waste Planning Authority and thereafter implemented in accordance with the approved scheme. Any scheme shall include:
- a) provision of the necessary plant, pipework, cabling and equipment to the boundary of the site (including a timetable for delivery); and;
  - b) details of excavation and reinstatement work necessary for the installation of the pipework and cabling, including the reinstatement levels proposed along the A10 alignment.
- Any plant, pipework, cabling and equipment installed to the boundary of the site to enable the export of heat and directly supplied electricity shall be installed in full accordance with the approved details.
- 35) Service Commencement shall not commence until an Emissions Monitoring Protocol for the Facility has been submitted to, and approved in writing by, the Waste Planning Authority. Unless alternative details are submitted to and approved in writing by the Waste Planning Authority, the Emissions Monitoring Protocol shall provide for the publication on the operator's website of average daily emission levels of:
- a) Oxides of nitrogen;
  - b) Sulphur dioxide;
  - c) Carbon monoxide;
  - d) Hydrogen chloride;
  - e) VOCs; and
  - f) Particulate matter (total mass, which would include PM<sub>2.5</sub> and PM<sub>10</sub>).

Periodic monitoring would also be undertaken of the following emissions pursuant to the Environmental Permit for the Facility:

- a) dioxins and furans;
- b) cadmium & thallium; and
- c) Group 3 metals (Antimony, Arsenic, Lead, Chromium, Cobalt, Copper, Manganese, Nickel and Vanadium)

The monitoring results of these emissions shall be published on the operator's website within one week of the results being submitted to the Environment Agency. The emissions monitoring protocol shall also provide for the publication on the operator's website. The Emissions Monitoring Protocol, including publication of the results on the operator's website, shall subsequently be implemented in full accordance with the approved details thereafter.

- 36) Within 6 months of Service Commencement a staff and visitor Travel Plan based on the Travel Plan in Appendix TA3 of the Transport Assessment, shall be submitted to, and approved in writing by, and deposited with the Waste Planning Authority. The approved Travel Plan shall be implemented in full and reviewed in accordance with a timetable that shall be included within the approved Travel Plan.
- 37) Prior to Service Commencement the electric charging points shown on Drawing Number 17013\_PL03, Proposed Site Plan, dated 25.10.17 shall be made available for use. The electric charging points shall be retained thereafter and shall be maintained in accordance with the manufacturer's specification at all times.
- 38) Service Commencement shall not commence until an Education Benefits Delivery Scheme (EBDS), which demonstrates how the operator proposes to use the facility and wider site to help educate visitors on waste recycling in line with the waste hierarchy, shall be submitted to and approved in writing by the Waste Planning Authority. The Scheme shall include, but not be limited to:
  - a) the location of the educational facilities within the building, including details on access to other areas of plant, that should include the emissions monitoring information, as part of the educational tour; and;
  - b) plans to use the outside site area and potential to use linked facilities on the wider site where possible to provide educational benefits that will deal with other levels of the waste hierarchy.

The approved EBDS shall be implemented in full and thereafter maintained for the lifetime of the development, unless alternative details are submitted to and approved in writing by the Waste Planning Authority.

- 39) Not less than one year prior to the planned cessation of the operations hereby permitted, written notice of the planned cessation shall be given to the Waste Planning Authority. Not less than six months prior to the planned cessation of the operations hereby permitted, a Decommissioning Environmental Management Plan (DEMP) shall be submitted for the written approval of the Waste Planning Authority. The DEMP shall include, but not be limited to, the following details:
  - a) the demolition/dismantling and removal of the plant and buildings;

- b) site waste management including measures to recycle materials on the Site;
- c) hours of working;
- d) car parking arrangements;
- e) traffic management;
- f) decommissioning worker accommodation and support facilities and their means of enclosure;
- g) measures to control lighting, noise, dust, odours and fumes in order to minimise the adverse effects on the amenity of neighbours;
- h) temporary storage compounds and stockpile areas;
- i) measures to prevent mud and debris being deposited on the highway;
- j) measures to protect trees and hedgerows;
- k) temporary fencing;
- l) measures to minimise the pollution of surface and ground water and to deal with any areas of contamination;
- m) measures to inform visitors and liaise with neighbours;
- n) a restoration scheme; and
- o) a programme for implementation.

Decommissioning shall not commence until the DEMP has been approved in writing by the Waste Planning Authority and the Site shall be decommissioned and restored in full accordance with the approved DEMP and timetable thereafter.

- 40) The Service Commencement of the development hereby permitted shall not commence until the operator has submitted to the Waste Planning Authority certification from the District Network Operator confirming connections to the local electricity distribution network have been completed to allow export of electrical energy. The connection to the electricity distribution network shall be retained for the lifetime of the development to ensure that the plant is capable of exporting electricity.
- 41) Service Commencement shall not commence until a Bird Hazard Management Plan has been submitted for the written approval of the Waste Planning Authority. The Bird Hazard Management Plan shall comply with Airport Operators Associated Advice Note 6 – Potential Bird Hazards from Sustainable Urban Drainage Schemes (SUDS). The scheme shall be carried out in accordance with the approved details and thereafter retained.

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

- ID1 Opening statement on behalf of AmeyCespa (East) Limited
- ID2 Opening submissions on behalf of the minerals and waste planning authority Cambridgeshire County Council
- ID3.1 Statement by Waterbeach Parish Council with attachments
- ID3.2 Email dated 14 November 2019 attaching - draft paper for Waterbeach Parish Council with attachments
- ID3.3 Additional points raised in note dated 19 November 2019
- ID4.1 Statement by Campaign to Protect Rural England
- ID4.2 Further written submission concerning Fenlands Biosphere and incinerator application at Wisbech
- ID4.3 Summary of material available from the Fens Biosphere website
- ID4.4 Route map towards developing a Biosphere for the Fens
- ID4.5 List of viewpoints
- ID4.6 Email dated 20 November 2019 attaching leaflet about the Fens Biosphere project
- ID5 Statement by James Bull
- ID6.1 Statement by Nigel Seamarks
- ID6.2 Suggested viewpoints for site visit
- ID6.3 Email dated 14 November 2019 concerning pedestrian/cycle path
- ID6.4 Note re financial uncertainty and co-location rebuttal
- ID6.5 Note on s106 funding for pathway to Cambridge Research Park and Co-location
- ID7 Written statement by Dr Kim Ashton
- ID8.1 Draft Section 106 agreement
- ID8.2 Revised Draft Section 106 agreement
- ID8.3 Section 106 agreement dated 22 November 2019
- ID9 Masterplanning Discussion Denny Abbey Farmland Museum
- ID10.1 A Burning Problem how incineration is stopping recycling submitted by Heather Macbeth-Hornett
- ID10.2 Email dated 19 November attaching photograph of Ely Cathedral
- ID11 Written statement by Helen Humphreys
- ID12 Written statement by Derek Douglas
- ID13.1 Statement by Pippa Heylings
- ID13.2 Our investigation reveals the need for much tighter regulation of incinerators by David Drew
- ID14.1 Draft CIL Compliance Statement by CCC
- ID14.2 CIL Compliance Statement by CCC dated 19 November 2019
- ID15 Landfill section 73 consent Ref.No.S/0013/15/CW
- ID16.1 Waterbeach Barracks Wireline assessment January 2018
- ID16.2 Viewpoints
- ID17 Correspondence from Historic England dated 11 January 2018 14 May 2018 29 May 2018 3 June 2019 24 October 2019 Extract Main Issues MWSSP July 2010
- ID18 Email from English Heritage dated 24 October 2019 concerning s106 proposals
- ID19 Planning permission for construction of an emergency vehicular turning head 7 April 2009 Ref.No: S/00002/09/CW

ID20	Statement by Cambridge Friends of the Earth
ID21	Oxford English Dictionary definition of 'assimilate'
ID22	Report to inform a Habitats Regulations Assessment argus ecology 6 November 2019 [requested by Inspector]
ID23	Analysis of Carbon Assessment by Barry Garwood
ID24.1	Statement by Dr John Webb on behalf of Herts WithOut Waste
ID24.2	Post Hearing addition to Statement
ID24.3	Hertfordshire County Council report entitled Sustainable Hertfordshire Strategy – Update 24 October 2019
ID25	Written statement with attachments by Mr A G Whitaker
ID26.1	Statement by Ellie Crane
ID26.2	Email dated 14 November 2019 concerning Amey's Carbon Assessment
ID27	Extracts from Net Zero Technical Report Committee on Climate Change May 2019
ID28	Statement by Alex Biddle
ID29.1	Statement by Clare Cambridge
ID29.2	The Health Effects of Waste Incinerators 4 <sup>th</sup> Report of the British Society for Ecological Medicine
ID30	Written statement by Sandra Archer and Colin Coe
ID31.1	Statement by Barry Garwood
ID31.2	Suggestions for site visit
ID32.1	Statement by Jasmine Seamarks
ID32.2	Email dated 19 November 2019 concerning event days at Denny Abbey and Amey's educational centre
ID33	Written statement by Helen Seamarks
ID34	Written statement by John Buckley
ID35.1	Statement by Ros Hathorn
ID35.2	Email from Monica Bijok dated 13 November 2019
ID36	Statement by Guinevere Glasfurd-Brown
ID37	Healthy Air for Every Child: A Call for National Action submitted by John Cattermole
ID38	Waterbeach Barracks Maximum Heights Parameter Plan
ID39	Sustainability requirements targets and strategies Urban and Civic
ID40	Errata sheet by Mr Flatman
ID41	West Bromwich appeal decision APP/G4620/W/18/3216591
ID42	Planning permission and plans for glasshouses at Chittering Ref: 16/00660/ESF
ID43	Statement and attachments by Jude Sutton
ID44	Statement by Colin Stroud
ID45	Statement by Cottenham Parish Council
ID46	Email from Mike Lynch dated 15 November 2019
ID47	Email from Ruth Moulder dated 15 November 2019
ID48	Written statement by Cambridgeshire Chambers of Commerce
ID49	Extract from NPPF 2012
ID50	Extract from PPS5 Planning for the Historic Environment
ID51	Plan showing Barracks Redevelopment in relation to selected viewpoints [requested by Inspector]

- ID52.1 North-west elevation with landfill profile
- ID52.2 South-east elevation with landfill profile
- ID53 Statement by Jane Coston
- ID54.1 Statement by Dr James
- ID54.2 Bundle of attachments
- ID55 Extract from committee report concerning Allerton Waste Recovery Park
- ID56.1 Agreed note re stages in plan process for WMSSP Policy W1K
- ID56.2 Consultation statement Core Strategy DPD and Site Specific Proposals DPD
- ID57.1 Statement by CBWIN
- ID57.2 Email dated 19 November 2019 re Horsham Inquiry
- ID57.3 Comment on Denny Abbey Mitigation Package and Closing Statement
- ID57.4 Email dated 20 November 2019 attaching advertorial from Cambridge News
- ID58 Written statement in support of the proposed development (anonymous)
- ID59 Site visit itinerary plans and notes
- ID60 Agreed note on the lawful use of the appeal site
- ID61 Third Rebuttal Proof of Evidence on matters related to climate change, air quality and health by Stephen Othen
- ID62 Summary of waste data interrogator 2018 waste removed from WWMBT facility
- ID63 Closing submissions on behalf of Cambridgeshire County Council
- ID64 Agreed suggested planning conditions
- ID65 Agreed note on the proposed works to the A10
- ID66.1 Closing submissions on behalf of AmeyCespa (East) Limited
- ID66.2 Addendum submissions on *Wavendon Properties Limited v SSHCLG* [requested by Inspector]
- ID67 CCC's note regarding correct approach to identification of policies most important for the purposes of NPPF paragraph 11 (d) [requested by Inspector]
- ID68 Appellant's letter dated 26 November 2019 commenting on ID67



## CORE DOCUMENTS (CD)

F	Tab	Documents	Date
	A	Application Documents S/3372/17/CW	
1	1	Planning Statement Part 1 Planning Application Forms Certificates and Notices	
1	1.1	Application form	19 Dec 2017
1	1.2	Application cover letter from Axis	19 Dec 2017
1	1.3	Letter from Axis Notice under Article 13 Highways	19 Dec 2017
1	1.4	Letter from Axis Notice under Article 13 Waste	19 Dec 2017
1	1.5	Letter from Axis Notice under Article 13 Drainage Board	19 Dec 2017
1	1.6	Article 13 notice	19 Dec 2017
1	2	Planning Statement Part 2 Design Evolution Document	
1	2.1	Waterbeach Design Evolution	Dec 2017
1	3	Planning Statement Part 3	
1	3.1	Appendix 1.1 Validation Statement	
1	3.2	Appendix 1.2 Sustainability Statement	
1	3.3	Appendix 1.3 Daylight / Sunlight Assessment	
1	3.4	Appendix 1.4 Mass Balance Summary	
1	3.5	Appendix 1.5 Heat Plan	
1	3.6	Appendix 1.6 Carbon Assessment	
1	3.7	Appendix 1.7 Lighting Assessment	
1	3.8	Appendix 1.8 Site Waste Management Plan	
1	3.9	Appendix 1.9 Arboricultural Survey	
1	3.10	Appendix 1.9a Tree Location Constraints Plan	
1	3.11	Appendix 1.10 Phase 1 Preliminary Contamination Risk Assessment	
1	3.12	Appendix 1.11 Biodiversity Checklist	
1	4	Planning Statement Part 4 Planning Drawings	
1	4.1	17013_PL01 Location Plan	25 Oct 2017
1	4.2	17013_PL02 Existing Site Plan	25 Oct 2017
1	4.3	17013_PL03 Proposed Site Plan	25 Oct 2017
1	4.4	17013_PL04 Floor Plan	25 Oct 2017
1	4.5	17013_PL05 Floor Plan	25 Oct 2017
1	4.6	17013_PL06 Roof Plan	25 Oct 2017
1	4.7	17013_PL07 Longitudinal Section	25 Oct 2017
1	4.8	17013_PL08 Cross Section	25 Oct 2017
1	4.9	17013_PL09 Cross Section	25 Oct 2017
1	4.10	17013_PL10 Cross Section	25 Oct 2017
1	4.11	17013_PL11 Proposed South West Elevation	25 Oct 2017
1	4.12	17013_PL12 Proposed North West Elevation	25 Oct 2017
1	4.13	17013_PL13 Proposed North East Elevation	25 Oct 2017
1	4.14	17013_PL14 Proposed South East Elevation	25 Oct 2017
1	4.15	17013_PL15 Gatehouse	25 Oct 2017
1	4.16	17013_PL16 Ancillary Buildings	25 Oct 2017
1	4.17	17013_PL17 Ancillary Buildings	25 Oct 2017
1	4.18	17013_PL18 Fencing and Gate Plan	25 Oct 2017
1	4.19	17013_PL19 Beach Ditch Crossing Typical Design	25 Oct 2017

1	4.20	17013_PL20 Heat Pipe Trench	25 Oct 2017
1	4.21	17013_PL21 Cycle Shelter	25 Oct 2017
1	4.22	17013_PL22 Replacement Culverted Bridge Typical Design	25 Oct 2017
1	4.23	1970-01-SK001 Landscape Scheme	Nov 2017
1	5	Planning Statement of Community Involvement	
1	5.1	APPENDIX A Council Approval of SCI Outline Strategy	Dec 2017
1	5.2	APPENDIX B Public exhibition banner displays	Dec 2017
1	5.3	APPENDIX C Energy from waste process flow diagram	Dec 2017
1	5.4	APPENDIX D Residents letter public exhibition notification	Dec 2017
1	5.5	APPENDIX E Poster public exhibition notification	Dec 2017
1	5.6	APPENDIX F Press release public exhibition notification	Dec 2017
1	5.7	APPENDIX G Advert public exhibition notification	Dec 2017
1	5.8	APPENDIX H Newsletter	Dec 2017
1	5.9	APPENDIX I General Enquiries received to 30 November 2017	Dec 2017
1	5.10	APPENDIX J Parish Council correspondence	Dec 2017
1	6	Planning Statement Transport Assessment Part 6	Nov 2017
1	6.1	Figure TA1 Site Location Plan	Nov 2017
1	6.2	Figure TA2 2017 Observed Background Traffic at A10 Waterbeach WMP Roundabout	Nov 2017
1	6.3	Figure TA3 Waterbeach WMP Side Road Arm: 2017 Observed Weekday Traffic Flow	Nov 2017
1	6.4	Figure TA4 A10 North of Waterbeach WMP Roundabout: 2017 Observed Weekday Traffic Flow	Nov 2017
1	6.5	Figure TA5 A10 South of Waterbeach WMP Roundabout: 2017 Observed Weekday Traffic Flow	Nov 2017
1	6.6	Figure TA6 A10 Waterbeach WMP Roundabout 2017 Rolling Profile of Hourly Traffic Demand	Nov 2017
1	6.7	Figure TA7 Recorded Personal Injury Accident Incidents Jan 2012 to May 2017	Nov 2017
1	6.8	Figure TA8 2km Walk Catchment & 5km Cycle Catchment from Waterbeach WMP	Nov 2017
1	6.9	Figure TA9 Local Bus Connections from A10 Bus Stops	Nov 2017
1	6.10	Figure TA10 Site Masterplan	25 Oct 2017
1	6.11	Figure TA11 Energy from Waste: Process Summary	Nov 2017
1	6.12	Figure TA12 Proposed Vehicular Site Access Arrangements	Nov 2017
1	6.13	Figure TA13 Recorded 2-Way (Ins + Outs) HGV Movements at Waterbeach WMP Weighbridge	Nov 2017
2	6.14	Figure TA14 Observed Turning Proportions to / from Waterbeach WMP Access Arm	Nov 2017
2	6.15	Figure TA15 Additional Traffic Scenario 2: Max Consented WMP	Nov 2017
2	6.16	Figure TA16 Additional Traffic Scenario 3: 250,000tpa EfW (Existing WMP)	Nov 2017

2	6.17	Figure TA17 Additional Traffic Scenario 3: 250,000tpa EfW (Max Consented WMP)	Nov 2017
2	6.18	Figure TA18 2022 Background Traffic	Nov 2017
2	6.19	Figure TA19 2022 Committed Development Traffic	Nov 2017
2	6.20	Figure TA20 2022 Baseline Traffic (Scenario1: WMP at Existing Levels)	Nov 2017
2	6.21	Figure TA21 2022 Alternative Baseline (Scenario 2: WMP at Max Consent)	Nov 2017
2	6.22	Figure TA22 2022 Baseline + 250,000tpa EfW (Scenario 3: WMP at Existing Levels)	Nov 2017
2	6.23	Figure TA23 2022 Baseline + 250,000tpa EfW (Scenario 4: WMP at Max Consent)	Nov 2017
2	6.24	Figure TA24 Indicative Staff Demand Profile During EfW Construction	Nov 2017
2	6.25	Figure TA25 Indicative HGV Demand Profile During EfW Construction	Nov 2017
2	6.26	Figure TA26 Waterbeach EfW Construction Traffic Demand	Nov 2017
2	6.27	Figure TA27 2020 Baseline Traffic (Scenario1)	Nov 2017
2	6.28	Figure TA28 2020 Baseline + Construction Traffic	Nov 2017
2	6.29	Figure TA29 Indicative Electricity Grid Connection & Heat Off-Take Pipeline Routes	Nov 2017
2	6.30	Appendices	
2	6.31	Appendix TA1 Copies of Scoping Correspondence	
2	6.32	Appendix TA2 Vehicle Swept Path Assessment	
2	6.33	Appendix TA3 Waterbeach WMP Travel Plan	
2	6.34	Appendix TA4 Scenario 1 Mass Balance Spreadsheet (WMP at Existing Throughput)	
2	6.35	Appendix TA5 Scenario 2 Mass Balance Spreadsheet (WMP at Max Consent)	
2	6.36	Appendix TA6 Scenario 3 Mass Balance Spreadsheet (250,000tpa + WMP at Existing Throughput)	
2	6.37	Appendix TA7 Scenario 4 Mass Balance Spreadsheet (250,000tpa + WMP at Max Consent)	
2	6.38	Appendix TA8 Waterbeach WMP Daily Development Profile	
2	6.39	Appendix TA9 Application of Daily Profile to Predicted Additional HGV Traffic	
2	6.40	Appendix TA10 Predicted Staff & Visitor Traffic Demand	
2	6.41	Appendix TA11 Calculation of Locally Adjusted Growth Factors	
2	6.42	Appendix TA12 Local Waterbeach Residential Consents: Extracts from Relevant TA Reports	
2	6.43	Appendix TA13 Calculation of Committed Development Traffic Associated with CRP	
2	6.44	Appendix TA14 A10 Waterbeach WMP Roundabout: ARCADY Results Summary	
2	6.45	Appendix TA15* ARCADY Output: 2017 Background Traffic	

2	6.46	Appendix TA16* ARCADY Output: 2022 Scenario 1 (Baseline) & Scenario 3 (Baseline + 250,000tpa)	
2	6.47	Appendix TA17* ARCADY Output: 2022 Scenario 2 (Alternative Baseline) & Scenario 4 (Alternative Baseline + 250,000tpa)	
2	6.48	Appendix TA18 Predicted EfW Peak Construction Traffic Demand	
3	7	Clarification Letter Axis	24 April 2018
3	7.1	Appendix A Water Flow Diagram	
3	7.2	Appendix B Response to UKWIN comments	Feb 2018
3	7.3	Appendix C Update to Statement of Community Involvement	
3	7.4	Appendix D Process and Emissions Overview Document	
3	7.5	Appendix E Air Quality and Emissions Q&A Document	
3	7.6	Appendix F Air Quality Clarification	
3	7.7	Appendix G Noise Clarifications	
3	7.8	Figures	
3	7.9	Figure 1 Fire Service Access Routes (A10 to WWRF)	
3	7.10	Figure 2 Fire Service Access Routes (WWRF facility)	
3	7.11	Figure 3 Examples of APCR and IBA Tankers	
3	8	Applicant's Visualisation Methodology for TLP	
3	9	Consultee Replies	
3	9.1	Email Cambridgeshire County Council Emergency Planning	4 Jan 2018
3	9.2	Cambridgeshire County Council Flood Emergency Plan NPPG and Template	Jan 2018
3	9.3	Map showing flood risk at CB25 9PQ	Undated
3	9.4	Letter from Cambridgeshire County Council Comment from Lead Local Flood Authority (LLFA)	5 Jan 2018
3	9.5	Letter from Cambridge International Airport	5 Jan 2018
3	9.6	Letter from Old West Internal Drainage Board	10 Jan 2018
3	9.7	Letter from Historic England	11 Jan 2018
3	9.8	Email from Landbeach Parish Council	12 Jan 2018
3	9.9	Email from Haddenham Parish Council	18 Jan 2018
3	9.10	Letter from Natural England	18 Jan 2018
3	9.11	Letter from Peterborough City Council Wildlife Officer	19 Jan 2018
3	9.12	Letter from Environment Agency	22 Jan 2018
3	9.13	Email from The Wildlife Trust for Bedfordshire Cambridgeshire & Northamptonshire	22 Jan 2018
3	9.14	Comments from Transport Assessment Team	29 Jan 2018
3	9.15	Review from the County Council's Air Quality Consultants	Feb 2018
3	9.16	Comments from the English Heritage Trust	6 Feb 2018
3	9.17	Letter from Waterbeach Parish Council	6 Feb 2018
3	9.18	Anonymous Neighbour Responses Report	6 Feb 2018
3	9.19	Email from Cambridge Fire & Rescue	13 Feb 2018
3	9.20	Email from Wicken Fen Parish Council	14 Feb 2018

3	9.21	Not used	
3	9.22	Email from Historic Environment Team	15 Feb 2018
3	9.23	Email from Haddenham Parish Council	19 Feb 2018
3	9.24	Not used	
3	9.25	Letter from Campaign to Protect Rural England	20 Feb 2018
3	9.26	Cambridgeshire County Council Highway Development Response	20 Feb 2018
3	9.27	Email from Public Health England	21 Feb 2018
3	9.28	Letter from Cambridge Airport	22 Feb 2018
3	9.29	Email from Girton Parish Council	31 Aug 2018
3	9.30	Letter from Lucy Frazer MP	12 Sep 2018
3	9.31	Minutes from Cottenham Parish Council	Undated
3	9.32	Letter from East Cambridgeshire DC	Undated
3	9.33	Letter from South Cambridgeshire DC	13 Feb 2018
3	9.33.1	South Cambridgeshire DC report to Committee	7 Feb 2018
3	9.33.2	South Cambridgeshire District Council Consultee Comments	Undated
3	10	Reg 22 Documents	
3	10.1	Regulation 22 Additional Environmental Information Report	24 April 2018
3	10.2	Figures	
3	10.3	Figure 5.1 Preliminary Planting Strategy	
3	10.4	Figure 5.2 Indicative Alignment of Denny Abbey Access Road	
3	10.5	Figure 5.3 Flood Zone Mapping	
3	10.6	Figure 5.4 Heritage Assets within 1km of the Access Road Land	
3	10.7	Appendices	
3	10.8	Appendix 1.1 Non Technical Summary of Additional Environmental Information Report	
3	10.9	Appendix 2.1 Proposed Location of the Noise Fence	
3	10.10	Appendix 2.2 Updated Noise Maps	
3	11	Regulation 22 Correspondence	
3	11.1	Letter Reg22 from Old West IDB	2 May 2018
3	11.2	Email Reg22 from Anglian Water	3 May 2018
3	11.3	Letter Reg22 from LLFA	9 May 2018
3	11.4	Email Reg22 from Haddenham Parish Council	10 May 2018
3	11.5	Letter Reg22 from PCC Wildlife Officer	10 May 2018
3	11.6	Letter Reg22 from Historic England	14 May 2018
3	11.7	Report Reg22 from The Landscape Partnership	Feb 2018
3	11.8	Letter Reg22 from Natural England	16 May 2018
3	11.9	Email Reg22 from Burwell Parish Council	17 May 2018
3	11.10	Letter Reg22 from Public Health England	24 May 2018
3	11.11	Email Reg22 from Waterbeach Parish Council	24 May 2018
3	11.12	Letter Reg22 from Air Quality Consultants	29 May 2018
3	11.13	Letter Reg22 from Cottenham Parish Council	29 May 2018
3	11.14	Letter Reg22 from Environment Agency	29 May 2018
3	11.15	Letter Reg22 from Historic England additional info	29 May 2018
3	11.16	Email Reg22 from Landbeach Parish Council	29 May 2018
3	11.17	Letter Reg22 from South Cambs District Council	29 May 2018

3	11.18	Email Reg22 from Director of Public Health	4 June 2018
3	11.19	Letter Reg22 from East Cambs District Council	7 June 2018
3	11.20	Letter Reg22 from Noise Consultant	15 Jun 2018
3	11.21	Email Reg22 from Wilburton Parish Council	21 Jun 2018
3	11.22	Comments Reg22 from English Heritage	25 Jun 2018
3	11.23	Letter Reg22 from Heidi Allen MP	27 July 2018
3	11.24	Comments Reg22 from Histon and Impington PC	Undated
3	11.25	Comments Reg22 from Fire and Rescue Service	Undated
3	12	Other Documents	
3	12.1	Updated Carbon Assessment	26 July 2018
3	12.2	Decision Notice	21 Sep 2018
	B	<u>Appeal Documents</u>	
4	13	Application Form	18 Mar 2019
4	14	Certificate C	18 Mar 2019
4	15	Article 13 and 36 – press notice	18 Mar 2019
	C	Statement of Case	
4	16	Appellant's Statement of Case	18 Mar 2019
4	17	Planning Documents	
4	17.1	Not used	
4	17.2	Not used	
		<i>Development Plan</i>	
4	17.3	Cambridgeshire and Peterborough Minerals and Waste Core Strategy Development Plan Document	July 2011
4	17.4	Cambridgeshire and Peterborough Minerals and Waste Site Specific Proposals Development Plan Document	February 2012
4	17.5	South Cambridgeshire DC Local Plan	Sept 2018
		<i>Emerging Development Plan Documents</i>	
5	17.6	Cambridgeshire and Peterborough Preliminary Draft Minerals and Waste Local Plan	May 2018
5	17.7	Waste Need Assessment	May 2018
5	17.8	Cambridgeshire and Peterborough Minerals and Waste Local Plan Further Consultation Draft	March 2019
5	17.9	Waste Need Assessment	Jan 2019
5	17.10	Site Assessment Methodology	Jan 2019
		<i>European Directives, International Treaties and National Legislation</i>	
5	17.11	Climate Change Act 2008	2008
5	17.12	Paris Agreement 2015	2015
5	17.13	The Landfill Directive 1999/31/EC	April 1999
5	17.14	Revised Waste NPPF Directive 2008/98/EC	Dec 2008
5	17.15	Renewable Energy Directive 2009/28/EC	2009
5	17.16	The Industrial Emissions Directive 2010/75/EU	Jan 2011
5	17.17	EU Directive on Environmental Impact Assessment 2014/52/EU	2014
		<i>National Planning Policy Documents/Waste Strategy Documents</i>	
5	17.18	Government Waste Strategy Review	2011
5	17.19	Waste Management Plan for England	2013
5	17.20	The National Planning Policy for Waste	2014



6	17.21	2010 to 2015 Government Policy: Waste and Recycling	2015
6	17.22	The National Planning Policy NPPF	Feb 2019
6	17.23	Our Waste, Our Resources: A Strategy for England	2018
6		<i>National Energy Documents</i>	
6	17.24	The Energy White Paper 'Meeting the Energy Challenge'	2007
6	17.25	UK Renewable Energy Strategy	2009
6	17.26	The Low Carbon Transition Plan	2009
7	17.27	EN1 Overarching Energy National Policy Statement	2011
7	17.28	EN3 Renewable Energy Infrastructure NPS	2011
7	17.29	The Renewable Heat Incentive	2011
7	17.30	The Renewable Energy Roadmap	2011
7	17.31	The Carbon Plan: Delivering Our Low Carbon Future	2011
7	17.32	Planning our Electric Future: A White Paper for Secure, Affordable and Low Carbon Electricity	2011
7	17.33	Energy from Waste a Guide to the Debate	2014
8	17.34	Industrial Strategy White Paper	2017
8	17.35	Digest of UK Energy Statistics	2018
8	17.36	Future Energy Scenarios National Grid	2018
8	17.37	Energy Trends	2018/19
8	17.38	Clean Growth Strategy	2018
9	17.39	Reducing UK emissions: 2018 Progress Report to Parliament	2018
9	17.40	Government Policy Paper on Energy Security 2010-2015	2015
9	17.41	UKERC Review of Energy Policy	2017
9	17.42	Energy Security Strategy	2012
9	17.43	DEFRA's UK Statistics on Waste	March 2019
		<i>Other Documents</i>	
9	17.44	Global Warming of 1.5°C	2018
9	17.45	The Location and Design of Waste Management Facilities Cambridgeshire and Peterborough Supplementary Planning Document (SPD)	2011
9	17.46	Cambridgeshire Corporate Energy Strategy	2017
9	17.47	Joint Municipal Waste Management Strategy for Cambridgeshire and Peterborough	2008
9	17.48	South Cambridgeshire Development Control Policies	2007
9	17.49	South Cambridgeshire District Council Core Strategy	2007
10	17.50	Draft Waste Incineration BREF (electronic copy provided only to date – 747 pages)	2018
10	18	Emissions/Health, Climate Change and Technology	
10	18.1	RCE-13 The Impact on Health of Emissions to Air from Municipal Waste Incinerators, HPA	February 2010
10	18.2	Land-Use Planning & Development Control: Planning for Air Quality IAQM	January 2017

10	18.3	Fetal growth, stillbirth, infant mortality and other birth outcomes near UK municipal waste incinerators; retrospective population based cohort and case-control study, Ghosh et al	January 2019
10	18.4	Energy recovery for residual waste A carbon based modelling approach DEFRA	February 2014
10	18.5	Review of Landfill Methane Emissions Modelling (WR1908), Gregory et al, DEFRA	2014
11	18.6	Using metal ratios to detect emissions from municipal waste incinerators in ambient air pollution data	2015
11	18.7	Environment Agency internal briefing note on UKWIN article July 2018	2018
11	18.8	Bayesian spatial modelling for quasi-experimental designs: An interrupted time series study of the opening of Municipal Waste Incinerators in relation to infant mortality and sex ratio. Environment International. 128 (2019) 106-115 (Freni-Sterrantino et al, 2019)	2019
11	18.9	Risk of congenital anomalies near municipal waste incinerators in England and Scotland: Retrospective population-based cohort study". Environment International (Parkes et al)	2019
11	18.10	Fine Particle emissions of Waste Incineration", Wilen et al	March 2007
11	18.11	"Ultrafine particle emission from incinerators: The role of the fabric filter", Journal of the Air and Waste Management Association, 62(1):103-111, (Buonanno et al)	
	19	Heritage	
11	19.1	Ancient Monuments and Archaeological Areas Act 1979	1979
11	19.2	Planning (Listed Buildings and Conservation Areas) Act 1990	1990
11	19.3	South Cambs District Council (2009) Listed Buildings: Works to or affecting the setting	2009
11	19.4	CIfA 2014a Code of Conduct	2014
11	19.5	CIfA 2014b updated 2017 Standard and NPPG for historic environment desk-based assessment	2014
11	19.6	Historic England 2008 Conservation Principles Policies and NPPG	2008
11	19.7	Historic England 2017 Historic Environment Good Practice Advice in Planning: 3 (2nd Edition) The Setting of Heritage Assets	2017
11	19.8	Historic England 2018 Religion and Ritual Post-AD 410: Scheduling Selection Guide	2018
11	19.9	DCMS Scheduled Monuments & nationally important but non-scheduled monuments	2013
11	19.10	DCMS Principles of Selection for Listed Buildings	2018

11	19.11	Headland Archaeology DENNY ST FRANCIS NEW SETTLEMENT, WATERBEACH Cultural Heritage Appraisal of the New Settlement Site	2012
11	19.12	Historic England National Heritage List for England List Entry for Denny Abbey Scheduled Monument (List Entry Number 1012770)	
11	19.13	Historic England National Heritage List for England List Entry for Denny Abbey Grade I Listed Building (List Entry Number 1127360)	
11	19.14	Historic England National Heritage List for England List Entry for Denny Abbey Refectory (List Entry Number 1331328)	
11	19.15	Historic England National Heritage List for England List Entry for Barn to North of Denny Abbey (List Entry Number 1179549)	
11	19.16	ICOMOS 2005 Xi'an Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas	2005
11	19.17	ICOMOS 2013 The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance	2013
11	19.18	Lambrick (2008). Setting Standards: A Review prepared on behalf of the IFA	2008
11	19.19	Historic England Representation	May 2018
11	19.20	Landscape and Heritage Appraisal of Denny Abbey and its setting Waterbeach new Town Evidence Base LDA Design	2013
	20	Landscape	
12	20.1	Landscape Institute and Institute for Environmental Management and Assessment 3rd edition 2013 Guidelines for Landscape and Visual Impact Assessment Abingdon: Routledge	2013
12	20.2	South Cambridgeshire District Council, adopted 2010. District Design Guide: High Quality and Sustainable Development in South Cambridgeshire	2010
12	20.3	South Cambridgeshire District Council, adopted 2010. Landscape in New Developments	2010
12	20.4	Landscape Institute Photography and photomontage in landscape and visual impact assessment Landscape Institute Advice Note 01/11	2011
12	20.5	Natural England, 2015. National Character Area profile 46: The Fens [online] < <a href="https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making/national-character-area-profiles">https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making/national-character-area-profiles</a> > [accessed 10 Aug 2017]	2015
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12	20.7	Landscape East, 2010. Integrated Landscape Character Objectives [online]. < <a href="http://landscape-east.org.uk/">http://landscape-east.org.uk/</a> > [accessed 10 Aug 2017]	2010
12	20.8	Landscape East, 2010. Landscape Typology for the East of England [online]. < <a href="http://landscape-east.org.uk/">http://landscape-east.org.uk/</a> > [accessed 10 Aug 2017]	2010
12	20.9	Cambridgeshire Landscape Guidelines CCC	1991
12	20.10	ZTV	2017
12	20.11	MBC Report	
12	20.12	Waterbeach New Town Committee Report	May 2019
13	20.13	LVIA for Waterbeach New Town	
	20.14	Residential Visual Amenity Assessment	Mar 2019
	21	Other Documents	
	21.1	Scoping Opinion	June 2017
	21.2	Draft Section 106 Agreement	
	21.3	R v Rochdale Metropolitan Borough Council [2001] ENV LR 22	2001
	21.4	Court of Appeal Report on Cherkley Campaign Limited v Mole Valley District Council and Longshot Cherkley Court Ltd [2013] EWHC 2582 (Admin)	2013
	21.5	Not used	
	21.6	Planning Permission S/1587/99 Recycling of Wastes & Aggregates	Dec 2001
	21.7	Planning Permission S/0013/15/CW Section 73 planning application to develop land without complying with conditions 1D, 3, 38, 39, 42, 43, 44, 44A, 46, 48, 49, 55, and 56A of planning permission reference S/02279/11/CW & S/02575/12;/CW	11 April 2016
	21.8	Planning Committee minutes	1 Nov 2018
	21.9	Committee Report	7 Sept 2018
	21.10	Planning Practice NPPG: determining a planning application	
	21.11	Planning Practice NPPG on Plan Making	2019
	21.12	Written ministerial statement: planning for growth	March 2011
	21.13	Javelin Park, Gloucestershire Decision APP/T/1600/A/13/2200210 (electronic copy only provided to date 310 pages)	
	21.14	Lostock EfW Decision DIP/A0665/11/10 LI A0665	
	21.15	Hartlebury Trading Estate Decision APP/E1855/V/11/2153273	
	21.16	Battlefield Enterprise Park Decision APP/L3245/A/11/214 6219	
	21.17	Hatfield Decision Ref: (APP/SMO/6D) Hatfield Decision Ref: (APP/SMO/6D) (electronic copy only provided to date – 284 pages)	July 2015
	21.18	Ratty's Lane Hoddesdon Decision Ref: 7/0067-17 (electronic copy only provided to date – 302 pages)	July 2019

	21.19	Secretary of State Report on Severnside Energy Recovery Facility (SERC) recovered appeal decision (APP/P0119/A/10/2140199)	2011
	21.20	Cornwall EfW facility Inspector's Report to the Secretary of State dated 3rd March 2011 and Secretary of State letter dated 19th May 2011 (PINS Ref: APP/D0840/A/09/2113075) (electronic copy – 427 pages)	2011
	21.21	Energy Act 2013 (electronic copy – 433 pages)	
	21.22	Tolvik Consulting: Filling the Gap – The Future for Residual Waste in the UK	February 2019
	21.23	Tolvik Consulting UK Energy from Waste Statistics	June 2018
	21.24	Tolvik Consulting UK Energy from Waste Statistics	June 2019
	21.25	Let's Recycle League Table 2018	
	21.26	CIWM Presidential Report: RDF Trading in a modern world	2018
	21.27	Letsrecycle Report RDF Under Pressure as Amsterdam backs restrictions	2019
	21.28	RDF Industry Group Waste Export Brexit Briefing Note	2018
	21.29	Amey Waterbeach Waste Mass Balance 2014-2018	
	21.30	Cambridgeshire and Peterborough Authorities Statutory Governance Review	2018
	21.31	Cambridgeshire and Peterborough Independent Economic Review	2018
	21.32	Not used	
	21.33	Not used	
	21.34	Not used	
	21.35	Not used	
	21.36	Updated National Planning Policy for Waste Report on Responses to the Consultation	October 2014
	21.37	Cambridgeshire and Peterborough Combined Authority 2030 Prospectus	2018
	21.38	CCC Report Net Zero: The UKs contribution to stopping global warming	2019
	21.39	A Green Future Our 25 Year Plan to Improve the Environment	2019
	21.40	Cambridgeshire and Peterborough Non Statutory Strategic Spatial NPPF (Towards A Sustainable Growth Strategy to 2050)	2018
	21.41	Monkhill Limited v Secretary of State [2019] EWHC 1993 (Admin)	2019
	21.42	Waterbeach Barracks and Airfield Site Decision Notice	Sept 2019
	21.43	Email from CCC to Axis	March 2018
	21.44	Updated National Waste Planning Policy: Planning for Sustainable Waste Management Consultation Document	July 2013
	22	Community Liaison Group Minutes	Various
	D	Council's Statement of Case & Appendices	
17	E	Environmental Statement	

17	23	Environmental Statement Contents and Foreword	Dec 2017
17	24	Environmental Statement Introduction Chapter 1	Dec 2017
17	25	Environmental Statement Chapter 2 Environmental Impact Assessment Method Volume 1	December 2017
17	26	Environmental Statement Chapter 3 Alternatives Volume 1	December 2017
17	27	Environmental Statement Chapter 4 Scheme Description and Construction Methods Volume 1	December 2017
17	28	Environmental Statement Chapter 5 Landscape and Visual Volume 1	December 2017
17	29	Environmental Statement Chapter 6 Ecology and Nature Conservation Volume 1	December 2017
17	30	Environmental Statement Chapt 7 Noise Vol 1	Dec 2017
17	31	Environmental Statement Chapt 8 Air Quality Vol 1	Dec 2017
17	32	Environmental Statement Chapter 9 Surface Water and Flood Risk Volume 1	December 2017
17	33	Environmental Statement Chapter 10 Archaeology and Cultural Heritage Volume 1	December 2017
17	34	Environmental Statement Chapter 11 Traffic Vol 1	Dec 2017
17	35	Environmental Statement Chapter 12 Socio Economics Volume 1	December 2017
17	36	Environmental Statement Chapter 13 Summary Volume 1	December 2017
17	37	Figure 1.1 Site Location Volume 2	Nov 2017
17	38	Figure 1.2 Site Context Plan Volume 2	Nov 2017
17	39	Figure 1.3 Site Areas Volume 2	Dec 2017
17	40	Figure 4.1 Site Layout Volume 2	Nov 2017
17	41	Figure 4.2 Longitudinal Section Volume 2	Nov 2017
17	42	Figure 4.3 South West & East Elevations Volume 2	Nov 2017
17	43	Figure 4.4 North West & North East Elevations Volume 2	Nov 2017
17	44	Figure 4.5 3D Representations Volume 2	Nov 2017
17	45	Figure 4.6 Landscape Design Volume 2	Nov 2017
17	46	Figure 4.7 Construction Staffing Profile Volume 2	Nov 2017
17	47	Figure 4.8 Preliminary Drainage Design Volume 2	Nov 2017
17	48	Figure 4.9 Energy from Waste Indicative Process Vol 2	Nov 2017
17	49	Figure 4.10 Grid and Heat Offtake Connection Routes Volume 2	November 2017
17	50	Figure 5.1a Landscape and Visual Context Vol 2	Nov 2017
17	51	Figure 5.1b Landscape Character Volume 2	Nov 2017
17	52	Figure 5.1c Viewpoint Locations Volume 2	Nov 2017
17	53	Figure 5.2a-j Viewpoints Volume 2	Nov 2017
17	54	Figure 5.3a-g Photomontages Volume 2	Nov 2017
17	55	Figure 7.1 Baseline Sound Monitoring Positions Volume 2	Nov 2017
17	56	Figure 8.1 Site Location Volume 2	Nov 2017
17	57	Figure 8.2 Dispersion Model Volume 2	Nov 2017
17	58	Figure 8.3 Air Quality Management Areas Volume 2	Nov 2017



17	59	Figure 8.4 Construction Dust Buffer Zones Vol 2	Nov 2017
17	60	Figure 8.5 Background Monitoring Locations Vol 2	Nov 2017
17	61	Figure 8.6 Site Specific Diffusion Tubes Volume 2	Nov 2017
17	62	Figure 8.7 Human Sensitive Receptor Locations Volume 2	November 2017
17	63	Figure 8.8 Local Non-Statutory Ecological Receptors Volume 2	November 2017
17	64	Figure 8.9 European Designated Ecological Receptors Volume 2	November 2017
17	65	Figure 8.10 Wind Roses Volume 2	Nov 2017
17	66	Figure 8.11 Annual Mean Nitrogen Dioxide Vol 2	Nov 2017
17	67	Figure 8.12 Annual Mean Benzene Volume 2	Nov 2017
17	68	Figure 8.13 Annual Mean 1.3 Butadiene Volume 2	Nov 2017
17	69	Figure 8.14 Annual Mean Cadmium Screening Vol 2	Nov 2017
17	70	Figure 8.15 Annual Mean Cadmium Worst Case Volume 2	Nov 2017
17	71	Figure 8.16 Annual Mean Cadmium Typical Vol 2	Nov 2017
17	72	Figure 8.17 Acid Deposition Acid Grassland CL Volume 2	Nov 2017
17	73	Figure 8.18 Acid Deposition Neutral Grassland CL Volume 2	Nov 2017
17	74	Figure 9.1 Key Watercourses Volume 2	Nov 2017
17	75	Figure 10.1 Heritage Assets Volume 2	Nov 2017
17	76	Figure 10.2 Heritage Assets Volume 2	Nov 2017
17	77	Figure 10.3 Heritage Assets Volume 2	Nov 2017
17	78	Figure 10.4a Heat Offtake Routes North Area Vol 2	Nov 2017
17	79	Figure 10.4b Heat Offtake Routes South Area Vol 2	Nov 2017
17	80	Figure 11.1a-e 2022 Baseline (Scenario 1) Vol 2	Nov 2017
17	81	Figure 11.2a-e 2022 Alternative Baseline (Scenario 2) Volume 2	November 2017
17	82	Figure 11.5a-d 2020 Construction Year Baseline Volume 2	November 2017
17	83	Figure 12.1 Data Shine Commute- MSOA reach Volume 2	November 2017
17	84	Figure 12.2 Socio-Economic Study Area Volume 2	Nov 2017
17	85	Appendix 2.1 Scoping Report Volume 3	Dec 2017
17	86	Appendix 2.2 Scoping Opinion Volume 3	Jun 2017
17	87	Appendix 5.1 LVIA Methodology Volume 3	Nov 2017
17	88	Appendix 5.2 Baseline Landscape Character Vol 3	No 2017
17	89	Appendix 5.3 Viewpoint Selection Process Volume 3	No 2017
17	90	Appendix 5.4 Effects on Landscape Character Vol 3	Nov 2017
17	91	Appendix 5.5 Effects on Viewpoints Vol 3	Nov 2017
17	92	Appendix 5.6 Landscape Planting Photomontages Volume 3	Nov 2017
17	93	Appendix 5.7 Draft Landscape and Ecological Management Plan Volume 3	Dec 2017
17	94	Appendix 6.1 Ward Consultants Ecological Assessment Report 2016 Volume 3	Nov 2016
17	95	Appendix 6.2 Ecological Survey Grid Connection Route Volume 3	Nov 2017

17	96	Appendix 7.1 Basic Acoustic Terminology Volume 3	Undated
17	97	Appendix 7.2 Noise Survey Details Volume 3	Undated
17	98	Appendix 7.3 Background Sound Survey Results Volume 3	Undated
17	99	Appendix 7.4 Construction Plant Inventory Vol 3	Undated
17	100	Appendix 7.5 Assumed Plant Noise Levels & Cladding Performance Volume 3	Undated
17	101	Appendix 7.6 Noise Mapping Results Vol 3	Undated
17	102	Appendix 7.7 Vibration Terminology Vol 3	Undated
17	103	Appendix 7.8 Vibration Monitoring Details Volume 3	Undated
17	104	Appendix 8.1 Baseline Review Volume 3	Oct 2017
17	105	Appendix 8.2 Process Emissions Modelling Vol 3	Oct 2017
17	106	Appendix 8.3 Human Health Risk Assessment Vol 3	Dec 2017
17	107	Appendix 9.1 Flood Risk Assessment, Amey Consulting, December 2017 Volume 3	December 2017
17	108	Appendix 9.2 Preliminary Drainage Strategy, Amey Consulting December 2017 Volume 3	December 2017
17	109	Appendix 10.1 Site Gazetteer: Designated Assets Volume 3	Undated
17	110	Appendix 10.2 Designated Heritage Assets Scoped Out of Setting Assessment Volume 3	November 2017
18	111	Appendix 10.3 Site Gazetteer: Non-Designated Assets Volume 3	November 2017
18	112	Appendix 10.4 Reports of Previous Archaeological Fieldwork on Site Volume 3	Various dates
18	113	Technical Appendices Volume 3	Dec 2017
18	114	Non-Technical Summary Volume 3	Dec 2017
18	115	EIA Statement	Undated
18	116	EIA Press Notice	Undated
		Relevant documents leading up to Inquiry	
19	117	Interested Party Representations (index of representations included in this tab)	
20	118	Appeal Questionnaire and appendices	23 April 2019
20	118.1	2019 04 23 CCC appeal Questionnaire	
20	118.2	ADMIN 2017 12 29 site notice text	
20	118.3	CBWIN Landscape Addendum Report	
20	118.4	Anonymous neighbour reps to 6 February 2018	
20	118.5	ADMIN 2017 12 11 site-press notice	
20	118.6	Agenda Plan 8 Viewpoint selection table	
20	118.7	Anonymous neighbour reps 30 May to 6 Sept 2018	
20	118.8	ADMIN 2018 01 02 Proof of Press Notice	
20	118.9	ADMIN 2018 09 28 Proof of Press Notice	
20	118.10	Agenda Plan 5 Proposed site and building layout	
20	118.11	Agenda plan 3 WWMP areas labelled	
20	118.12	Agenda Plan 11 EfW Indicative Process diagram	
20	118.13	2018 09 07 Final report for EfW WWMP	
20	118.14	Agenda Plan 1 Red line area	
20	118.15	Agenda plan 2 low res	
20	118.16	2017 12 29 site gate close up	

20	118.17	CBWIN Landscape report	
20	118.18	ADMIN 2018 05 08 Proof of Press Notice	
20	118.19	Agenda Plan 9 VP17 Year 15 Photomontage Denny Abbey driveway	
20	118.20	Agenda Plan 10 VP20 Year 15 photomontage 4 Causeway E of D Abbey	
20	118.21	Agenda Plan 12 Heritage Assets assessed	
20	118.22	Appendix 1 full Historic England responses	
20	118.23	Appendix 2 UKWIN objections 1 - 3 (Nos 223 277 and 365	
20	118.24	Appendix 3 TLP landscape review of CBWIN landscape submission	
20	118.25	Appendix 4 UKWIN correspondence 12 September 2018	
21	118.26	Anonymous neighbour reps 7 to 10 Sept 2018	
21	118.27	Appendix 5 Late rep from Lucy Frazer QC MP	
21	118.28	Committee Minutes from 17 Sept 2018	
21	118.29	Agenda Plan 4 diagram of building showing heights	
21	118.30	Agenda Plan 6 Grid and Heat Take Off Connection Routes	
21	118.31	ADMIN 2018 05 04 site notice	
21	118.32	Agenda Plan 7 viewpoint locations	
21	118.33	Anonymous neighbour reps 7 Feb to 29 May 2018	
21	118.34	ADMIN 2018 05 08 Press Notice	
21	118.35	Policy NPPF Para 196 February 2019	
21	118.36	Policy NPPF Para 196 July 2018	
21	118.37	Policy M&W Core Strategy DPD July 2011	
21	118.38	Listing Descriptions	
21	118.39	Location and Design of Waste Management Facilities	
21	118.40	EIA Regulations Statement on website	
21	118.41	DEC 2018 09 28 EIA press notice text FINAL	
21	118.42	Policy SCDC DC Policies DPD July 2007	
21	118.43	PINS 2019 04 16 letter notifying of appeal	
21	118.44	SCOP 2017 Opinion covering Let to SCDC	
21	118.45	SCOP 2017 06 29 Final	
21	118.46	Policy SCDC LP Policies September 2018	
21	118.47	CON 2018 01 04 from Emergency Planning 2 of 2	
21	118.48	CON 2018 01 05 from Cambridge Airport	
21	118.49	CON 2018 01 04 from Emergency Planning email	
21	118.50	CON 2018 01 04 from Emergency Planning 1 of 2	
21	118.51	CON 2018 01 10 from Old West IDB	
21	118.52	CON 2018 01 18 from Haddenham PC	
21	118.53	CON 2018 01 12 Landbeach PC	
21	118.54	CON 2018 01 05 from LLFA	
21	118.55	CON 2018 01 22 from the Wildlife Trust	
21	118.56	CON 2018 01 22 from Environment Agency	
21	118.57	CON 2018 01 19 from PCC Wildlife Officer	
21	118.58	CON 2018 01 18 from Natural England	

21	118.59	CON 2018 01 29 from Transport Assessment Team	
21	118.60	CON 2018 02 05 from Burwell PC (attachment)	
21	118.61	CON 2018 01 26 Noise Assessment Review	
21	118.62	CON 2018 02 05 from Burwell PC	
21	118.63	CON 2018 02 06 from County Councils Air Quality Consultant	
21	118.64	CON 2018 02 06 from English Heritage Trust	
21	118.65	CON 2018 02 05 from Cottenham Parish Council	
21	118.66	CON 2018 02 07 from Waterbeach Parish Council	
21	118.67	CON 2018 02 13 from SCDC part 1 of 3 Letter	
21	118.68	CON 2018 02 13 from SCDC part 2 of 3 SCDC Officer Report	
21	118.69	CON 2018 02 13 from Cambs Fire & Rescue Service	
21	118.70	CON 2018 02 13 from SCDC part 3 of 3 internal consultee comments	
21	118.71	CON 2018 02 15 from Historic Environment Team on Archaeology	
21	118.72	CON 2018 02 20 from CPRE	
21	118.73	CON 2018 02 19 from Haddenham PC (2)	
21	118.74	CON 2018 02 14 from Wicken Parish Council	
21	118.75	CON 2018 02 20 from Public Health England	
21	118.76	CON 2018 02 27 Report by The Landscape Partnership	
21	118.77	CON 2018 02 22 from Cambridge Airport stating red light not required	
21	118.78	CON 2018 02 20 from Highway Authority re construction traffic	
21	118.79	CON 2018 05 02 from Old West IDB	
21	118.80	CON 2018 05 03 from Anglian Water	
21	118.81	CON 2018 03 23 from East Cambs District Council	
21	118.82	CON 2018 05 09 from CCC Floods & Water	
21	118.83	CON 2018 05 14 from The Landscape Partnership	
21	118.84	CON 2018 05 10 from PCC Wildlife Officer	
21	118.85	CON 2018 05 16 from Natural England	
21	118.86	CON 2018 05 10 from Haddenham Parish Council	
21	118.87	CON 2018 05 24 from Public Health England	
21	118.88	CON 2018 05 24 from Waterbeach PC	
21	118.89	CON 2018 05 17 from Burwell PC	
21	118.90	CON 2018 05 25 from English Heritage Trust	
21	118.91	CON 2018 05 29 from Environment Agency	
21	118.92	CON 2018 05 29 from Air Quality Consultants	
21	118.93	CON 2018 05 29 from Landbeach Parish Council	
21	118.94	CON 2018 05 29 from Cottenham Parish Council	
21	118.95	CON 2018 06 04 from Director of Public Health	
21	118.96	CON 2018 06 04 from Histon and Impington PC	
21	118.97	CON 2018 05 29 from SCDC	
21	118.98	CON 2018 06 07 from East Cambs District Council	
21	118.99	CON 2018 06 15 from Noise Consultant	
21	118.100	CON 2018 06 15 from Fire and Rescue Service	
21	118.101	CON 2018 06 21 from Wilburton Parish Council	

21	118.102	2018 09 15 Committee Report Update	
21	119	Agreed Statement of Common Ground	26 July 2019
21	120	Correspondence to/from PINS, appellant and CCC: Letter from the Appellant to CCC 12 Aug 2019 Letter from CCC to the Appellant 30 Aug 2019 Letter from the Appellant to CCC 1 October 2019 Letter from CCC to the Appellant 8 October 2019	
21	121	Pre-Inquiry note	24 Sept 2019
	G	Cambridgeshire County Council documents	
22	122	Ouse Washes Landscape Character Assessment Sheils Flynn	2017
22	123	Cottenham Village Design Statement SPD	2017
22	124	Cottenham Neighbourhood Plan	Dec 2018
22	125	Technical NPPG Note: Visual Representations of Development Proposals, Landscape Institute	17 September 2019
22	126	Waterbeach Barracks and Airfield Outline Planning Application, Environmental Statement Chapter 7, February 2017, Beacon Planning/ Oxford Archaeology for Secretary of State for Defence and Urban & Civic	February 2017
22	127	Planning Practice NPPG: Paragraph 013 (Reference ID: 18a-013-20190723) What is the setting of a heritage asset and how should it be taken into account?	23 July 2019
22	128	Planning Practice NPPG: Paragraph 018 (Reference ID: 18a-018-201900723) How can the possibility of harm to a heritage asset be assessed?	23 July 2019
22	129	Planning Practice NPPG: Paragraph 020 (Reference ID: 18a-020-20190723) What is meant by the term public benefits?	23 July 2019
22	130	Planning Practice NPPG: Paragraph 009 (Reference ID 21b-009-20140306)	6 March 2014
22	131	Representations made by English Heritage in respect of the Local Plan Allocation Proposals	July 2010
22	132	Historic England Letter to PINS	3 June 2019
22	133	Local Plans and the National Planning Policy NPPF: Compatibility Self-Assessment Checklist, PAS	-
22	134	Cambridgeshire and Peterborough: Waste Management Statistical Basis for the Cambridgeshire and Peterborough Minerals and Waste Development Plan 2006-2026 Report, Jacobs	July 2008
22	135	Cambridgeshire and Peterborough: Waste Management Statistical Basis for the Cambridgeshire and Peterborough Minerals and Waste Development Plan 2006-2026: 2009 Addendum Report	August 2009
22	136	CCC Committee Report to Development Control Committee regarding the National Planning Policy	6 September 2012

		NPPF and the Cambridgeshire and Peterborough Minerals and Waste Plan	
22	137	CCC Committee Meeting Minutes regarding the National Planning Policy NPPF and the Cambridgeshire and Peterborough Minerals and Waste Plan	6 September 2012
22	138	Hertfordshire County Council's Development Control Committee Officer's Report regarding an application for a proposed sustainable energy facility to comprise an advanced thermal treatment facility and an anaerobic digestion facility.	7 December 2010
22	139	Environment Bill (first reading) (extracts)	15 Oct 2019
22	140	Barnwell vs East Northamptonshire DC [2014] EWCA Civ 137	18 February 2014
22	141	Jones v Mordue [2015] EWCA Civ 1243	3 Dec 2015
22	142	DEFRA, Government Review of Waste Policy in England 2011	2011
22	143	Oxford English Dictionary Definition of Assimilate/Assimilation	



## JUDGMENTS

*R (Mount Cook Land Ltd) v Westminster CC* [201] PTSR  
*R (Sainsbury's Supermarkets Ltd) v Wolverhampton CC* [2011] 1 AC 437  
*R (Palmer) v Herefordshire C* [2017] 1 WLR  
*Baroness Cumberlege v SSCLG* [2018] PTSR  
*Tesco Stores Ltd v Dundee CC* [2012] PTSR  
*South Cambridgeshire DC v SSCLG* [2008] PTSR  
*Forest of Dean DC v R (Wright)* [2018] JPL  
*R (Squire) v Shropshire C* [2019] Env LR  
*South Lakeland* [1992] 2 AC 141  
*Mordue* [2016] 1 WLR 2682  
*Welcome Break v Stroud DC* [2012] EWHC 140 (Admin)  
*The Bath Society v SSE* [1991] 1 WLR 1303  
*Shadwell Estates v Breckland DC* [2013] EWHC 12 (Admin)  
*R (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin)  
*East Northamptonshire DC v SSCLG* [2015] 1 WLR 45  
*Hopkins Homes v SSCLG* [2017] UKSC 37 1 WLR 1865  
*Monkhill v SSHCLG* [2019] EWHC 1993 (Admin)  
*Samuel Smith Old Brewery Tadcaster v Selby DC* [2013] EWHC 1159 (Admin)  
*R (Holborn Studios Ltd) v LB Hackney* [2017] EWHC 2823 (Admin)  
*R (Kate Broad) v Rochford DC* [2019] EWHC 628 (Admin)  
*Wavendon Properties Ltd v SSHCLG & anr* [2019] EWHC 1524 (Admin)  
*Paul Newman Homes Ltd v SSHCLG & anr* [2019] EWHC 2367 (Admin)



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.