FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

REGUALTORY PLANNING COMMITTEE

2 September 2024

Report of the Executive Director - Place

1 The Proposed Construction and Operation of the Swadlincote Resource Recovery Park (SRRP) Comprising an Energy Recovery Facility (ERF) and Aggregate Recovery Facility (ARF), together with Ancillary Infrastructure including Grid Connection Cable and Works, Private Electrical Wire Provision, Substation, CHP off-take Provision, Internal Vehicular Circulation and Yard Areas, Weighbridges, Car Parking, New Access Road, Temporary Construction Compound and Laydown Area, Security Fencing and Gates, Drainage, Landscaping and Off-site Habitat Compensation and Biodiversity Net Gain, Land adjacent to Willshee's Waste and Recycling Limited, Keith Willshee Way, Swadlincote, DE11 9EN
Applicant: R&P Clean Power Limited
Planning Application Code No. CW9/1022/22

9.1561.12

1. Introductory Summary

1.1 This application seeks planning permission for the construction and operation of the Swadlincote Resource Recovery Park (SRRP) that would comprise the erection of an Energy Recovery Facility (ERF), Aggregate Recovery Facility (ARF), provision of a spur off the existing internal access road, grid connection corridor and associated substation. The application area extends to approximately 7.34 hectares (ha).

1.2 The main element of the SRRP is the ERF that would comprise of a multi-fuelled conventional combustion plant, based on a moving grate technology. The ERF would be designed as a Combined Heat and Power (CHP) plant with a gross electricity generation capacity of 19.5

megawatts (MW) and would have the potential to supply heat to local consumers by means of a heat network (although this does not form part of the application). The ERF would have a maximum throughput of 230,000 tonnes per annum (tpa) of non-hazardous residual waste, comprising largely residual Commercial and Industrial (C&I) waste but potentially also some Local Authority Collected Waste (LACW).

1.3 Responses to publicity have raised a significant number of objections from members of the public (including several local residents), the United Kingdom Without Incineration Network, the Local Council member and Parish Council who raise a range of matters from questioning the need for the development, loss of biodiversity and habitats, concerns in relation to health impacts from emissions on air quality and odour, amenity impacts on local residents from noise, to significant adverse impacts to the visual amenity of the area and to the functioning of the local highway network.

2. Divisions Affected

2.1 Linton, Swadlincote North and Swadlincote South.

3. Purpose

3.1 To enable the application to be determined by the Regulatory Planning Committee.

4. Information and Analysis

The Site

4.1 The application site is located adjacent to the existing Willshee's Waste and Recycling Depot 3 Materials Recovery Facility (MRF) at the western end of Keith Willshee Way, to the west of Swadlincote and south-west of Newhall in the South Derbyshire District.

4.2 The application site comprises:

(i) an area that is initially to be used as a construction compound but that would subsequently be developed as the ARF that extends to approximately 1.42ha,
(ii) the area for the ERF development and associated access road that extends to approximately 2.39ha, and
(iii) the remainder of the site that includes the access to the existing MRF facility along Keith Willshee Way to the public highway at the A444 Cadley Hill Road and the grid connection corridor and associated

substation that would extend along and be located on Cadley Lane, approximately 650 south-west of the main part of the application site.

4.3 The main part of the application site is located just outside the settlement boundary for Swadlincote, as identified in the South Derbyshire Local Plan, the boundary, of which runs north to south, just to the east of the site. Conversely, the boundary of the Green Belt runs along the north boundary of the site, with the land to the north, but not the main part of the site, being located in the Green Belt.

4.4 Most of the site is located in Flood Zone 1, although the west and north-east edges of the site lie within Flood Zones 2 and 3. The site is also located within the National Forest and the Cadley Hill Railway Area Local Wildlife Site (LWS). The LWS is a non-statutory designation for 11.6ha of rough grassland, swamp, acid grassland and ponds. The River Mease Special Area of Conservation (SAC) is located approximately 6.5km south of the Site.

4.5 The site and surroundings are generally low lying and flat with highpoints to the south along the A444 and Council Farm to the north. The surrounding area comprises a mix of rural and edge of town uses with some residential properties and a mix of farming and industrial uses with electrical and rail infrastructure.

4.6 Adjoining the site immediately to the east of the proposed SRRP development is the existing Depot 3 MRF that processes waste wood, dry mixed recyclables and produces refuses derived fuel. it processes up to 190,000 tonnes of waste per year and incorporates:

- a 14 metres (m) high single storey MRF building constructed with steel frame and concrete panel walls and steel sheet roofing. The building is predominantly slate grey coloured and has a processing capacity of 120,000 tonnes of waste per year;
- a 12.6m high woodshed containing a shredder and two concrete walled bays. The walls are constructed from anthracite coloured steel sheeting with a goosewing grey rood. The wood processing element of the site has capacity to process up to 70,000 tonnes of waste per year;
- concrete bays which are finished in natural grey used for the storage of mixed recycled waste, which form a line 4m high along the northern boundary;
- crushing and screening equipment;
- stockpiles of processed and unprocessed waste materials; and
- a weighbridge and office on the internal access road into the site.

4.7 The MRF operates between 07:00 – 18:00 Monday to Friday and 07:00 – 14:00, with plant and machinery repair and maintenance permitted 07:00 – 19:00 Monday to Saturday. Currently, the MRF operates with 500 HGV movements per week.

4.8 To the east of the site is the former Tetron Point Opencast Coal site, which is now part of the Appleby Grade and Cadley Hill Industrial Estate. This includes the large TPN (The Pallet Network) House distribution warehouse positioned on the former Bison Precast Concrete Works. On higher ground directly to the east of the site, is the A444 Burton Road.

4.9 The Swadlincote Water and Sewage Treatment Works is located 90m to the north of the site and with Council Farm, residential properties and a boarding kennel located approximately 350m to the north-east adjacent to the A444. To the south-east of the site is Cadley Hill and a complex of residential properties located approximately 270m from the site.

4.10 The applicant's planning statement describes SRRP (and part of the MRF site) as comprising three zones, as follows:

- Zone A which forms part of the existing MRF that is located immediately east of the proposed SRRP. This extends to approximately 2.9ha and currently processes wood and dry mixed recyclable waste and creates Refuse Derived Fuel (RDF). The MRF is consented to process up to 190,000 tonnes of waste per annum.
- Zone B which would form part of the proposed SRRP development and would comprise the construction compound and subsequent ARF facility. This zone extends to approximately 1.42ha and currently contains woodland and scrub vegetation forming part of the Cadley Railway Area Local Wildlife Site (LWS).
- Zone C which would also form part of the part of the proposed SRRP development comprising ERF and associated access road. This area extends to approximately 2.39ha and currently contains woodland and scrub vegetation forming part of the Cadley Railway Area LWS.

4.11 In addition to the identified zones, the application site includes the proposed grid connection corridor and associated substation, that extends from the access onto the public highway at Cadley Hill Industrial Estate westwards along the public highway, to a point of connection to the east of the junction of Sandy Lane and Cadley Lane, to the west of the railway line between Leicester and Burton upon Trent (Burton).

Planning History

4.12 The existing MRF is currently operated by the landowner, Willshee's Waste and Recycling Limited, and is authorised as an inert waste, wood waste transfer station and for skip storage activities, with the MRF building storing, processing and treating waste to produce RDF under three planning permissions, Planning Permission References CW9/1119/61, CW9/0418/3 and CW9/0418/63.

4.13 Planning Permission Reference CW9/1119/61 was granted in April 2021. It removed the previous ten-year time limit on the operation of the MRF site as an inert waste, wood waste transfer station and for skip storage activities that had been imposed by a condition to the previous Planning Permission, Reference CW9/0816/45.

4.14 Planning Permission Reference CW9/0418/3 was granted in September 2018 for a weighbridge office on part of the MRF site, with Planning Permission Reference CW9/1018/63 granted in May 2019 for a waste handling building on part of the MRF site for the storage, treatment, and processing of waste to produce refuse derived fuel.

Proposed Development

4.15 The SRRP development proposed in this application, comprises an ERF, an ARF, provision of a spur off the existing internal access road and grid connection corridor and associated substation with the development area covering approximately 7.34ha.

4.16 The ERF would comprise a multi-fuelled conventional combustion plant, based on a moving grate technology. The ERF would be a CHP plant with a gross electricity generation capacity of 19.5MW and would have the potential to supply heat to local consumers by means of a heat network. The ERF would have a maximum throughput of 230,000tpa of non-hazardous residual waste, comprising largely residual C&I waste but potentially also some LACW.

4.17 The ARF would comprise an enclosed processing building, with a capacity to process up to 81,000 tonnes of materials into secondary aggregate for use in construction and recover metals. There would be a spur off the existing internal access road and a grid connection corridor and associated substation which would be installed within the public highway from the Cadley Hill Industrial Estate access to the point of connection positioned west of the Burton to Leicester railway line and east of the junction of Sandy Lane with Cadley Lane.

4.18 The SRRP would be positioned adjacent to the existing MRF that extracts recyclable material from commercial, industrial and

construction/demolition waste, with 50,000tpa of RDF generated that might be processed at the ERF. The other 180,000tpa of feedstock to the ERF might be sourced from residual commercial and industrial waste from other sites operated by Willshee's and/or the local area.

4.19 The ERF would generate approximately 61,000tpa of Incinerator Bottom Ash (IBA) that would be transferred to the ARF, together with approximately 20,000tpa of processed material that might be from the MRF, to generate approximately 81,000tpa of secondary aggregates.

4.20 The future development of the S RRP would include areas for biodiversity enhancement and ecological, woodland and landscape management that would be secured through an amendment to the MRF planning permission. The proposal also includes off-site ecological management areas at two locations to be formalised through the Section 106 agreement.

4.21 The proposed SRRP would be undertaken in two phases. The construction and operation of the ERF would be the first phase (which would require implementation of changes to the existing MRF site). The ARF construction would be part of the second phase of the development.

4.22 The access to the site would be from Cadley Hill Road (the A514) via the private industrial estate road to the east of the site, Keith Willshee Way, which runs under the A444. There would be separate points of access for HGV and cars to the ARF and ERF sites, with the car parking areas for both segregated away from the operational yard areas.

4.23 The application states that the main objective of the ERF is to:

- address the current and predicted shortfall in recovery capacity in Derbyshire;
- divert waste from landfill, the most sustainable method of waste management;
- utilise local residual waste to generate urgently needed low carbon power and heat;
- offer a sustainable solution for the management of Derbyshire's residual waste within the County, in close proximity to the source of the waste arisings and reduce the export of waste overseas;
- provide a commercially viable, safe, proven and reliable technology; and
- provide a future proofed and flexible waste recovery solution that can accommodate a range of residual waste types.

4.24 The proposed ERF would utilise conventional combustion plant technology to recover energy from residual fraction of recycled waste materials. The ERF would be operated as a merchant facility, and it is anticipated that it would accept non-hazardous residual C&I waste and potentially also some LACW and RDF. All materials used for the ERF would be classified as residual wastes and, as such, will have been subject to pre-treatment processes before they are accepted at the ERF.

4.25 The ERF has been designed to have an electricity generating capacity of 19.5MW and a waste processing capacity of 230,000tpa. This is based on the combination of the forecast plant availability of approximately 8,000 hours per year and the waste feed stock having an approximate calorific value of 10.5MJ/kg. The plant would incorporate design tolerances to maintain operational efficiencies in the event that the plants availability and the calorific values of the waste vary.

4.26 The generation of electricity in the ERF would be by way of a steam turbine, which would be driven through the combustion of residual waste. Taking into account the power required to run the facility, the ERF would have the ability to export low carbon electricity to the local electrical grid which would be sufficient to meet the average electricity needs of approximately 36,800 residential properties.

4.27 The ERF would be connected to the National Electrical Transmission System (NETS) via the proposed grid connection, which would comprise a 33kv distribution network connection that would be routed underground via the existing road network to the NETS point of connection, located on Cadley Lane to the west of the Burton-on-Trent to Leicester railway line.

4.28 In addition to the export of electricity to the National Grid, the ERF would also supply the adjacent ARF and MRF via a private wire system. As a CHP enabled plant, it would also be capable of providing heat in the form of steam, or possibly hot water, to local business services and other users that could utilise this, through a heat network.

4.29 The ERF would comprise a main building with an approximate maximum hight of 42m above proposed ground level. It would incorporate a reception tipping hall with points of access set at ground level, a below ground waste bunker, boiler hall, turbine hall, a flue gas treatment facility, IBA bunker, offices, workshop, stores and staff welfare facilities. Air Cooled Condensers (ACC) would be positioned to the west of the main building and would comprise a separate standalone structure to enable sufficient air flow through the units. A stack, to be

located at the western end of the building, would be 60m in height with a 2.2m diameter and incorporate an external monitoring system platform.

4.30 The ERF building, that would include a reception tipping hall, would measure 32.8m x 23.8m x 24m high, a bunker hall that would measure 47.1m x 24.9m x 40m high, a boiler hall that would measure 28.3m x 44.6m x 40m high and a Turbine Hall that would measure 18.3m x 64m x 20m high. The combined elements of the ERF would, in total, extend to give an external footprint of 6,123m^2. The adjoining ARF would measure 15.1m x 39.2m x 26m high and have a footprint of 592m^2.

4.31 The ERF building would be constructed using a steel framework, covered in an insulated colour coated cladding system, set out in a mosaic pattern made up of earth toned coloured panels. Parts of the ERF structure are to be constructed using reinforced concrete including a fuel bunker that would extend to a depth of 11.85m below ground level.

4.32 The mosaic pattern external panels would be made up of profiled colour coated metal cladding, laid horizontally and vertically with aluminium colour coated curtain walling positioned around entrances, a colour coated aluminium framed glazing/window system on the office element and colour coated steel louvres used in association with the processors and mechanical design.

4.33 The mosaic pattern proposed for the building has been chosen to help conceal the irregular building footprint and break down the appearance of the built structure. The application states that the earth tone colour pattern has been chosen to minimise the visual impact when viewed from and within the surrounding landscape.

4.34 As well as the ERF, other elements in Zone C would include a gatehouse, weighbridges, a fire tank and pump house, a substation set within an enclosure, diesel generator, tanks and silos (containing fuel oil and ammonia hydroxide), internal roads and manoeuvring areas, employee and visitor parking for cars, motorbikes and cycles, fencing, gates, service connections, surface water and foul drainage systems, lighting and CCTV, and new areas of hard and soft landscaping.

4.35 The initial work would involve a cut and fill operation to level and reprofile the site to achieve suitable development platforms. The levels of the development platforms have been set out to tie with the levels of the existing MRF. The MRF is located on a level platform at 62.15m above ordinance datum (AOD) with the ERF to be located on a platform

at 63.10mAOD and the ARF at 61.90mAOD. The levels would create a gradual slope to allow for natural drainage of the area.

4.36 There would be retaining walls extending along the western and eastern end of the ERF to deal with the levels of the immediately adjoining land. The access road with be constructed at the eastern end of Zone C, with the route of the road crossing over an existing concrete lined drainage channel. A new culvert would be installed beneath the road to ensure that the fluvial flows in the channel are not obstructed.

4.37 The works will require the removal of approximately 15,000m^3 of topsoil from across the site that would be taken off-site by HGVs during the construction phases for the ARF and ERF.

4.38 The site drainage for the development would be installed as part of the groundworks associated with the initial phase of the works. As part of the drainage system, two ponds would be constructed that would be located to the west of the development platforms for the ERF and ARF.

4.39 The ERF drainage pond would provide stormwater attenuation, treatment and biodiversity benefits, while the ARF pond would provide treatment and biodiversity benefits, with the stormwater attenuation for the ARF to be provided in the form of an upstream cellular tank. The proposed ponds would be constructed with earth banks, with shallow 1:3 gradients, and would be maintained in accordance to ensure their operation as part of the design of the Sustainable Urban Drainage system for the site.

4.40 It is envisaged that the site preparation and construction phase would last approximately 30 months, with 24 months of construction and 6 months for the cold and hot commissioning. The construction hours working would be 07:00 to 19:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

4.41 During the construction of the ERF, a 0.8ha section of Zone B would be utilised as a construction compound and setting down area for the temporary storage of materials and machinery.

4.42 It is envisaged that during the construction phase of the ERF, the number of people employed on site would vary, but is estimated that up to 200 people would be employed.

4.43 It is anticipated that up to 25 HGV deliveries (50 HGV movements) per day would be required during the construction phase. Additional HGV movements of approximately 20 per day would be required during the

cut and fill operations to create the development platforms, in the first quarter of the construction phase. It is anticipated that the 200-construction staff on site during the peak of construction would generate up to 75 car trips per day.

4.44 Once operational, the ERF would be in continual use 24 hours a day, every day of the year with residual waste fuel to be delivered to the facility between 07:00 - 18:00 Monday to Friday and 07:00 - 14:00 Saturdays. There would be no transport movements undertaken on Sundays or Bank Holidays. All the waste would be brought to the site via the public highway. The ERF would employ 33 people in permanent roles directly on site and would operate a three-shift pattern of eight hours per shift.

4.45 The parking provision for the SRRP, once fully operational, would comprise a total of 25 parking spaces with three reserved as accessible spaces for disabled users, a bike shelter for five bikes and three motorcycle parking spaces, with EV charging points to be included.

4.46 It is anticipated that the daily number of HGV journeys to the ERF could be in the region of up to 122 on weekdays (244 total movements), based on the anticipated throughput of 230,000tpa. This would include residual waste fuel deliveries, consumable imports and air pollution control residue exports. It is estimated that there would also be a maximum of 33 staff vehicular trips each way per day.

4.47 However, it is also anticipated that the total actual number of daily HGV movements to the ERF is likely to be lower than the figure of 122 as set out above, because the existing MRF produces c. 50,000tpa of RDF, currently exported elsewhere, that would be likely instead to be utilised in the ERF. This would offset some of the assumed vehicle journeys, so that the daily HGV journeys to the ERF would then be in the region of 98 (196 total movements).

4.48 Turning to the ARF, the application states that the main objective for it is to:

- provide a process which can recycle the IBA generated by the ERF;
- provide a process which can recycle outputs from the existing MRF without the need to export off site; and
- recover and recycle ferrous and nonferrous metals from the ERF's IBA."

4.49 The intention is that the IBA the ARF would process is produced only by the ERF and that this would not exceed 61,000tpa. The IBA would be

quenched with water as it leaves the ERF combustion chamber to cool it down and reduce the potential for dust emissions to be released. The IBA would be transferred by HGV to the ARF for metal recovery and processing into a secondary construction aggregate. In addition to the IBA, the ARF would process 20,000tpa of construction and demolition waste from the adjoining MRF, which would be combined with the IBA and processed to produce secondary aggregates.

4.50 The ARF would comprise three main elements: outside storage of IBA in stockpiles up to 6m high on a drained hardstanding yard; the ARF processing building; and an outside storage area for the stockpiling of reclaimed materials awaiting distribution for re-use.

4.51 Deliveries of IBA to the ARF site would be weighed on delivery at the weighbridge and then placed into bays, with the outdoor storage of the IBA undertaken to enable it to go through a weathering process and reduce its PH level. This improves the quality of final processed aggregate.

4.52 The area allocated for the storage of the incoming IBA would be surrounded by 4.5m high bay walls constructed using steel stanchion posts with reinforced concrete infill panels. The stockpiles of IBA would not exceed 6m in height and would be stored for a period of three to six weeks. During this time, the stockpile surfaces would be kept damp to form a crust, limiting the potential for the release of dust or odours. The storage area would be situated onto an impermeable base with water draining from the stored IBA collected into a settlement system and reused to enhance the maturation and process and dust suppression. A wheel wash would be installed close to the site entrance to prevent deposit of material on the public highway.

4.53 The matured IBA would then be transferred into the ARF processing building, where it would be crushed and screened before being fed by conveyor through a process to remove any metallic materials, that would be taken off-site to a metals recycling facility. The application states that the expected 99% recycling rate is anticipated with any non-recyclable material deposited in skips prior to disposal off-site at an appropriate facility.

4.54 It is envisaged that the construction of the ARF, which would be in the second phase of the development, would be undertaken over a 12-month period. During the construction, an area to the west of the ARF site would be utilised as a construction compound. The key elements of the construction would comprise the initial construction of the development platform and drainage system, the erection of the

building's steel frame, the casting of the concrete floor, installation of the insulation, cladding, doors, machinery and processing equipment, tanks and then final commissioning.

4.55 The ARF building would be positioned centrally within Zone B and would measure 74m x 34m x 14m high to the ridge and 12m to the eaves and would have a gross external building area of 2,599m^2. The remainder of the ARF development in Zone B would comprise the unprocessed IBA storage area to the east of the building, beyond which would be the main access point and parking area with pedestrian access from the car park to the building, with the access road linking to the exiting MRF access route and connecting the two zones of the development together. There would be a storage area for the processed IBA and construction and demolition waste to the west of the building, with landscaping proposed along the northern and western boundaries of the site.

4.56 The scale and design of the ARF building is intended to be in keeping with the existing MRF building, with the form, scale, colour and materials proposed for use on the ARF similar to those already used in the construction of the MRF. The building would have an apexed pitched metal roof with falls to the north and south elevations, Anthracite Grey metal clad roof and evenly spaced roof lights.

4.57 The operating hours of the ARF would be the same as those of the existing MRF, i.e. 07:00 - 18:00 Monday to Friday and 07:00 - 14:00 Saturdays, with no working on Sundays or Bank Holidays or other Public Holidays. The ARF employs six people in permanent roles.

4.58 As part of the development, lighting would be installed across the site including along the access roads, car parks and main pedestrian areas. This would be undertaken in accordance with the relevant British standards, with the location of lighting integrated into the landscaping proposals.

4.59 Lighting columns would be positioned adjacent to the service yards and access routes and would be set back from kerbs or protected by barriers. Lighting columns in the car parks would be positioned in landscape areas and/or protected by barriers. The lighting equipment would be positioned, angled and fitted with cowls or shield to direct light only to where it is required and to prevent light spill.

4.60 The landscaping details for the development are set out in the submitted Landscape Plan. This would include retention of the existing woodland and tree planting to a width of approximately 10m wide adjacent to the

western site boundary to minimise off-site landscape and visual impacts on the surrounding countryside during construction and operation of the development.

4.61 New tree, shrub and herbaceous planting would be undertaken between vegetation to be retained and the proposed built development to establish a landscape buffer at approximately 10m in width along the southern and western boundaries of the site. The proposed planting would be in accordance with the National Forest guidelines and designed to reflect the local landscape character.

4.62 In accordance with Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the "EIA Regulations"), the applicant has submitted an Environmental Statement, based on the Council's Scoping Opinion issued on 22 July 2021.

4.63 Under Regulation 26 of the EIA Regulations, when determining an application with an Environmental Statement, the Local Planning Authority must; (a) examine the environmental information; (b) reach a reasoned conclusion on the significant effects on the environment, and (c) integrate that conclusion into the decision as to whether to grant planning permission; and (d) consider whether it is appropriate to impose monitoring measures.

Consultations

4.64 Full details of all consultation responses and representations received are available for members to view in full on the electronic case file via the Council's website.

Local Members

4.65 Councillor Swan (Linton) has extensive and detailed comments on the application in objection to it, making the following points (in summary):

- Numerous residents in the area have submitted objections.
- Requests that any site visit involves a road trip to the area via Burton and the A444 and a visit to Cadley Hill Farm.
- The location of the proposed facility is close to Cadley Hill Farm and a significant number of residential properties, new housing under construction, Stanton Primary School and other schools, and Swadlincote Town Centre.
- It will have a negative impact on the character of the locality.
- The proposed ERF building will protrude at least 25m above the adjacent treeline only 450m away from the Cadley Hill Farm and

would be a dominant out of scale feature in the local landscape that would be three times the height of the existing MRF building.
- It will have significant impact on the local highway network in terms of traffic.
- Increased traffic will have adverse amenity impacts.
- The potential health impacts of the ERF, with there being significant uncertainty about the health impacts of the thermal treatment of waste (incineration).
- There is no strategic need for the facility and questions the need for the facility given the proximity of the proposal to the Energy from Waste (EfW) facility at Drakelow.
- The proposal is contrary to the development plan including the South Derbyshire Local Plan, including policies S1, SD1(A), BNE4, INF8, H2.
- That there would be an adverse impact five designated Local Wildlife Sites (LWS) and cause loss of habitat.

4.66 Councillor Smith (Swadlincote North) has not commented on the application.

4.67 Councillor Haynes (Swadlincote South) has not commented on the application.

South Derbyshire District Council - Planning

4.68 South Derbyshire District Council (SDDC) has not commented on the application as the district planning authority.

South Derbyshire District Council – Environmental Health Officer

4.69 The Environmental Health Officer (EHO) advises that the potential exposure of existing sensitive receptors to the air quality, odour and noise associated with the development is the key issue from an air quality perspective and amenity perspective.

4.70 The EHO further advises that the scope of the air quality assessment is appropriate when referenced against relevant statutory and non-statutory guidance. The EHO offered detailed comment on a number of points including the changes to the proposed limits for annual mean level of $PM_{2.5}$ in ambient air; cumulative effects taking into account the proximity of the new EfW at Drakelow; and emissions from traffic. Overall, the EHO advised that the assessment of the impact on air quality, set out in the ES, provides a suitable assessment of the air quality impacts of the proposed development.

4.71 In relation to noise, the EHO commented that the potential noise impacts from the construction and operation should not cause any

adverse impacts, subject to the securing of the proposed mitigation measures to control noise.

4.72 The EHO therefore has no objection, subject to the inclusion of conditions relating to the provision of Electric Vehicle (EV) charging points; the submission of a written scheme providing details of controls from fleet transport emissions; the implementation of proposed construction air quality mitigation measures; construction working hours; operational working hours; the submission of a Noise Management Plan; noise limits including maximum night-time noise levels during operation; and the validation of compliance with the management plan(s) during the commissioning of the plant, and within six months of it becoming operational, and thereafter every 12 months and the reporting of this.

Parish Councils

4.73 Caldwell Parish Council has not commented on the application.

4.74 Linton Parish Council *"strongly suggests that this application be refused"* and has submitted lengthy and detailed comments which, in summary, make the following points in objecting the application:

- It will have significant transport, traffic and road safety impacts.
- It will not conserve or enhance the green infrastructure of the area, particularly our Public Rights of Way (PROWs) or the National Forest.
- It would result in a 60-metre-tall incineration facility that is not in scale with other existing development, adversely impacting on the National Forest land the surrounding area and cause harm to the landscape in breach of development plan policy and national planning policy.It would cause significant harm to priority habitat (deciduous woodland) and scarce and protected species, this would be contrary to development plan policy and national planning policy.
- It would cause unacceptable impact upon air quality from increased nitrogen dioxide emissions from traffic.
- Its operation would cause unacceptable noise impacts.
- Its operation would cause unacceptable odour and health impacts from the processing and incineration of waste.
- It would reduce the tourism benefits of the National Forest on the local economy and does not support a circular economy.
- The site does not have scope for carbon capture to be retrofitted.
- The principle of waste development is not supported at this location in the countryside.
- Need for EfW development in the area (presence of two other facilities).

- Impact of litter.
- Impacts upon flood impacts.
- Inadequate information has been provided on how the species will be affected and the measures to safeguard them.
- The application fails to properly assess alternative sites.
- The Waste Local Plan is not compliant with National Policy.
- The DCC Highways conducted a Traffic Survey which is flawed as it was conducted during A444 road closure in June 2023.
- There would be an unacceptable impact on the setting of heritage assets including Cadley Hill Farm and Castle Gresley scheduled monument.
- The application fails to recognise the site comprises of priority habitat woodland and nearby greenbelt land.

Highway Authority

4.75 Derbyshire County Council, in its statutory role as Highway Authority (HA), does not object to the development, subject to conditions being imposed to require submitted parking provision to be implemented, submission for approval of bicycle parking facilities to be implemented prior to its first use and submission for approval of a construction management plan. An informative is also suggested in respect registration with the Considerate Constructors scheme.

Lead Local Flood Team

4.76 The Lead Local Flood Team (LLFT) does not object, subject to conditions being imposed to require submission for approval of a surface water drainage scheme, construction surface water management scheme, and prior to occupation the submission of a verification report as well as an informative in respect the need for Land Drainage Consent.

Civil Aviation Authority

4.77 No response provided.

Derbyshire Wildlife Trust, on behalf of the Waste Planning Authority under its Service Level Agreement

4.78 The Derbyshire Wildlife Trust (DWT) does not raise objection to the development, subject to conditions being imposed in respect of restrictions during breeding bird season, requirement to provide evidence of District Level Licence from Natural England for great crested newts (GCNs), submission for approval of a Construction Environmental Management Plan (CEMP), Landscape and Ecological Management Plan (LEMP), Biodiversity Gain Plan (BGP) for off-site compensation, and restriction of external lighting.

Council's Ecologist

4.79 Has no objection subject to conditions being imposed as suggested by DWT (above) in addition to conditions to maintain the retained onsite trees for the duration of the Biodiversity Gain Plan (30 years), in addition to the entering into of a Section 106 Agreement to secure the off-site habitat mitigation.

Council's Landscape Officer

4.80 Raises concerns in respect potential for significant landscape impacts.

Council's Built Heritage Officer

4.81 Raises concern in respect of the potential for significant visual character impacts.

The Council's Climate Change Team

4.82 Has provided comment on the potential for carbon emissions.

The Environment Agency

4.83 The Environment Agency has no objections in principle on grounds of flood risk or groundwater and contaminated land, subject to conditions being imposed to require the development to be undertaken in accordance with the submitted Flood Risk Assessment, and the submission for approval prior to commencement of a remediation strategy to deal with the risks associated with contamination.

4.84 The Environment Agency recommends the attachment of informatives covering the following points:

- Model procedures and good practice in relation to flood risk.
- Requirement for an Environmental Permit.
- Risks of offences under protected species acts.

National Forest Company

4.85 Does not object.

The National Planning Case Work Unit

4.86 Has been notified with no response.

Natural England

4.87 Natural England (NE) raises no objection and "*considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes"*

Network Rail

4.88 Network Rail (NR) raises no objection in principle to the development subject to attachment of a condition for the approval of a construction methodology scheme to protect assets prior to the commencement of the development.

The Coal Authority

4.89 The Coal Authority (CA) does not object.

The Health and Safety Executive

4.90 The Health and Safety Executive (HSE) has been consulted and has confirmed it has no comments to make in respect to this application.

National Grid (National Network)

4.91 Has been consulted and has confirmed that there are no Nation Gas Transmission or National Electricity Transmission assets affected in this area.

National Grid (Network Services East Midlands/Distribution)

4.92 Has been consulted and did not provide a response.

Cadent Gas Limited

4.93 Does not object subject to informative being attached in respect asset protection

Seven Trent Water

4.94 Has been consulted and did not provide a response.

Publicity

4.95 The application was publicised by site notices and a press notice in the Burton Mail, with opportunity for observations to be submitted to the Authority up to 10 January 2023. Following successive submissions by the applicant of further information to comply with the EIA Regulations, these were also publicised with site notices and a press notice in the Burton Mail, with opportunity for observations to be submitted to the Authority up to 9 October 2023, 6 November 2023, 3 March 2024 and 24 August 2024 respectively.

4.96 Over 1,200 representations have been received, of which approximately 20 expressed support for the development and approximately 1,150 expressed objection, with the remainder raising comments. There has also been a petition raised against the development which, at time of writing, had attracted 1,671 signatures.

4.97 The issues raised by the objections can be summarised as follows:

- Insufficient need for the ERF in the proposed location.
- Location of then development not suitable.
- Impact of the operations of the SRRP on the local road network.
- Impact on the A444 through Overseal village.
- Amenity impact of HGV traffic associated with the development.
- Increase in damage to the road network.
- Pollution from HGVs.
- Highway safety.
- Weight limits on local roads and bridges.
- Impact on the environment.
- Landscape and visual impact of the ERF because the scale of development not in keeping with existing surrounding development.
- Impact on Green Belt.
- Impact on the ecology including habitats and species in the surrounding area.
- Failure to provide sufficient net gains in biodiversity.
- Emissions including odour and the impact on the air quality.
- Noise.
- Health impacts and the impact on the wellbeing.
- Limited benefit to local area and people and that the benefits of the development do not outweigh the harm.
- Impact on Public Rights of Way.
- Other impacts on the wider area.
- Cumulative impacts.

4.98 The matters raised during the consultations and following the publicising of the application, insofar as they are material planning considerations, are addressed in the following sections of the report.

Planning Considerations

4.99 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the relevant development plan policies are contained in the saved polices of the adopted Derby and Derbyshire Waste Local Plan (DDWLP) (2005), and the adopted policies of the South Derbyshire Local Plan Part 1 (SDLP: Part1) (2016) and Part 2 (SDLP: Part 2) (2017).

4.100 The National Planning Policy Framework (NPPF) (December 2023), the National Planning Policy for Waste (NPPW) (2014), Planning Practice

Guidance (PPGs), Waste Management Plan for England (WMPE) (2021), and Our Waste, Our Resources: A Strategy for England (OWOR) (2018) are material considerations.

4.101 The main part of the application site is located within the area of Castle Gresley Parish Council, with the remainder of the site that includes the ancillary works, located in Swadlincote, Linton Parish Council area and Cauldwell Parish Council area. There are relevant Neighbourhood Plans.

4.102 The principal planning policies relevant to this planning application are:

- **Saved Policies of the Derby and Derbyshire Waste Local Plan (2005)**
  W1b: Need for the Development.
  W2: Transport Principle.
  W5: Identified Interest of Environmental Importance.
  W6: Pollution and Related Nuisances.
  W7: Landscape and Other Visual Impacts.
  W8: Impact of the Transport of Waste.
  W9: Protection of other Interests.
  W10: Cumulative Impact.

- **South Derbyshire Local Plan (2016 and 2017)**
  Part 1:
  S1: Sustainable Growth Strategy.
  S2: Presumption in Favour of Sustainable Development.
  S3: Environmental Performance.
  S6: Sustainable Access.
  E1: Strategic Employment Land Allocation.
  E2: Other Industrial and Business Development.
  E3: Existing Employment Areas.
  E7: Rural Development.
  SD1: Amenity and Environmental Quality;
  SD2: Flood Risk.
  SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure.
  SD4 Contaminated Land and Mining Legacy Issues.
  SD6: Sustainable Energy and Power Generation.
  BNE1: Design Excellence.
  BNE3: Biodiversity.
  BNE4: Landscape Character and Local Distinctiveness.
  INF1: Infrastructure and Developer Contributions.
  INF2: Sustainable Transport.
  INF8: National Forest.

Part 2:
SDT1: Settlement Boundaries and Development.
BNE5: Development in Rural Areas.
BNE7: Trees, Woodland and Hedgerows.

- **National Planning Policy Framework (Revised 2023)**
  The NPPF sets out the Government's key economic, social, and environmental objectives, and the planning policies designed to deliver them. The NPPF is a material consideration in planning decisions. The NPPF states that local authorities taking decisions on waste applications should have regard to polices in the NPPF, so far as it is relevant.

  The NPPF was revised most recently in December 2023. It maintains the threads of the earlier statements and importantly, recognises the statutory requirement that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. It maintains that the purpose of the planning system is to help achieve sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined in the NPPF, but it indicates that it can be summarised as the meeting the needs of the present without compromising the ability of future generations to meet their own needs. It also reiterates that achieving sustainable development means that the planning system has overarching economic, social and environmental objectives.

  The most relevant paragraphs from the NPPF for this proposed development are:

  Chapter 2: Achieving sustainable development.
  Chapter 4: Decision-making.
  Chapter 6: Building a strong, competitive economy.
  Chapter 9: Promoting Sustainable Transport.
  Chapter 13: Protecting Green Belt land.
  Chapter 15: Conserving and enhancing the natural environment.

- **Waste Management Plan for England (WMPE) (2021)**

- **Our Waste, Our Resources: A Strategy for England (OWOR) (2018)**

- **National Planning Policy for Waste (2014)**
  The NPPW, paragraph 1 sets out objectives for sustainable waste management. The NPPW links itself to the Waste Management Plan

for England, emphasising the pivotal role planning can play in providing a more sustainable and efficient approach to resource use and management. The key points relating to the proposed development are:

- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;
- the positive contribution that waste management can make to the development of sustainable communities; and
- helping secure the disposal of waste without endangering human health and without harming the environment.

The NPPW, Paragraph 4 sets, out policy considerations for the location of waste management facilities, and advises that:

"Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customer".

The NPPW, Paragraph 7, states that applicants should only be expected to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need. It goes on to advise on the need to be considered the physical and environmental constraints on the type of development, the capacity of the transport infrastructure, and the cumulative impact of existing and proposed waste facilities.

The NPPW Appendix B, in conjunction with Paragraph 7, sets out the issues to be considered in determining planning applications for waste management facilities. It states that the waste planning authority should ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located.

- **Waste Framework Directive (WFD)**
  Although the UK has left the European Union (EU), the Waste Framework Directive (WFD), which has been incorporated into UK domestic law, provides the legislative framework for the collection,

transport, recovery and disposal of waste, and includes a common definition of waste. The WFD requires all member states to take the necessary measures to ensure waste is recovered or disposed of without endangering human health or causing harm to the environment, and includes permitting, registration and inspection requirements.

The objectives of the WFD can be summarised as encouraging a reduction in waste production, an increase in the reuse and recycling of waste, and a reduction in the amount of waste going to landfill together with the management of waste close to the source (the proximity principle) and the establishment of a sustainable and integrated waste management system.

The WFD requires member states to draw up management plans and take appropriate measures to encourage firstly, the prevention or reduction of waste production and its harmfulness, and secondly, the recovery of waste by means of recycling, re-use or reclamation, or any other process with a view to extracting secondary raw materials, or the use of waste as a source of energy (the waste hierarchy).

The waste hierarchy, which is set out in Article 4 of the WFD, provides the following priority order of waste prevention and management:

a) prevention;
b) preparing for re-use;
c) recycling;
d) other recovery, e.g. energy recovery; and
e) disposal.

Article 16 applies the Proximity Principle. This involves the underlying principle of waste being managed close to its source. However, it makes clear that the principle does not require each member state to possess the full range of final recovery facilities, and so by extension, the WFD does not require areas of individual local authorities to do so either. The WFD requires mixed municipal waste to be recovered at '*one of the nearest*' facilities allowing for pragmatic application. There is no general WFD requirement that facilities shall only process waste from a prescribed local area.

The WFD requirements are supplemented by other directives for specific waste streams. The WFD requirements, including the application of the waste hierarchy, are transposed into national law in

the Waste (England and Wales) Regulations 2011 and other secondary legislation.

Appraisal

4.103 The key issues in the determination of this application are:

- Principle of the Development and Need.
- Landscape and Visual Impact.
- Amenity.
- Biodiversity and Geodiversity.
- Impact on Heritage Assets.
- Transport.
- Sustainability.
- Flood Risk.
- Groundwater/surface water.
- Cumulative Impacts.

The Principle of the Development and Need

4.104 The first substantive consideration in the determination of the application is the issue of the principle of the development. This encompasses the question of whether the proposal is consistent with the principles of sustainable waste management, including need, the provision of an integrated approach to waste management and the location of the site, including alternatives.

Sustainable Waste Management and Need

4.105 In terms of the overall policy approach, the starting point in the development plan, set out in the set out in the DDWLP policies in relation to proposals for new built waste management facilities, is that this is concerned with the application of the principles of sustainable waste management, together with consideration of need. It is not based on a defined locational strategy and thus there is no allocation of sites for different types of waste management facility.

4.106 Although the DDWLP is almost 20 years old, its approach is nevertheless still consistent with the requirements of the NPPW, Paragraph 3, which refers to the delivery of sustainable waste management, the driving of waste management up the waste hierarchy, identifying the tonnages and percentages of municipal, and commercial and industrial waste requiring different types of management over the period of the plan, and the contribution that waste management can bring to the development of sustainable communities.

4.107 It is, however, not consistent with Paragraph 4 of the NPPW, which makes clear that waste planning authorities should identify, in their Local Plans, sites and/or areas for new or enhanced waste management facilities in appropriate locations.

4.108 The key DDWLP policy related to the principle of development and need is Policy W1b. Policy W1b states that development will be permitted where it would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management. Conversely, it also makes clear that waste development catering primarily for the needs of other areas will be permitted only if the development would satisfy a need which could not realistically be met closer to the source of the waste; and the development would contribute to an integrated system of waste management.

4.109 Also relevant, in terms of the Principle of the Development, is SDLP Policy SD6: Sustainable Energy and Power Generation. This supports the development of renewable and other energy developments and ancillary buildings or infrastructure subject to the environmental and amenity effects of the proposal being acceptable including the impacts relating to traffic generation and congestion.

4.110 At a national level, the NPPW Paragraph 1 sets out the key principles in planning for waste management identifying these as including inter alia:

- the delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy; and
- providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle.

4.111 In addition, as set out above, Paragraph 3 is concerned with identifying the need for waste management facilities.

4.112 Turning to the proposal and the question of the whether it accords with the principles of sustainable waste management, the issues are relatively straightforward. Waste management policies, for a number of years, have been driven by the need to divert waste from disposal to landfill and in accordance with the Waste Hierarchy, by prevention, re-use, recycling and recovery. This is enshrined in the NPPW and it is

clear, in this case, that the proposal seeks to ensure the management of waste so as to achieve the highest levels of recycling and recovery, through the provision of what in its entirety would be an integrated facility. This would include the existing MRF, so as to maximise front-end recycling and recovery through the production of RDF for use, together with collected residual C&I waste and potentially some residual municipal waste in the ERF to produce energy, both in the form of electricity and potentially also heat. In addition, the proposal includes an aggregate recycling facility (ARF) that would process the incinerator bottom ash (IBA) produced by the ERF. The processes and technologies involved are widely recognised ones, as being employed for the purposes of maximising recycling and recovery.

4.113 Similarly, insofar as the intention is that the facility would be designed to deal with wastes sourced in Derbyshire, the development of the SRRP would be entirely consistent with the proximity principle. The principle is relatively easily applied in relation to the management of municipal waste streams insofar as they are sourced under contracts that are setup based on local authority areas. This is, however, generally not the case in relation to C&I waste streams in that its collection and transfer is much more likely to move across local authority boundaries, although it is also likely to be limited by the distance which waste can travel before its processing ceases to be economic. As a result, even if wastes were to be imported from outside Derbyshire, it is unlikely that the distance from which they would be imported, would be significant. In that respect, there are no obvious reasons to consider that the proposed SRRP, including the ERF, would not accord with the principles of sustainable waste management, and in this case, Paragraph 1 of the NPPW.

4.114 Turning to the issue of need, the NPPW, Paragraph 7, as set out above, makes clear that when determining waste planning applications, waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities, it states, should consider the extent to which the capacity of existing operational facilities would satisfy any identified need. The development plan context for proposals for waste management facilities in Derbyshire, in this respect, is not ideal, with the primary development plan source, i.e. the Local Waste Plan, being as old as it is, and not meeting the NPPF expectations for an up-to-date development plan. It certainly does not provide a picture of the current levels of waste arisings or of waste management capacity in the County. Consideration of need accordingly does have to be taken as a specific topic to address in the determination of the application, The applicant has responded to this by

including an assessment of need with the application, albeit that this is presented in relatively generic terms. In summary, it presents a case arguing that there is an identified national and local need for additional waste management capacity in Derbyshire for the residual C&I waste stream. It also presents an argument, albeit a more limited one, in relation to the provision of additional capacity to manage residual municipal waste.

4.115 The assessment draws upon the aims and objectives of the WMPE, OWOR, the Government's Circular Economy Package Policy Statement (July 2020) and data on waste statistics was published by Defra (Government Statistical Service). The WMPE and the OWOR both include explicit support for the continuing employment of EfW as a sustainable waste management technology, and when viewed in the context of these documents, there is no reason not to consider the proposal is being consistent with their overall objectives.

4.116 Over recent months, there has been considerable political debate, about the level of on-going and future need for additional EfW capacity in England. Scotland and Wales have introduced 'de facto' restrictions on the development of further EfWs. In April 2024 a ministerial direction was issued that temporarily prevented the Environment Agency granting permits for new EfWs in England. The direction was issued to enable a review to be conducted to "*consider the role of waste incineration in the management of residual wastes in England*." The direction expired in May. No details of any such review work have been published, perhaps due to the announcement of the general election that took place on 4 July 2024. The issue nevertheless can be expected to be further examined and debated in the national context for some time. The picture, in terms of the national level of need for further EfW capacity, therefore, may not be as clear cut as the case presented in the application would suggest. However, the debateable issue is about the need for additional EfW capacity, rather than about the continuing utility of EfW as a sustainable waste management technology. Objectors, including United Kingdom Without Incineration Network (UKWIN), in their representation and their accompanying report "Incineration Overcapacity in England" (September 2023) highlight this issue and argue that there is already overcapacity of EfW in England, and consequently that there is not a need for the ERF.

4.117 The assessment presented in the application includes reference to Tolvik Consulting's annual "UK Energy from Waste Statistics" reports, which are widely recognised as authoritative in terms of the current overall state of play in the provision of EfW facilities in the UK.

4.118 The most recent Tolvik Consulting, UK Energy from Waste Statistics – 2023, published in May 2024, casts some doubt on the strength of the case for concern that there is a risk of over-provision of EfW capacity nationally. It states:

"Concerns regarding the potential risk of excess EfW Operational Capacity in the UK need to be set in the context of future long-term projections of Residual Waste tonnages.

[T]he combined effects of the uncertainty around historic Residual Waste tonnages (based on the definition in this report) and the range of potential impacts of the various upcoming policy initiatives, means that Tolvik's analysis suggests that the future tonnage of Residual Waste in the UK as early as 2030 could vary by up to 4.9Mtpa, the equivalent of +/-2.5Mtpa from the central projection.

If policy makers are looking to restrict further EfW capacity there is a real challenge in striking the right balance between having sufficient EfW capacity to ensure that restrictions on landfill can be met (without over-reliance on exports) and there being an EfW over-capacity nationally. Within this analysis there will, of course, be significant regional variations". Source: UK Energy from Waste Statistics 2023, Tolvik Consulting, May 2024.

4.119 That the Tolvik report points out that there will be significant regional variations in the need for EfW, may of course be salient in the context of the current application. It includes a list of operational EfWs in the UK and shows that there are two other nearby operational EfW plants in the East Midlands, at Newhurst ERF in Leicestershire and Eastcroft EfW Facility in Nottinghamshire. In addition, a third, 472,000tpa facility has been consented for Ratcliff-on-Soar in Nottinghamshire.

4.120 The application includes a "*Consideration of 'Need' at a local level*". This identifies that the SRRP ERF as being designed to process waste generated in Derbyshire. It identifies that the facility will primarily take residual C&I waste generated by the County's businesses but will also take some local Municipal Solid Waste, facilitating the County to manage its own waste.

4.121 The application states that the ERF will also accept SRF and RDF generated by Willshee's two local facilities located at Depot 1 in Burton and the Depot 3 MRF located adjacent to the application site. It further identifies that the RDF/SRF generated at these facilities totals approximately 70,000tpa, with 50,0000tpa to be sourced from the

adjacent MRF. This, it states, is currently being transported to destinations outside Derbyshire, including Europe, for processing.

4.122 On this basis, the application argues that the proposed ERF would offer the opportunity to manage waste at source, reducing vehicle movements and the associated emissions generated by the transportation of this material.

4.123 The application presents estimates for the amount of C&I waste requiring management in Derbyshire. It identifies this as having been provided by Derbyshire County Council for the 20-year period from 2015 to 2035. The estimates include a lower estimate trajectory and a higher estimate trajectory. The lower estimate shows the amount of C&I waste requiring management in the County increasing from 508,000tpa in 2015 to 1,101,000 tonnes per annum in 2035, whilst the higher estimate shows an increase from 551,000 tonnes in 2015 to 1,160,000 tonnes per annum in 2035.

4.124 The application also presents Derbyshire County Council's sourced estimates for the amount of residual C&I waste management capacity that will be required within the County up to 2035. This states it will be between 385,350 tonnes and 406,000 tonnes of capacity. This assumes that there would be no disposal of C&I waste to landfill, despite the fact that it also acknowledges that current central Government waste management policies set out in the WMPE, OWOR and the Government's Circular Economy Package Policy Statement (July 2020), do not, in fact, set a specific recycling target for the C&I waste streams. The application does acknowledge that the level of provision required could be lower and as low as 275,250 tonnes.

4.125 The County Council has been preparing (as yet unpublished) updated estimates for the period from 2020 to 2040 of the amounts of C&I waste requiring management in Derbyshire. This again includes a lower estimate trajectory and a higher estimate trajectory. The lower current estimate shows the amount of C&I waste requiring management in the County increasing from 612,000 tonnes per annum in 2020 to 1,327,000 tonnes per annum in 2040, whilst the higher current estimate shows an increase from 664,000 tonnes in 2020 to 1,398,000 tonnes per annum in 2040.

4.126 There is no further update on the amount of residual C&I waste management capacity that will be required, but as the updated figures for projected C&I waste arisings are a continuation of the earlier figures quoted by the applicant, it is reasonable to assume that an the outcome of an up to date capacity requirement assessment would be likely to

show a broadly corresponding increase over the additional five years to 2040 which those figures cover have been presented.

4.127 The available evidence that there is, is now quite old. A technical evidence paper titled “Towards a Statistical Basis for the Waste Plan” which was published jointly by Derbyshire County Council and Derby City Council in March 2013, to assist in the preparation of the DDWLP review, indicated that a total of approximately 22.427 million tonnes of C&I waste would be generated over the new Waste Plan period up to 2030. The study found that from 2019-20 onwards, the amount of existing capacity available to handle C&I waste in Derby and Derbyshire would be too limited to meet an increased need for facilities in Derbyshire to manage this waste and that would avoid landfill.

4.128 The estimates provided by the Derbyshire Waste Partnership in 2013 suggested that over 1 million tonnes of C&I waste arisings would be generated annually in the county. It was estimated that if indicative recovery targets were to be met, a minimum of 680,000tpa of treatment capacity would be required. The most recent forecast suggests these figures remain broadly relevant, although there is no breakdown into requirements for different the types of treatment capacity e.g. facilities, such as MRFs, or recovery of EfW facilities.

4.129 Since then, another ERF proposal in Derbyshire to deal with residual C&I waste has been granted consented. This is the Drakelow Renewable Energy Centre, for which the current permission, was approved in March 2021. This would process approximately 169,500 tonnes of RDF per annum, that would be recovered from the inert, combustible residual elements of pre-sorted C&I waste stream. This would certainly provide some additionally required C&I waste management capacity. However as already noted, there is no up-to-date independent information on the extent of additional C&I waste management capacity required for Derby and Derbyshire, that would either confirm the robustness of or give reason to dispute the stated capacity requirements identified by the applicant, as set out in Paragraphs 4.123 and 4.124 above.

4.130 The paucity of up-to-date data on C&I waste management capacity requirements precludes any precise projections of levels of EfW requirement for the county. However, the overall conclusion to draw from the estimates that are presented in the application and taking into account the County Council’s updated estimates of C&I waste arisings and its forecasting on the amount C&I waste management capacity that is required in Derbyshire, is that there is a need for more capacity for

the management C&I waste arisings, which the ERF would be helping to meet.

4.131 As set out above, the intention is that the ERF would potentially also take some residual municipal waste, albeit that its role in relation to the management of municipal waste would be much less significant and would only make up a relatively small percentage of waste processed through the ERF.

4.132 The application identifies that the management of municipal waste in Derbyshire is undertaken through local authority waste management contracts with the private sector, which the proposed ERF is not currently associated with. The application states that it is anticipated that if contracts were to be agreed, municipal waste generated by local residents in south Derbyshire could or would be processed through the ERF.

4.133 The application explains that for municipal waste management purposes, the County is divided into three sub areas, which, in the south-east Derbyshire Sub Area comprises Derby City Unitary Authority, Amber Valley Borough and Erewash Borough and South Derbyshire District. It identifies that in 2014, Derbyshire and Derby City published a new Joint Municipal Waste Management Strategy 2013 – 2026 and that the Strategy reinforces the principles of sustainable waste management with part of its vision being to "*reduce waste to landfill and recovering value from waste that is left over for disposal*".

4.134 The application refers to the County and City Councils having awarded a contract in December 2009, for the operation of HWRCs, waste reception, transfer, treatment and disposal services which commenced in April 2010. It also refers to the contractor, Resource Recovery Solutions (Derbyshire) Ltd (RRS), having sought planning permission for a waste treatment facility, which included an EfW plant that could treat 190,000 tonnes of waste per year, to be located at Sinfin Lane in Derby.

4.135 As the Committee will be aware, the Sinfin Lane Facility was subsequently built as an integrated facility primarily to service a 27 year Public Private Partnership contract that was due to run to 2042. The Facility was designed to divert the 190,000 tonnes per annum from Landfill via a combination of Mechanical Biological Treatment, with the RDF output sent to the adjacent EfW plant. The contract with RRS has, however, subsequently terminated, following significant technical difficulties that prevented it from coming into operation. As of yet, the plant has not come into use.

4.136 The applicant, in the current application, highlights the inoperative position of the Sinfin Lane Facility and puts forward the proposal for the SRRP, including the ERF, essentially as an alternative option for the management of residual municipal waste in Derbyshire. The argument presented does not set out a fully detailed waste-data based assessment but is instead simply predicated on the provision of an alternative facility for the management of residual municipal waste, given the circumstances surrounding the development and operation of the Sinfin Lane Facility. As such, the application acknowledges that there is currently no contract for the ERF to take residual municipal waste from Derbyshire, and no certainty that there ever would be such a contract.

4.137 Nevertheless, the applicant's argument is that the proposed ERF, as part of the SRRP, would be well placed to offer a recovery service to both C&I waste (its primary waste stream) but also for Municipal Solid Waste (MSW), which is otherwise sent to other locations for treatment and disposal, which the application states may not be in Derbyshire. As such, it has the potential to offer an alternative facility for the management of residual municipal waste, should this become necessary.

4.138 The overall picture, is that the proposed SRRP, including the ERF, would potentially make a significant contribution to the management of residual C&I waste in Derbyshire, for which there is a significant identified need, although it is also currently unclear what that level of need is in the context of existing C&I waste management capacity and therefore, in context, what additional capacity is required. The application presents a case that suggests there is a need for an additional 385,350 tonnes to 406,000 tonnes of capacity.

4.139 In addition, the SRRP could potentially also provide an alternative option for the management of residual municipal waste in the County, although it should be noted that if the Sinfin Lane Facility does become operational, then the need in relation to the management of residual municipal waste in Derbyshire would be significantly diminished. This would not, however, impact on the need for additional C&I waste management capacity in the County. In that respect, whether the Sinfin Lane Facility becomes operational or not, would not diminish the case to the extent that the case presented by the applicant is accepted, in terms of the need to additional residual C&I waste management capacity in the county.

Location

4.140 Turning to the location of the development, as set out above, the DDWLP does not set out a location strategy based on the allocation of sites for different types of waste management facility.

4.141 Neither does the SDLP otherwise contain any policies that are explicitly intended to apply to waste management proposals, as this is a matter for the Waste Local Plan. Nevertheless, because as set out in Paragraph 4.3 above, the site is located in the countryside, just outside the settlement boundary for Swadlincote, as identified in the SDLP and the land to the north of the site lies within the Green Belt, it is one in which the location in policy terms is nevertheless a relevant consideration.

4.142 Although there is no location specific policy in the Waste Local Plan, as a proposal for the construction of a built waste management facility, which has essentially the same or similar characteristics to industrial development, regard should be had to the location requirements set out in Policy E2 of the SDLP. The policy is concerned with Industrial and Business Development (other than strategic employment land allocations, which is addressed in Policy E1). It states that the development of land for uses defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order will be permitted where the site lies within, or on the edge of the Swadlincote urban area, or the proposal is for the expansion of an existing business or for the redevelopment of established industrial or business land or premises. The policy goes on to state that proposals should be in scale with existing built development and should not give rise to undue impacts on the local landscape, natural environment or cultural heritage assets.

4.143 Paragraph 4 of the NPPW additionally includes reference to the type of sites that should be considered for the development of new built waste management facilities and makes reference to the need to consider a broad range of locations, including industrial sites, looking for opportunities to co-locate waste management facilities together and with complementary activities, where a low carbon energy recovery facility is considered as an appropriate type of development. It also states that waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers and give priority to the re-use of previously developed land, and sites identified for employment uses.

4.144 The utilisation of heat, in close proximity to suitable potential heat customers, is also a policy requirement of Policy SD6 of the SDLP.

4.145 There are, therefore, a number of elements to policy related to the location that are relevant to the application. None of these policies explicitly preclude the potential use of the site for the development proposed. Development on the application site can be considered to be in accordance with Policy E2, insofar as it is located on the edge of the Swadlincote urban area, and the development is for the expansion of an existing business. That being the case, the issue in relation to Policy E2 is whether the proposal can be considered to be in scale with existing built development and would not give rise to undue impacts on the local landscape, natural environment or cultural heritage assets. These matters are considered in further detail below.

4.146 In relation to locational considerations set out Paragraph 4 of the NPPW, the site can be considered to be an existing industrial site. Co-location of the ERF with the existing Deport 3 MRF, which would provide more than 25% of feedstock, and the proposed ARF, allow the site, as a whole, to operate as an integrated facility involving a number of waste recycling and recovery processes. This would include the pre-treatment and sorting of incoming waste at the MRF prior to the transfer of the residual element to the ERF and the transfer of the resulting IBA to the ARF for recycling into aggregate. A low carbon energy recovery facility is proposed, with the ERF being CHP enabled. The intention is to potentially supply heat and/or power to the future redevelopment of the nearby former Bison Precast Concrete Works and to existing businesses on the adjacent Appleby Glade Industrial Estate, which would also ensure that it is compliant with Policy SD6 of the SDLP.

4.147 The application accordingly argues that the proposed co-location of the existing MRF, with the proposed ERF and ARF, represents a significant step forward to delivering a more circular economy. It states that this would keep resources in use, as long as possible, extracting maximum value from them, minimising waste (driving the management of waste further up the waste hierarchy) and promoting resource efficiency including reducing carbon emissions by removing the need to road haul resources long distances to different processing facilities including landfill.

4.148 The application includes an Alternatives Site Assessment. This identifies a study area that encompasses southern Derbyshire and the City of Derby. Locational considerations taken into account include issues such as highway access, site characteristics and neighbouring land uses, as well as the ability of both electricity and heat to be effectively utilised and the colocation of infrastructure. The assessment identifies a short list of sites that were considered in relation to a number of criteria to provide a non-weighted order of preference.

4.149 The assessment draws particular attention to the locational policies for waste sites in the NPPW which are set out above and emphasise that local authorities should consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste management facilities together and with complementary activities, the provision of low carbon energy and the re-use of previously developed land.

4.150 The assessment includes explicit reference to the Policy BNE12 of the SDLP which references support for development on the former Drakelow Power Station land to include development for use classes B1, B2, B8 and for energy purposes to assist in the regeneration of the previously developed land.

4.151 It accordingly considers the former Drakelow Power Station land as a potential alternative site. Whilst it identifies this as a former coal fired power station, that would have been served by rail connections, it also identifies that current road access for large vehicles is limited to a route through Stapenhill. Whilst a bypass road and new river crossing at Walton is consented to provide a link to the A38 to the south of Burton-on-Trent, it states that this is dependent on the future expansion of a residential development at Drakelow village and that feedstocks and recovered aggregates for the SRRP from Depot 3 and other parts of South Derbyshire would still have to be transported through Stapenhill, as would construction products derived from the ARF.

4.152 The assessment also identifies that any distribution of heat to a heat network in the nearest major urban area (Burton) would need to cross the River Trent on a new crossing, and that this would make the project uneconomic and technically challenging, due to significant heat losses through the heat pipe. It also states that development at Drakelow is already being constructed with associated gas infrastructure for heating, and that it is therefore unlikely a district heating network would be constructed.

4.153 The assessment concludes that there are no more suitable sites available for the Proposed SRRP.

4.154 On this basis, the proposal can be considered to be acceptable in principle, in relation to relevant development plan policy set out in policies W1b and W2 of the DDWLP, policies SD6 and E2 of the SDLP, and the NPPW and in particular paragraphs, 1,3 and 7, subject to it being demonstrated that they are acceptable in terms of the additional consideration in terms of the environmental impacts set out in policies SD6, E2 and E7 of SDLP.

Low Carbon Energy

4.155 Turning principally to the matter of energy production, in accordance with SDLP Policy SD6 and national guidance aimed at the sustainable provision of energy development, the proposed facility would have the capacity to generate up to 19.5MW of baseload 'low carbon' electricity to be exported to the local electrical grid, sufficient to meet the average electricity needs of approximately 36,800 residential homes, and furthermore, as is outlined above, is designed and located to with the ability to provide CHP to local consumers. Significant benefits would be attributed to this.

Climate Change

4.156 The NPPF (Paragraph 157) states that *"The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure."*

4.157 Paragraph 163 goes on to state 'When determining planning applications, local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable'.

4.158 As the Council's Climate Change Team acknowledge, the operation of the plant (incineration of the RDF) would have carbon dioxide emissions and has no proposed provision for carbon capture and storage. They also point out that if the plant was not built, the RDF would instead be incinerated elsewhere, and the resulting carbon emissions would depend on the technology used and whether carbon capture and storage was present at alternative plants.

4.159 As The Council's Climate Change Team also acknowledge, wherever waste is incinerated to produce electricity (whether at this site or another), greenhouse gases will be emitted. The amount, however, will vary depending on the incineration technology and the degree of carbon capture and storage.

4.160 As is detailed above, the co-location of the plant with an RDF plant and proposed construction waste facility which would utilise ash produced

form the ERF will undoubtably lead to reduced transport emissions, however, the degree to which this would affect the actual emissions will greatly depend on the tonnage of RDF processed directly on site and the distance to any alternative processing facility.

4.161 The facility would divert waste that would otherwise go to landfill, will support the SDDC's wider sustainability goals by generating low-carbon electricity, thereby increasing energy security and reducing carbon emissions which, in the context of the SDDC declared 'climate emergency' would present benefits albeit being more limited in terms of the overall climate change credentials of the proposed technology being employed.

Landscape and Visual Impact

4.162 In terms of the environmental impacts of the proposal, the most substantive issue concerns the impact on the landscape and visual impact is the most significant matter to be consider, because of the size and scale of the ERF building. There would also be some impacts on the existing landscape features on the site, notably trees.

4.163 The Site is located on the western edge of Swadlincote, immediately west of the A444 on land that was once rail sidings. The environment to the east, in the South Derbyshire Coalfield [Landscape] Character Area, is distinctly urban and industrial in character, whilst to the west and south the area quickly gives way to a rural agricultural scene comprising arable farmland with hedgerows and some woodland including some recently planted areas as part of the National Forest. The Green Belt boundary extends east-west along the northern boundary of the Site with the Stanton Sewage Treatment Works to the north of this within the Green Belt.

4.164 The Site itself is designated in its entirety as a LWS although some of this area has already been developed for the Willshee's Waste Recycling Centre with the remaining areas being a mosaic of bare ground, scrub, ponds, and secondary woodland.

4.165 The proposed development covers an area of 7.34ha and would comprise two buildings, a 42m high ERF building with 60m stack and 14m high ARF building. This would result in a built development of significant size and scale.

4.166 As set out above, there have been a substantial number of objections including from the local member and Linton Parish Council, which have highlighted that the size, height and appearance of the development would be out of scale with any other development in the locality and

would result in significant impacts upon local character and visual amenity.

4.167 Paragraph 135 of the NPPF states that decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive and importantly, are sympathetic to local character including the surrounding built environment and landscape setting. Paragraph 131 highlights the importance of good design as a key aspect to sustainable development, and Paragraph 180 states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

4.168 Paragraph 7 of the NPPW requires consideration of the likely impact on the local environment, including the impact on landscape, and makes particular reference to ensuring design-led solutions to produce acceptable development which respects landscape character and contribute positively to the character and quality of the area in which they are located.

4.169 In line with the NPPF, Policy W7 of the DDWLP states that new waste development should take into account its surroundings and not intrude prominently into the countryside and that any intrusion should be ameliorated by appropriate landscaping.

4.170 Policy W7 of the DDWLP requires that the visual impact is appropriate to the scale of the waste operation, and which respects the size of the settlement in which it would be located. In addition, policies SD6, S1, BNE 1, BNE4 of the SDLP require good quality design and that new local development, including energy developments, should create places with a locally inspired character and should respect valued landscapes, as well as being visually attractive and appropriate to its location.

4.171 Policy BNE4 of the SDLP states that development that results in unacceptable impacts on landscape character, visual amenity and sensitivity, which cannot be satisfactorily mitigated, will not be permitted. This is also reflected in the NPPF, Paragraph 139.

4.172 The submitted Landscape and Visual Impact Assessment (LVIA) identifies a baseline landscape character with a low susceptibility to change and a low sensitivity by virtue of its urban edge location. On review, it is, however, considered that, due to the Site's location, within the National Forest and in an area of transition to a more open

landscape, the baseline setting is more sensitive than reported in the LVIA.

4.173 The LVIA identifies that the visual effects of the proposed development would be wide ranging and particularly prominent from the north and to the west of the Site. It identifies that, whilst there is some limited screening from intervening vegetation and settlements, the development, particularly of the ERF, would result in significant long term adverse effects on the amenity of local residents, footpath users and motorists. The LVIA concludes that the ERF would be "*a bold addition to the urban edge landscape on the western fringes of Swadlincote" and* would have significant landscape and visual effects".

4.174 Mitigation is proposed in the form of 'earth mosaic' cladding to help reduce the impact of the massing of the ERF building and landscape tree retention and planting as detailed in the submitted Landscaping Scheme.

4.175 The Council's Landscape Officer has reviewed the submitted LVIA and is in agreement with its findings, in that it highlights the potential for visually overbearing impacts on the surrounding rural landscape including the significantly lower and more domestic scale industrial and urban back drop of Swadlincote. The Council's Landscape Officer also notes that it can be seen from the evidence provided and the assessment set out in the LVIA, that the development would clearly impact on landscape character and local distinctiveness and is of such a scale that it would have a significant effect on the visual amenity of people living and passing through the area.

4.176 The Council's Built Heritage Officer has also reviewed the design and scale of the proposed ERF building and advises that the development would be of an unprecedented scale and appearance in the locality and is likely to be highly visible from most directions in the surrounding landscape. The Council's Built Heritage Officer suggests that the applicant should investigate alternative design options which could break up the scale and massing of the building. Such a re-design has, however, not been taken up by the applicant. The Council's Built Heritage Officer advises that in its current form, the overall design and quality of the ERF is not acceptable and furthermore, if there are no improvements to its design, to what is likely to be a "landmark" building, will have an undesirable result. Consequently, the Council's Built Heritage Officer considers that the development would not accord with the requirements of the NPPF which requires the creation of beautiful places and buildings through good design.

4.177 The Council's Conservation and Design team advise that no amount of landscaping would adequately be able to screen the development. Whilst it considers that there might be some merit in the proposed 'earth mosaic' cladding, this would not acceptably mitigate the overbearing height and massing of the ERF building.

4.178 Based on the findings of the LIVA, it is apparent that the scale and massing and appearance of the proposed development would result in significant and wide-ranging adverse impacts to the relatively sensitive, open landscape and that it is not possible to mitigate this, because of the scale of ERF building, by landscape planting and/or the proposed cladding.

4.179 Considering the Site's location at the built-up edge of Swadlincote, with no comparable scale development and with rural open countryside to south, west and north, the development's significant scale and height cannot be considered to respect or protect surrounding landscape character, or the visual amenity of the area. With no presented satisfactory mitigation to overcome the visual impacts of the development, it is considered that significant harm to the visual amenity and character of the of the area would result. The proposal is therefore contrary to Policy W7 of the DDWLP, policies BNE 1 and BNE4 of the SDLP, paragraphs 135, 131 and 180 of the NPPF, and the NPPW.

4.180 Notwithstanding the above position, should permission be granted, to assist in the minimisation of the identified visual impacts, conditions could be attached to require the submission for approval of landscaping and aftercare details including planting specifications and hard landscaping including boundary treatments, and details of material finishes for all plant and buildings.

Trees

4.181 In relation to trees, the submitted Arboricultural Assessment (AA) identifies the presence of 14 individual trees within and adjacent to the site, mostly of low to moderate value, of which six would be retained and protected as part of the final landscaping scheme.

4.182 The submitted landscaping plan includes details of additional tree, shrub and herbaceous planting to establish a landscape buffer of approximately 10m in width along the southern and western boundaries of the site.

4.183 The site is located in the National Forest where Policy INF8 of the SDLP requires 20% National Forest Planting. The National Forest Company, whilst having some concerns surrounding over the establishment on on-

site planting, advises that adequate planting would be provided as part of the proposed landscaping scheme and Biodiversity Net Gain (BNG) offsetting (which discussed further below) and, as such, does not raise any objection.

4.184 Subject to conditions relating to the submission of a final landscaping and aftercare scheme, and a submission for approval of a Tree Protection Plan in accordance with the AA, the development can be considered to adequately protect trees and add to the National Forest planting requirements in accordance with Policy INF8 of the SDLP.

Heritage and Archaeology

4.185 The development would not affect heritage assets directly. However, due to the development's scale and visually prominent appearance, it has the potential to impact upon the setting of nearby heritage assets including the Castle Gresley Motte and Bailey Castle Scheduled Monument, located 1.4km south-east of the main part of the site and the non-designated Cadley Hill Farm located approximately 450m east of the proposed ERF building. It also has the potential to impact on buried archaeology.

4.186 Relevant development plan policy is set out in Policy W5 of the DDWLP which, whilst not only concerned with impacts on historic environment, refers to interests of environmental importance. The supporting text states that the impact of development on the interest of heritage assets will be assessed, and that development will only be permitted if the development would not result in any material harm to identified interests.

4.187 Policy BNE2 of the SDLP similarly makes clear that development that affects South Derbyshire's heritage assets will be expected to protect, conserve and enhance the assets and their settings in accordance with national guidance, and that these assets include Scheduled Monuments and undesignated heritage assets on the local list. Relevant policy set out in the NPPF includes Chapter 16, paragraphs 195, and 200-211 and also Chapter 17, Paragraph 217. The NPPW, paragraph 7 and Appendix B, refer to the need to take into account the potential effects on the significance of heritage assets,

4.188 A Heritage Assessment has been submitted with the application which identifies that there would be no designated heritage assets within 1km of the Site and that there would be limited impact on wider historic environment as a result of long-range views on the setting of nearby heritage assets. It assesses that there would be a low level of "less than substantial harm" to the significance the setting of the Castle Gresley

Motte and Bailey Castle. The assessment also considers the potential for impacts on buried archaeology and concludes that this is low to none. The main concern is, therefore, with the potential impact on above-ground built heritage assets.

4.189 The Council's Built Heritage Officer has advised that it does not wholly agree with the conclusions of the assessment and advised that, due to the scale and appearance of the development, and particularly the ERF building, that this assessment, in accordance with the NPPF, should correctly be assessed as being a moderate level of "less than substantial harm" to the significance of the setting of the Castle Gresley Motte and Bailey Castle.

4.190 It should be noted that "less than substantial harm", does not mean in this context that the harm is minor or inconsequential; it is the terminology used in the NPPF to categorise the level of harm to the significance of a heritage assets. The terminology covers a wide spectrum of harm from "very minor harm" through to a level of harm stopping short of the highest category, "substantial harm", so it has a wide meaning.

4.191 Paragraph 206 of the NPPF states that any harm to, or loss of significance of a designated heritage asset requires clear and convincing justification, and Paragraph 208 states that where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.192 The NPPF also addresses (at paragraph 209) how the impacts on a non-designated heritage asset needs to be considered. It states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining applications and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

4.193 The main issue then to be addressed is how, in the case of the Castle Gresley Motte and Bailey Castle Scheduled Monument, the "less than substantial harm" to its significance as a designated heritage asset, even if only moderate, is to be considered. Paragraph 205 of the NPPF states that when considering the impact of a proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater that weight should be) and Paragraph 206 states that any harm to, or loss of significance of a designated heritage asset,

should require clear and convincing justification. Any harm to the significance of the non-designated Cadley Hill Farm as a heritage asset also needs to be considered, the balance having regard to the scale of any such harm.

4.194 When the different paragraphs of the NPPF are read together, it is clear, in the circumstances that apply in this instance, that the issue relating to the Scheduled Monument is whether that "less than significant harm", is outweighed by the public benefit of the proposal. The public benefit of the proposal lies in the extent to which it can and would provide or contribute to providing the residual C&I waste management that is required in Derbyshire for the period of the projected C&I waste arisings that have now been projected up to 2020, as set out above in the section on the Principle of the Development, and also potentially an element of residual municipal waste management capacity.

4.195 The public benefit from the potential contribution of residual municipal waste management capacity is limited by the proposed facility not being associated with any existing local authority waste management contract, as referred to above. As such, only limited weight should be attributed to this element of the development as a benefit.

4.196 The contribution to the management of the residual C&I waste stream is, however, potentially much more significant. If this waste stream continues to grow in line with the projections, which to date it has done, then substantial additional C&I waste management capacity is going to be required in Derbyshire. The proposal comprising the current application can, in terms of contribution to the management of the C&I waste stream, be attributed significant weight, when weighed against the harm to the significance of the Castle Gresley Motte and Bailey Castle, and in the balance of the harm to the significance to the non-designated Cadley Hill Farm. Although the public benefit the development of the ARF would provide is restricted by the potential availability of alternative locations where that type of facility could be located in itself, the benefit it would provide as part of an integrated co-located facility, that would operate in conjunction with the ERF, can nevertheless be attributed some weight.

4.197 In this context, and particularly given the substantial distance between the application site and the Castle Gresley Motte and Bailey Castle, the Officer view is that public benefits of the proposal outweigh the "less than substantial harm" to the significance of the designated heritage asset. The impact on Cadley Hill Farm would be much greater, given its relatively close proximity to the site. However, due to its lesser

importance as a non-designated heritage asset the Officer view again is that the public benefit outweighs that harm.

4.198 On this basis, the application can, when considered in the context of the development plan as a whole, be considered to be acceptable and in accordance with Policy W5 of the DDWLP, Policy BNE2 of the SDLP and the relevant paragraphs of the NPPF and the NPPW.

Amenity Impacts

4.199 The amenity impacts of the development are one of the key considerations, particularly in relation to the occupiers of nearby residential properties. The main considerations include the potential for the noise, odour and air quality, health, lighting and cumulative impacts. These issues are explored in turn in the sections below.

4.200 Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely 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. Paragraph 7 of the NPPW states that when determining waste planning applications, waste planning authorities should consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B (of the NPPW) and the locational implications of any advice on health from the relevant health bodies.

4.201 Local Plan policies including Policy W6 of the DDWLP and SD1, SD4 and SD6 of the SDLP, require that development, including waste and energy development, will not result in unacceptable impacts on local amenity or give rise to safety concerns as a result of noise, emissions to air or ground or odour.

4.202 As the development involves the import and processing of waste materials, it will require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency. The Environment Agency has been consulted and has no objection to the application.

Air Quality

4.203 The proposed development would incinerate RDF fuel to generate electricity. The process would create heat with the by-products of ash and exhaust emissions. In addition, the construction and operational phase of the development also has the potential to create dust from handling of waste and result in increases in vehicle emissions.

4.204 Objections including comment from the Local Member and Linton Parish Council have raised concerns in respect of potential for adverse health impacts of the operation of the ERF as a result of emissions to air from incineration and additional vehicle movements. Objections also raise general concerns in respect of the potential for odour and dust impacts from the proposed waste operations.

4.205 As is clarified by the comments received from the SDDC's EHO, the environmental effects of emissions, such as from the incineration of wastes, would be considered and regulated by the Environment Agency through the Environmental Permit. It is not the role of the County Council to regulate emissions from the site.

4.206 Paragraph 188 of the NPPF makes clear that *"The focus of planning policies and decisions should be on whether 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). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."*

4.207 Public Health England (PHE) has advised that "*PHE's risk assessment remains that modern, well run and regulated municipal waste incinerators 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.*"

4.208 An Air Quality Assessment (AQA) and Dust Assessment have been submitted as part of the Environmental Statement, submitted with the application. In terms of air quality, the AQA predicts that particulate emissions (PM2.5) from the ERF would meet the current and future statuary exposure targets and identifies the impact of the development on PM2.5 exposure rates, both individually and cumulatively with surrounding development, would be 'not significant'. Traffic emissions from HGVs have also been considered in the AQA, in respect nitrogen dioxide emissions, and whilst these do show increased levels, it indicates that these will remain within statutory air quality limits.

4.209 The submitted Dust Assessment advises that, with a range of best practice measures to be implemented during the development including the implementation of a Dust Management Plan, the effects from dust emissions would not be significant.

4.210 On review of the AQA and Dust Assessment, the EHO has not raised any objection on air quality or dust grounds, however, due to the notable increase in nitrogen dioxide emissions from the increase in HGV traffic, the EHO does recommend conditions if the application is approved, for the provision of EV charging facilities, and the submission for approval of a Low Emissions Vehicle Strategy. In addition, the EHO advises conditions to secure the implementation of construction mitigation measures to be set out in a Dust Management Plan, and the implementation of liaison meetings in the event other construction development happening within 500m of the site.

4.211 Subject to the recommended conditions, it is therefore considered that the development would not give rise to significant adverse impacts on heath and quality of life from air pollution and would not result in any unacceptable impacts on future occupiers because of existing air pollution.

Noise Light and Vibration

4.212 The construction and operation of the waste facility has the potential to result in significant noise, light and vibration impacts. The nearest residential properties to the site are at Cadley Hill Farm, located approximately 120m to the south-east, Sandown House, off Woodland Road 160m to the north and Breach Farm 275m to the west.

4.213 A significant number of objections, including those from the nearest residential properties at Cadley Hill Farm, and the local Councillor and Linton Parish Council, have raised concerns about the potential for unacceptable noise and vibration impacts from the development.

4.214 An assessment of the noise, light and vibration impact is set out in Chapter 9 of the Environmental Statement. This includes noise and vibration modelling at the nearest residential receptors during construction and operation, including any increase as a result of associated traffic. Mitigation measures are identified for both the temporary construction operations and ongoing operation of the facility through good practice, construction works monitoring, restriction of working and operation hours, noise enclosures, silencers, specific insulation specifications of the buildings.

4.215 The submitted noise and vibration assessments identify that any impacts from noise and vibration, both during the development's construction and operation, including traffic, can be adequately mitigated and managed such that any effects would be within acceptable levels and would not result in any significant adverse effects upon the nearest identified residential receptors.

4.216 On review of the noise, light and vibration assessment, the EHO has not raised any objection to the development, subject to the inclusion of conditions requiring the submission of an operational noise management plan with specific validation and compliance requirements for the ERF and ARF facilities, restricting the hours of operation of the ARF between 07:00 and 18:00 hours, an, restricting the construction hours.

4.217 Subject to the proposed mitigation and inclusion of the recommended conditions for the development, the advice is that the development would not result in any significant unacceptable environmental effects on residential amenity or unacceptable impact on quality of life or health of nearby residents.

Contaminated Land, Water Quality and Ground Stability

4.218 The Contaminated Land Report, submitted with the application, provides a desk-based assessment of the Site. This identifies the potential risks from contaminated land to be ‘low' but with potential for some hot spot areas of contamination arising from the previous use of the site as a coal yard and railway sidings. In addition, the report identifies the area to have a history of coal mining with potential for mine gas, and that there is a sewage works located immediately to the north of the site. The report identifies the potential for risks, albeit that these are at a low level, from ground contamination in relation to both the future users of the site and to controlled waters. The report also recommends further investigations in the form of an intrusive site investigation and quantitative risk assessment with necessary remediation measures in addition to a mine gas emissions risk assessment.

4.219 There are no objections from the Environment Agency in respect of impacts to groundwater including the underlying identified aquifers, subject to the inclusion of a condition requiring the submission of a full remediation strategy. The EHO similarly advises that it has no objection in this respect, subject to inclusion of a condition requiring the submission of a remediation strategy that includes the undertaking of a full ground investigation and remediation.

4.220 Subject to such a condition, to require the submission of a remediation strategy, and a condition to address any unexpected contamination, the proposal is considered to be acceptable in this respect. Such a condition would provide protection against any unacceptable contamination impacts for existing and future potential receptors including employees working on the site.

4.221 In terms of ground stability, the site is located in part within a defined Development High Risk Area in an area with a history of coal mining. The Coal Authority has been consulted and notes that the built part of the development would fall outside the High-Risk Area for development, and it does not therefore raise any objection.

Environmental/Amenity Conclusions

4.222 In view of the above, it is considered that the development would not, subject to the identified mitigation measures and conditions as outlined above, result in any unacceptable impacts on local amenity as a result of noise, emissions to air, or ground/groundwater contamination, or odour, and would not result in any significant residual environmental effects. The development is therefore considered to be in accordance with the provisions of Policy W6 of the DDWLP, Policies SD1, SD4 and SD6 of the SDLP, as well as guidance contained in the NPPW and NPPF.

Access, Traffic and Transport

4.223 The proposed facility would be accessed off the A514 (Cadley Hill Road) via the Keith Willshee Way, a private single carriage way road which passes through the existing Willshee's waste site before entering the new secure access into the ERF and wider facility. The proposed new access road would incorporate a 7.3m wide carriage way with 3m wide combined pedestrian and bicycle footpath.

4.224 The submitted Transport Assessment (TA) includes detail of traffic impacts including surveys of surrounding road network and junctions (including updates following concerns raised in respect the timing of original A444 survey), projected vehicle movements (HGV and staff) for both phases of the development (ERF and ARF) and a swept path analysis to illustrate that the proposed access arrangements and proposed internal layout is suitable for vehicles to perform access and egress manoeuvres.

4.225 The TA predicts operational traffic in Phase 1 (ERF) of the development to be 122 HGV movements on weekdays and 80 HGV movements on Saturdays, and the later Phase 2 (ARF) would have an additional 42 HGV movements on weekdays and 28 HGV movements on Saturdays. The trip generation rate has been reviewed and agreed by the Local Highway Authority. It is noted that these figures represent a worst-case scenario and likely numbers would be reduced by way of the facilities' proposed association with the neighbouring Waste facility, where up to 20% of RDF feedstock could be sourced and prior to the ARF (Phase 2) being able to receive bottom ash from the EFW.

4.226 Objections have been received from both local residents, local Council member and from Linton Parish Council in respect of impacts upon highways safety as a result of increased traffic and, in particular, the cumulative impact of increased numbers of HGVs on the A444, which has seen historic safety concerns, and runs past several primary schools. Specific refence has been made in the objections to concerns over the effectiveness of the original TA surveys, due to local road closures on the survey days. In response to these concerns, additional base traffic surveys were undertaken and the modelling re-run. The outputs of the traffic modelling did not vary significantly as a result of the updated base traffic data being applied.

4.227 Local Plan Policy in the form of Policy W2 of the DDWLP, policies S6 and INF2 of the SDLP, in addition to guidance within NPPF Chapter 9, paragraphs 115 to 117, and the NPPW require that proposed new development and, in particular, waste developments should promote sustainable transport and should consider the suitability of the road network, such that it would not result in any undue detrimental impacts on highway safety or the efficiency of transport infrastructure.

4.228 On review of the TA and subsequent addendum (with updated base traffic surveys), the Council as Local Highway Authority advises that the access and site layout, as proposed, would be suitable, with its recommendations for appropriate planning conditions. These relate to securing the access, parking, turning and cycle facilities being provided prior to the development being taken into use, and the submission of a construction management plan to be approved prior to the commencement of the development.

4.229 The Local Highway Authority concludes that the local road network would function well within capacity as a result of development traffic including HGVs. The proposed development would not have a severe negative impact on safety or operational capacity of the local highway network and there would be no objection to the proposed development subject to the imposition of conditions as outlined above.

4.230 It is considered that, subject to the inclusion of conditions as recommended by the Highway Authority, the development, as proposed, would not result in any unacceptable or significant impacts on the local highway network. The co-location with an existing waste development would help minimise numbers of waste vehicle movements, thereby representing a sustainable form of development in terms of its highway related environmental impacts, in accordance with Policy INF2 of the SDLP, Policy W2 of the DDWLP, NPPF paragraphs 108, 109, 110,111 and NPPW Appendix B (f).

Flood Risk and Drainage

4.231 Policies W9 and W10 of the DDWLP outline the importance of mitigating flood risk and that key consideration should be given to the susceptibility of a site to flood and whether the development would make other land more susceptible to flooding. Policy W6 of the DDWLP also confirms that the development should only be permitted if it does not result in adverse environmental harm with effective drainage systems to be in place for the development and includes adequate provision to ensure that there would not be contaminated run-off.

4.232 Policy SD2 of the SDLP requires development at risk of flooding to be resilient to flooding through design and layout, incorporate appropriate mitigation measures, not to increase flood risk off-site and not to impact on existing flood defences, with Sustainable Drainage Systems (SuDS) incorporated where feasible to manage changes to surface water flows or increase in flood risk. Policy SD3 of the SDLP also confirms that water resource needs, wastewater treatment and drainage infrastructure are managed efficiently in a coordinated manor and requires SuDS for new developments where possible as a means of managing surface water run-off.

4.233 The NPPF (2023) sets out as one of its key objectives achieving sustainable development, with environmental sustainability an intrinsic element. This involves mitigating and adapting to climate change, with flood risk mitigation and preparations for the potential of more adverse weather events, therefore, a key consideration.

4.234 Chapter 14 of the NPPF sets out that developments should not increase the risk of flooding elsewhere and developments in areas at risk of flooding should be flood resistant and resilient, with residual risks managed and, in the case of major developments, incorporate SuDS unless inappropriate that is designed in line with Lead Local Flood Authority's advice, has appropriate operating standards, maintenance arrangements and where possible provide multifunctional benefits.

4.235 Appendix B (a) of the NPPW confirms that surface water drainage, flood risk management and potential risks posed to water quality from waste contamination are key considerations.

4.236 The majority of the site is located in an area at low risk from flooding (Zone 1) whilst a small area to the north-east edge of the site is at a high risk of flooding (zones 2 and 3). The development of large areas of hardstanding and buildings has the potential to affect local drainage and presents a potential for flood risk, especially in the area at higher risk.

However, the highest areas of flood risk would not be occupied by the proposed buildings and areas of hardstanding.

4.237 The NPPF (Paragraph165) advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at higher risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

4.238 In this respect, the NPPF requires that all development in areas of higher risk (zones 2 and 3) should be accompanied by a strategic flood risk assessment which provides a sequential approach to locating the development and where it is not possible to locate the development to an area of lower risk then an exception test may have to be applied.

4.239 The impacts of the construction and operation of the development on water resources, including flood risk, is set out within Chapter 13 of the ES and includes a Flood Risk Assessment (FRA). The FRA outlines that, in accordance with NPPF guidance, the proposal for ‘waste treatment’ is classified as a 'Less Vulnerable' form of development and therefore a sequential approach and exception tests are not required.

4.240 The ES and FRA propose a range of measures to mitigate the likely local drainage and food impacts of the proposed development. These include a surface water management plan with the provision of SuDS features with long term amenity and biodiversity benefits.

4.241 The ES and accompanying FRA indicate that the likely significant effects of the risk of flooding of both the construction and operation of the development would, subject to identified mitigation measures including the implementation of a CEMP, and approval of an operational SuDS, have no long-term significant risks to flooding, surface water or groundwater contamination, or significant impacts on water resources zones.

4.242 The Council as LLFA raised no objection to the proposed development, subject to the imposition of pre-commencement conditions relating to the provision of a detailed design and associated management and maintenance plan of the surface water drainage for the site and provision of details indicating how additional surface water run-off from the site would be avoided during the construction phase of the development, and a further condition requiring the provision of a verification report that demonstrates that the drainage scheme has been installed in accordance with the agreed scheme and include ongoing management details.

4.243 The Environment Agency raised no objection to the proposed development, subject to the imposition of a condition that the development be carried out in accordance with the mitigation measures within the submitted Flood Risk Assessment.

4.244 I am satisfied that, through the above suggestions for conditions, the issues of appropriate drainage and flood risk can be satisfactory dealt with, and that the development would not result in unacceptable impacts to the flood risk of the site and surrounding area in accordance with policies W9 and W10 of the DDWLP, policies SD2 and SD3 of the SDLP and guidance within the NPPF and NPPW.

Ecology and Habitats

4.245 The key issues in terms of the impact of the development on ecology and habitats, arise from the fact the habitat on the Site currently consists of areas of neutral grassland, areas of wet and broad-leaved woodland, mixed scrub, as well as areas of unsealed hardstanding and waste deposits. The Site forms part of a non-statutory LWS (Cadley Hill Railway Area) and is identified as having a number of protected species present.

4.246 Policies W5 and W6 of the DDWLP, policies BNE3 and BNE7of the SDLP, Chapter 15 of the NPPF and Appendix B of the NPPW are relevant to assessment of the impacts of the proposed development on ecology and habitats.

4.247 Policies W5 and W6 of the DDWLP set out the importance of environmental issues, including local ecology, wildlife and habitats, landscape character and biodiversity and how these should be protected.

4.248 Policy BNE3 of the SDLP supports development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity wherever possible. Proposals that could have a direct effect on sites of ecological importance need to be supported by appropriate surveys and assessments.

4.249 Policy BNE7 of the SDLP identifies the importance of ecological features, such as trees, woodland and hedgerows. Under Sub-Section (B), it is confirmed that where there is a loss of such habitat through felling or removal, then suitable replacements will usually be required.

4.250 Paragraph 180 of the NPPF states that decisions should contribute to and enhance the natural or local environment by minimising impacts on

and providing net gains for biodiversity. Paragraph 186 notes that in determining applications, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

4.251 The NPPW Appendix B(d) outlines considerations for applications needs to include any adverse effects on ecological networks and protected species.

4.252 The submitted Environmental Statement Chapter 8 'Ecology and Nature Conservation' is supported by a comprehensive assessment of impacts on designated sites and exiting habitats, as well as protected species, includes the reporting of the surveys undertaken. In addition to the above, a Biodiversity Net Gain Assessment has been submitted with offsetting proposed with 30 year off-site habitat management plans at two identified sites, 'Bretby' and 'Manor Farm'.

Protected Species

4.253 Protected species surveys including for GCN, bats, badgers, retiles, invertebrates and breeding birds, have been undertaken for the site and identify the presence of breeding birds, bats, badgers, GCN and grass snakes within the site which could be affected by the development.

4.254 The GCN surveys identify a small population remaining within the site. Mitigation is proposed by way of a District Level Licence (DLL) and with agreement having been secured with NE to this effect. NE and DWT do not raise any objection but, in the case of DWT, it advised of the inclusion of a condition to provide a copy of the DLL prior to the commencement of the development.

4.255 In relation to bats, the submitted surveys do not identify any active roosts within the site, although they do identify 10 trees with moderate to high potential to support roosts. These trees would be retained as part of the development. DWT notes the absence of identified roosts but does raise the potential for the loss of foraging habitat. It is considered that, subject to the inclusion of conditions to retain and protect retained trees in accordance with the measures set out in the AIA in a CEMP, and the submission for approval of suitable habitat mitigation in a Landscape Environmental Management Plan (LEMP), sufficient mitigation would be provided.

4.256 The DWT comments also raise the need for the 'Three Tests' for bats under Regulation 55 of the Conservation of Habitats and Species Regulations 2017. These are the legal tests that apply where it is identified a need for a protected species licence to be sought from NE.

Because the survey has identified a lack of active roosts on site that would be directly affected by the development, consideration of the '*Three Tests*' is not necessary.

4.257 In respect of badgers, the surveys identify the site presents foraging habitat. DWT advised that precautionary/mitigation measures can be effectively addressed within a CEMP to be submitted for approval.

4.258 In respect of reptiles, the surveys identify the presence of grass snakes. DWT advised that precautionary/mitigation measures (as provided within the survey report) can be effectively addressed within a CEMP to be submitted for approval.

4.259 In respect of breeding birds, the submitted surveys identify the loss of breeding bird habitat. Again, DWT advised that precautionary/mitigation measures, in respect of bird breeding season and mitigatory habitat improvements, can be effectively addressed though the approval of the CEMP.

Habitats and Biodiversity Net Gain

4.260 As is advised by DWT, the habitats on-site are comprised (in UK Habitat Classification) terms as wet woodland, other woodland - broad-leaved, other neutral grassland, bramble scrub and mixed scrub, and that the development would impact particularly on woodland and scrub habitats that form the western half of the development.

4.261 The development will result in the loss of 4.69ha of the Cadley Hill Railway Area LWS, thus adversely affecting existing habitats for grass snake, breeding birds, bats, badger, GCN and invertebrates. DWT advise this LWS was originally 11.6ha, but part of the site has already been lost to development, reducing the effective LWS size to around 9.2ha. The proposed development would further reduce the effective area of the LWS and any significant habitat, by around 50%, to c. 4.51ha.

4.262 The development offers little scope for avoiding, reducing, and or mitigating habitat loss on site. Instead, the application offers a comprehensive BNG assessment, together with completed metric and provision of two offsetting (off site habitat mitigation) proposals to achieve a 10% gain over the identified existing baseline habitat. To this effect, two 30-year, off-site outline management plans (ES appendix 8.11A and 8.11B) have been provided ('Bretby' and 'Manor Farm') which are proposed to be secured by an agreement under section 106.

4.263 On review of the submitted Habitat and BNG assessments, both DWT and the Council's Ecologist advise that the submitted approach is appropriate and adequate to effectively mitigate the habitat loss on the site and do not raise objection, but subject to agreement of a suitably worded section 106 agreement to secure the 30 year off-site management (including monitoring fees), the attachment of condition to require the submission prior to commencement of the development of a Biodiversity Gain Plan and a condition to retain onsite trees for the duration of the 30 year management period.

Designated Sites

4.264 The site falls within a designated non-statutory LWS (Cadley Hill Railway Area SD304) which would be reduced in size by around 50%. The Council's Ecologist notes that the LWS has been significantly degraded over the years, but as noted above, subject to suitable ecological mitigation measures as proposed by the application, together with securing BNG offsetting proposed, raises no objection.

4.265 The Site does not lie within the impact zone for any Statutory Designated Sites with the nearest being the River Mease SAC which lies approximately 7km from the site. A Shadow Habitats Regulation Assessment has been submitted and concludes that the development is not likely to have a significant effect on the qualifying features of the Statutory designated Site River Mease SAC.

4.266 Neither NE or DWT, nor the Council's Ecologist, raise objection to the development in relation to its impact on statutory designated sites.

4.267 Overall, DWT advised that the information provided support of the application is comprehensive and considers that no further survey works would be necessary. The Council's Ecologist, whist noting the Site's previous significance for ecological potential, notes the recent degradation of the site which, coupled with the proposed ecological mitigation and compensation (including BNG), raises no overall objection to the development, subject to the conditions advised by DWT.

4.268 In summary, although the development would result in the loss of part of a LWS including habitats with direct impact upon protected species including GCN and grass snakes, the development is considered to be able to deliver net gains in biodiversity and not to result in unacceptable impacts to habitat or protected species, subject to a section 106 agreement being entered into to secure off-site BNGs, and a condition to provide a Biodiversity Gain Plan, tree retention, submission of a CEMP and LEMP and to restrict external lighting and works during bird

nesting season. The development is thus considered to be in accordance with Government Circular 06/05, NERC Act 2006, The Conservation of Habitats and Species Regulations 2017 (as amended), Policies W5 and W6 of the DDWLP, Policies BNE3 and BNE7 of the SDLP and guidance within the NPPW and NPPF.

Economic

4.269 The proposal, when operational, would provide employment during its construction and would provide 33 full-time jobs during its operation.

4.270 In this respect, the development is consistent with relevant Local Plan Policy which promotes sustainable economic growth in the South Derbyshire District and wider sub-region, supporting existing businesses, encouraging indigenous business growth and attracting new inward investment. Significant positive weight may be given to this benefit.

Cumulative Impacts

4.271 In terms of cumulative effects, the key issues are whether there are any in-combination effects arising from the development or any effects as a result of multiple impacts from the development and other development sites in a locality. Relevant development plan policy is set out in Policy 10 of the DDWLP, the NPPF which includes a number of references to need to assess cumulative effects, and the NPPW, Paragraph 5.

4.272 The ES includes an overall assessment of cumulative effects, as well as an assessment in each of the topic-specific chapters of the Environmental Statement. These conclude that there will not be any significant combined effects on receptors as a result of the proposal, or as the result of the proposal in combination with other nearby development.

4.273 On this basis, the development can be considered to be in accordance with the DDWLP, the NPPF and the NPPW in terms of the overall cumulative effects.

Other Matters

4.274 An objection has been received in respect of impacts upon Public Rights of Way (PRoW). However, no PRoW cross the Site or would be directly impacted by the development.

Conclusions

4.275 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the

determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.276 The determination of the application must involve consideration of the relative weighting to accord to the benefits and the harm identified in the analysis set out above.

4.277 By the creation of renewable EfW, the proposed development positively contributes to meeting Government climate change initiatives in accordance with SDLP Policy SD6, as well as paragraphs 151 and 154 of the NPPF. Positive weight can be attributed to this benefit.

4.278 In terms of energy security and diversification of the energy supply, with 24 hour operation providing a baseline energy supply contributing to local energy and potentially heating as CHP ready plant, the proposals can be attributed significant positive weight.

4.279 In line with guidance within the NPPW the proposed SRRP as integrated facility would manage waste in accordance with the 'Waste Hierarchy' as outlined within the NPPW. It would promote the recycling and recovery of waste rather than its disposal. It would improve the Derbyshire ability to meet its own C&I waste management needs, through the recycling of aggregates and recovery residual wastes for energy production. Significant positive weight can be attributed to this.

4.280 The proposed waste management facility would employ 33 people as well as temporarily up to 200 people during its construction. It is considered that the operation of the facility would not prejudice the operation of surrounding uses and would bring social and economic benefits in the form of employment opportunities in accordance with SDDC Policy E7. Some positive weight should be attributed to this.

4.281 By virtue of the development's significant scale and height, it would not respect or protect surrounding landscape character or the visual amenity of the area, with no satisfactory mitigation to overcome the visual impacts of the development it is considered that significant harm to the visual amenity and character of the of the area would result, this is contrary to the provisions of Policy W7 of the DDWLP, policies BNE 1 and BNE4 of the SDLP and guidance within the NPPF and NPPW; significant negative weight is given to this impact. This is harm moderated to some degree as a result of the surrounding landscape character of the area which is considered to have a relatively low susceptibility to change and low sensitivity by virtue of its urban edge location.

4.282 Due to its significant scale and prominence in the landscape, that it is considered that there would be a moderate degree of 'less than substantial' harm' to the setting of the ancient monument (mott and baily) located at Castle Gresley. The justification in the form of economic and environmental public benefits from the sustainable management of waste and energy production, as identified above, is considered sufficient to clearly and demonstrably outweigh the identified harm to this heritage asset. The proposal is considered to be acceptable in terms of its impact upon identified heritage assets in accordance with Policy W5 of the DDWLP, Policy BNE2 of the SDLP and the relevant paragraphs of the NPPF and the NPPW.

4.283 The proposed development would not, subject to the identified mitigation measures and conditions as listed below, result in any unacceptable impact on local amenity of health and quality of life as a result of noise, emissions to air or ground or odour and is not considered to result in any significant residual environmental effects in accordance with the provisions of Policy W6 of the DDWLP, policies SD1, SD4 and SD6 of the SDLP, as well as guidance contained within the NPPW and NPPF. The absence of harm in these respects is considered neutral in the overall planning balance.

4.284 The environmental impacts, including any cumulative impacts of the development with surrounding development, have been considered in accordance with the provisions of the EIA Regulations 2017. Subject to the identified conditions, it is considered that the identified impacts can be mitigated, and/or it has been demonstrated that the development would not give rise to any unacceptable impacts upon the environment.

4.285 Subject to conditions, as outlined above, the proposed development would not have a detrimental impact in respect of internationally designated sites including the River Mease SAC, other designated sites and protected species. The absence of harm in these respects is reasonably neutral in the overall planning balance.

4.286 Subject to above conditions, as outlined above, the proposed development would not have any unacceptable impact to upon the local highway network or highways safety. The absence of harm in these respects is reasonably neutral in the overall planning balance.

4.287 Taking into account all material considerations and subject to the proposed mitigation measures, it is considered that the proposed EfW facility provides significant benefits by driving waste up the 'Waste Hierarchy' and the production of baseload low carbon energy.

4.288 On balance, it is considered the clear benefits in terms of its economic and wider environmental benefits of providing a sustainable waste management, whilst delivering an energy supply of the development would outweigh the identified conflict in the SDLP policies relating to the potential landscape and visual impacts. With that exception, the developed represents a sustainable form of development in accordance with the provisions of the Local Development Plan, as well as national planning policy, and a recommendation for approval is given.

5. Implications

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers File No 9.1561.12

6.1 Application.

6.2 **Documents**

- Application Form and Certificates, dated 27 October 2022.
- Covering Letter, Ref R001, dated 27 October 2022
- Environmental Statement – Drawing Pack, Ref R002.
- Planning Statement, Ref R003, dated September 2022
- Environmental Statement – Non - Technical Summary, Ref R006 Rev01, dated July 2024.
- Environmental Statement Main Text, Ref R007, dated September 2022.
- Environmental Statement Technical Appendices, Ref R008.
- Heritage Assessment, Ref R009, dated 30 September 2022.
- Ground Conditions Desk Study, Ref R010, dated 21 September 2022.
- Statement of Community Involvement, Ref R011, dated September 2022.
- Lighting Assessment, Ref R012, dated October 2022.
- Regulation 25 Response Letter, dated 11 August 2023.
- Technical Design Note – Response to DCC Highway Comments, dated 9 June 2023.
- Traffic Flow Figures, dated June 2023.
- Classified Junction Count and Queue Length Survey data, dated 17 May 2022.
- Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.7 Additional Viewpoint Location Plan, dated July 2023.

- Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.8 Additional Viewpoint Location Photos (Existing Views), dated July 2023.
- Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.9 Additional Photomontage, dated July 2023.
- Technical Note – Hydraulic Modelling results, dated September 2022.
- LLFA correspondence with the Applicant, dated 31 May 2022.
- Applicant correspondence with the LLFA, dated 9 February 2023.
- Technical Design Note – Second Response to DCC Highways Comments, Revision P01, dated 14 December 2023.

6.3 **Plans**

- Drawing No. 21-137-SGP-01-ZZ-DR-A-131000, Revision H, entitled Location Plan - SRRP, dated 21 January 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131001, Revision M, entitled Proposed SRRP Site Plan, dated 27 February 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131003, Revision C, entitled Planning_SRRP_Hard Landscaping, Fences, Gates and Barriers, dated 10 June 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131008, Revision I, entitled Location Plan – SRRP & S73, dated 6 April 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131009, Revision J, entitled Zone Plan, dated 25 April 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131011, Revision E, entitled Planning_SRRP_Masterplan, dated 10 May 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131013, Revision F, entitled Proposed Zone C – Revised Access Road, dated 25 May 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131014, Revision B, entitled SRRP Masterplan - Point of Connection, dated 13 September 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131015, Revision B, entitled Topo Site Plan, dated 21 September 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131016, Revision C, entitled SRRP Location Plan - Lighting Layout, dated 19 October 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131017, entitled Illustrative Temporary Construction Compound & Lay Down Area Plan, dated 26 October 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131100, Revision C, entitled ARF Building Layout, dated 7 October 2021.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131101, Revision D, entitled ERF Building Layout, dated 10 June 2022.
- Drawing No. 21-137-SGP-OZ-ZZ-DR-A-131102, Revision A, entitled Roof Plan, dated 15 June 2022.

- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131103, Revision C, entitled ARF Rood Plan, dated 11 January 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131104, Revision A, entitled L0 - L2 Office Plans, dated 9 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131105, Revision A, entitled L3 – L5 Office Plans, dated 9 June 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131200, Revision C, entitled ARF Building Sections, dated 11 January 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131201, Revision B, entitled Sections AA & BB, dated 9 June 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131300, Revision D, entitled ARF Building Elevations, dated 11 January 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131301, Revision E, entitled Proposed North & South Elevations, dated 7 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131302, Revision E, entitled Proposed East & West Elevations, dated 7 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131308, Revision C, entitled Building West Elevation – No Equipment, dated 10 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131309, Revision C, entitled Ancillary Buildings & Equipment Elevations & Plans, dated 10 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131310, Revision B, entitled Site Elevations, dated 10 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131900, Revision B, entitled External Visuals, dated 17 June 2022.
- Drawing No. 01-EWK-1001, Revision C, entitled Proposed Cut Fill Analysis, dated 20 September 2022.
- Drawing No. 01-GA-1001, Revision A, entitled Preliminary Site Levels, dated 20 September 2022.
- Drawing No. 01-PDL-1001, Revision A, entitled Preliminary Drainage Layout, dated 20 September 2022.
- Drawing No. 01-PDL-1002, Revision D, entitled Preliminary Drainage Layout, dated 2 February 2023.
- Drawing No. 1275/11b, Revision B, entitled Landscape Proposals, dated July 2022.
- Drawing No. P702-978-D-30, entitled Swadlincote ERF External Lighting, dated 25 October 2022.

7. Appendices

7.1 Appendix 1 - Implications.

7.2 Appendix 2 – Site Plan.

8. Recommendations

That the Committee resolves that planning permission for the proposal in the application which is subject of this report (Code No.CW9/1022/22) be authorised to be **granted** subject to:

8.1 An agreement being entered into by the relevant parties under section 106 of the Town and Country Planning Act 1990 to secure planning obligations considered by the Executive Director – Place and the Director of Legal and Democratic Services, to make satisfactory provision for the implementation of the measures referred to in the Biodiversity Site Management Plan to secure the carrying out and completion of the Habitat Creation Works at the BNG Mitigation Sites.

8.2 A set of conditions substantially in the form of the draft conditions below:

Conditions

Commencement

1) The development shall commence within three years of the date of this decision notice.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended, and confirm the date of commencement.

2) The date of commencement of the development shall be notified to the Waste Planning Authority within seven days of the commencement.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended, and confirm the date of commencement

Approved Development

3) The development shall be carried out in full compliance with the details contained in the planning application incorporating Application Form and Certificates, dated 27 October 2022, Covering Letter, Ref R001, dated 27 October 2022, Environmental Statement – Drawing Pack, Ref R002, Planning Statement, Ref R003, dated September 2022, Environmental Statement – Non - Technical Summary, Ref R006 Rev01, dated July 2024, Environmental Statement Main Text, Ref R007, dated September 2022, Environmental Statement Technical Appendices, Ref R008, Heritage Assessment, Ref R009, dated 30 September 2022, Ground Conditions Desk Study, Ref R010, dated 21 September 2022, Statement of Community Involvement, Ref R011,

dated September 2022, Lighting Assessment, Ref R012, dated October 2022, Regulation 25 Response Letter, dated 11 August 2023, Technical Design Note – Response to DCC Highway Comments, dated 9 June 2023, Traffic Flow Figures, dated June 2023, Classified Junction Count and Queue Length Survey data, dated 17 May 2022, Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.7 Additional Viewpoint Location Plan, dated July 2023, Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.8 Additional Viewpoint Location Photos (Existing Views), dated July 2023, Regulation 25 Submission – Landscape and Visual Impact Assessment – Appendix 7.9 Additional Photomontage, dated July 2023, Technical Note – Hydraulic Modelling results, dated September 2022, LLFA correspondence with the Applicant, dated 31 May 2022, Applicant correspondence with the LLFA, dated 9 February 2023, Technical Design Note – Second Response to DCC Highways Comments, Revision P01, dated 14 December 2023. This includes the following plans:

- Drawing No. 21-137-SGP-01-ZZ-DR-A-131000, Revision H, entitled Location Plan - SRRP, dated 21 January 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131001, Revision M, entitled Proposed SRRP Site Plan, dated 27 February 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131003, Revision C, entitled Planning_SRRP_Hard Landscaping, Fences, Gates and Barriers, dated 10 June 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131008, Revision I, entitled Location Plan – SRRP & S73, dated 6 April 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131009, Revision J, entitled Zone Plan, dated 25 April 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131011, Revision E, entitled Planning_SRRP_Masterplan, dated 10 May 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131013, Revision F, entitled Proposed Zone C – Revised Access Road, dated 25 May 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131014, Revision B, entitled SRRP Masterplan - Point of Connection, dated 13 September 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131015, Revision B, entitled Topo Site Plan, dated 21 September 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131016, Revision C, entitled SRRP Location Plan - Lighting Layout, dated 19 October 2022.
- Drawing No. 21-137-SGP-01-ZZ-DR-A-131017, entitled Illustrative Temporary Construction Compound & Lay Down Area Plan, dated 26 October 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131100, Revision C, entitled ARF Building Layout, dated 7 October 2021.

- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131101, Revision D, entitled ERF Building Layout, dated 10 June 2022.
- Drawing No. 21-137-SGP-OZ-ZZ-DR-A-131102, Revision A, entitled Roof Plan, dated 15 June 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131103, Revision C, entitled ARF Rood Plan, dated 11 January 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131104, Revision A, entitled L0 - L2 Office Plans, dated 9 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131105, Revision A, entitled L3 – L5 Office Plans, dated 9 June 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131200, Revision C, entitled ARF Building Sections, dated 11 January 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131201, Revision B, entitled Sections AA & BB, dated 9 June 2022.
- Drawing No. 21-137-SGP-AF-ZZ-DR-A-131300, Revision D, entitled ARF Building Elevations, dated 11 January 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131301, Revision E, entitled Proposed North & South Elevations, dated 7 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131302, Revision E, entitled Proposed East & West Elevations, dated 7 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131308, Revision C, entitled Building West Elevation – No Equipment, dated 10 June 2022.
- Drawing No. 21-137-SGP-XX-ZZ-DR-A-131309, Revision C, entitled Ancillary Buildings & Equipment Elevations & Plans, dated 10 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131310, Revision B, entitled Site Elevations, dated 10 June 2022.
- Drawing No. 21-137-SGP-OS-ZZ-DR-A-131900, Revision B, entitled External Visuals, dated 17 June 2022.
- Drawing No. 01-EWK-1001, Revision C, entitled Proposed Cut Fill Analysis, dated 20 September 2022.
- Drawing No. 01-GA-1001, Revision A, entitled Preliminary Site Levels, dated 20 September 2022.
- Drawing No. 01-PDL-1001, Revision A, entitled Preliminary Drainage Layout, dated 20 September 2022.
- Drawing No. 01-PDL-1002, Revision D, entitled Preliminary Drainage Layout, dated 2 February 2023.
- Drawing No. 1275/11b, Revision B, entitled Landscape Proposals, dated July 2022.
- Drawing No. P702-978-D-30, entitled Swadlincote ERF External Lighting, dated 25 October 2022.

Reason: To clarify that the development must be carried out in full conformity with the detail submitted.

4) No development shall commence until details for connection to National Grid linkages and details of the facilitation for potential future combined heat and power (CHP) linkages have been submitted to and approved in writing by the Waste Planning Authority.

Reason: To ensure that the identified benefits of the proposed development can be delivered.

5) Only the types of waste as are identified in the application form, shall be imported and processed by the proposed development.

Reason: To clarify the waste materials that can be imported onto site in conformity with the details submitted.

Highways/Access

6) The development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided, as shown on drawing 21-137-SGP-01- ZZ-DR-A- 131013 Rev F titled Proposed Zone C - Revised Access Road.

Reason: To ensure conformity with submitted details.

7) The development hereby approved shall not be brought into use until sheltered, secure and accessible bicycle parking has been provided, in accordance with details which have been first submitted to and approved in writing by the Waste Planning Authority. The bicycle storage area shall be retained thereafter.

Reason: To promote sustainable travel and healthy communities

8) No development shall commence until details of a highway construction management plan have been submitted to and approved in writing by the Waste Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include, but is not restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction).
- Advisory routes for construction traffic.
- Any temporary access to the site.
- Locations for loading/unloading and storage of plant, waste and construction materials.
- Method of preventing mud and dust being carried onto the highway.
- Arrangements for turning vehicles.

- Arrangements to receive abnormal loads or unusually large vehicles.
- Highway Condition survey.
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development

Amenity/Environmental

9) No development shall commence until a Construction Environmental Method Statement (CEMS) has been submitted to and approved in writing by the Waste Planning Authority. The CEMS shall include:

- Construction dust management plan in accordance with measures described as both 'desirable' and 'highly recommended' set out in Appendix A6 of the Air Quality Assessment: Swadlincote Resource and Recovery Park (Air Quality Consultants Sept 2022).
- Construction noise management plan in accordance with measures outlined within the submitted Environmental Statement – Chapter 9 Noise and Vibration.
- Provision of monthly liaison meetings in event of other concurrent construction works.

The development shall be undertaken in accordance with the approved CEMS

Reason: In the interests of the amenity of the area and public health.

10) Prior to the commissioning of the Energy Recovery Facility hereby approved, a noise management plan shall be submitted to and agreed in writing by the Waste Planning Authority, incorporating the mitigation measures identified in Section 9.7, and the enhanced mitigation proposed in Paragraph 150 of the Environmental Statement – Chapter 9 Noise and Vibration.

The agreed noise management plans should include a site boundary noise limit, and include night time maximum noise levels (LMAX). Compliance with the management plans should be validated during the commissioning of the plant, and within six months of becoming operational. Compliance with the noise limits, contained within the plan thereafter, should be checked by the operator no less than every 12 months, and a validation report submitted to the Planning Authority annually.

Reason: In the interests of residential amenity. To ensure that noise management plan is in place for the Energy Recovery Facility.

11) Prior to the commissioning of the Aggregate Recycling Facility hereby approved, a noise management plan shall be submitted to and agreed in writing by the Waste Planning Authority, incorporating the mitigation measures identified in Paragraph 172 of the of the Environmental Statement – Chapter 9 Noise and Vibration.

The agreed noise management plans should include a site boundary noise limit, and include night time maximum noise levels (LMAX). Compliance with the management plans should be validated during the commissioning of the plant, and within six months of becoming operational. Compliance with the noise limits, contained within the plan thereafter, should be checked by the operator no less than every 12 months, and a validation report submitted to the Planning Authority annually.

Reason: In the interests of residential amenity.

12) During the period of construction, no ground, construction or fitting out works shall be undertaken and no deliveries shall be taken at or dispatched from the site other than between the following hours:

08:00 and 18:00 hours Monday to Friday;
08:00 and 13:00 hours on Saturdays.
There shall be no construction works undertaken (except for works to address an emergency) or deliveries on Sundays, Bank Holidays or other Public Holidays.

Reason: In the interests of residential amenity.

Working Hours

13) The hours of operation of the Aggregate Recycling Facility shall be limited to the following hours:

07:00 to 18:00 Monday to Friday;
07:00 to 14:00 Saturdays;
with no operations undertaken on Sundays, Bank Holidays or other Public Holidays.

Reason: In the interests of residential amenity.

Ecology - Breeding Birds

14) No stripping, demolition works, or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: In the interests of protected species.

Ecology - Great Crested Newts

15) Prior to the commencement of any works which may affect Great Crested Newts and/or their habitat, a copy of the relevant issued District Level License shall be submitted to the Waste Planning Authority. All works shall then proceed in accordance with the requirements of the signed and issued Natural England licence.

Reason: In the interests of protected species (a District Level Licence would need to be issued prior to any works affecting Great Crested Newts or their habitat).

Ecological Construction Environmental Management Plan

16) No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Waste Planning Authority. The CEMP (Biodiversity) shall include the following.

a) Risk assessment of potentially damaging construction activities.
b) Identification of “biodiversity protection zones”.
c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species and retained habitats during construction.
d) The location and timing of sensitive works to avoid harm to biodiversity features.
e) The times during construction when specialist ecologists need to be present on site to oversee works.
f) Responsible persons and lines of communication.
g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Waste Planning Authority.

Reason: In the interests of protected species and habitats, to prevent construction works harming habitats in the vicinity of the development, and to avoid ecological harm during the construction works and identify and avoid construction phase impacts.

Landscape and Ecological Management Plan

17) No development shall commence until a landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the Waste Planning Authority. The LEMP should combine both the ecology and landscape disciplines and include the following:

a) Description and evaluation of features to be created, enhanced and managed.
b) Ecological trends and constraints on site that might influence management.
c) Aims and objectives of management.
d) Appropriate management options for achieving aims and objectives.
e) Prescriptions for management actions.
f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
g) Details of the body or organisation responsible for implementation of the plan.
h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the LEMP are not being met.
i) Locations of three bat boxes and five bird boxes (include specifications/installation guidance/numbers)

The LEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of protected species, habitats and the visual amenity of the area, to ensure that a LEMP is in place that sets out the landscape and ecological features to be created, enhanced and managed.

Tree Protection Plan

18) No development, hereby approved, shall commence until a Tree Protection Plan, based upon the recommendations of the approved 'FPCR' Arboricultural Assessment, dated 2022 has been submitted to and approved by the Waste Planning Authority.

All measures of the approved Tree Protection Plan shall be adhered to throughout site preparation and construction operations.

Reason: In the interests of protected habitats and visual amenity of the area, to ensure adequate protection is provided for any retained trees and ecological habitats and add to the National Forest planting requirements.

Material Finishes

19) No above ground development shall commence until details of all materials and finishes of any external building elevations and plant have been first submitted for the approval of the Waste Planning Authority.

Reason: In the interests of visual amenity of the area.

Ecology - Biodiversity Net Gain Plan

20) No development shall commence until a Biodiversity Net Gain Plan (BNGP) has been submitted to and approved in writing by the Waste Planning Authority. The aim of the BNGP is to enhance and sympathetically manage the biodiversity value of on-site habitats, in line with the proposals reflected in the submitted Biodiversity Impact Assessment (FPCR, ES Technical Appendix 8.10 Biodiversity Impact Assessment, September 2022) and Biodiversity Metric 3.1 (ES Technical Appendix 8.10A) and to achieve no less than a 10% net gain. The Plan shall address the requirements of net gain at both the Manor Farm and Bretby off-site locations. It shall be suitable to provide to the management body responsible for the site. It shall include the following:

a) description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric;
b) aims and objectives of management, in line with desired habitat conditions detailed in the metric;
c) appropriate management methods and practices to achieve aims and objectives;
d) prescriptions for management actions;
e) preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity);
f) details of the body or organization responsible for implementation of the plan;

g) a monitoring schedule to assess and report on the success of the habitat creation and enhancement measures annually for the first five years and at three-year intervals thereafter with a final report in year 30;
h) a set of remedial measures to be applied if conservation aims and objectives of the plan are not being met; and
i) requirement for a statement of compliance upon completion of planting and enhancement works.

The BNGP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the Plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved Plan will be implemented in accordance with the approved details.

Reason: In the interests of protected habitats, to ensure that the biodiversity value of on-site habitat is enhanced and managed.

Ecology - Biodiversity Net Gain Delivery

21) On commencement of the development, all habitats shown to be retained within area identified as 4-Zone B on the approved Drawing No. 7233-ES-8.10-03, entitled BNG ASSESSMENT SRRP SITE BASELINE HABITATS – RETENTION & LOSS, dated 23 September 2022. Shall be retained for not less than 30 years as a component of the BNG delivery for this site approved under the Biodiversity Gain Plan under Condition 20.

Reason: In the interests of protected habitats, to ensure that the biodiversity value of on-site habitat is enhanced and managed.

Lighting

22) No lighting fixtures shall be installed until a detailed lighting strategy has been submitted to and approved in writing by the Waste Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating feature such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). The approved measures shall be implemented in full.

Reason: To minimise the impact of lighting on bats and other nocturnal wildlife.

Contamination of Land

23) No development shall commence until a remediation strategy, to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to and approved in writing by the Waste Planning Authority. The remediation strategy shall include the following components:

1) site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2) The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Waste Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to or is not put at unacceptable risk from/adversely affected by unacceptable levels of water pollution in line with Paragraph 177 of the National Planning Policy Framework. In accordance with Government Policy, detailed in the National Planning Policy Framework (Paragraph 184), '*where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner*'. Therefore, should any significant contamination subsequently become apparent then responsibility remains with these parties.

Electric Vehicle Charging

24) Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:

- One charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger). To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the local authority.

- Charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the Waste Planning Authority.
- The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason: To ensure that appropriate mitigation measures are in place to minimise the air quality impact of traffic associated with the development.

Low Emissions Vehicle Strategy

25) Before the commissioning of the development, a written scheme, providing full details of controls from fleet transport emissions, shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details about the mix of the vehicle engine and fuel types and fleet management measures which will be taken to minimise the emissions of respirable particulate (PM) and nitrogen dioxide (NO_2). The Low Emissions Strategy shall include specific targets for emission reduction and timescales. The measures in the agreed scheme shall be delivered in accordance with the agreed timescales and maintained throughout the life of the development.

Reason: To ensure that appropriate mitigation measures are in place to minimise the air quality impact of traffic associated with the development.

Management and Maintenance Plan for Surface Water Drainage

26) No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within: Flood Risk Assessment Reference: 1079, dated 30 September 2022, prepared by Awcock Ward Partnership "*including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team*" and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Waste Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided.

Surface Water Run-Off

27) No development shall take place until a Surface Water Drainage Plan for the construction phase has been submitted to and approved in writing by the Waste Planning Authority, that details how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Waste Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

Surface Water Drainage System Verification Report

28) Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved in writing by the Waste Planning Authority. The verification report shall demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C75

Flood Risk

29) The development shall be carried out in accordance with the submitted Flood Risk Assessment (Ref. 1079, dated 30 September 2022) and the following mitigation measures it details:

- finished floor levels shall be set in accordance with Section 5.2, above Ordnance Datum (AOD); and
- compensatory storage shall be provided in accordance with Section 5.3, and EIA Chapter 13, paragraphs 51 to 54.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Rail Asset Protection

30) Prior to the installation of the cable route to the point of connection with the National Grid, a Network Rail Asset protection construction methodology shall be submitted to and approved in writing by the Waste Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Waste Planning Authority.

Reason: To ensure the safety of the operational railway during the installation of the Nation Grid connection cabling.

Informative Notes

Highways

1) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

2) It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community"; this says:

Constructors should give utmost consideration to their impact on neighbours and the public:

- informing, respecting and showing courtesy to those affected by the work;
- minimising the impact of deliveries, parking and work on the public highway;
- contributing to and supporting the local community and economy; and
- working to create a positive and enduring impression and promoting the Code.

The Construction Management Plan, to be submitted in accordance with Condition No. 6, should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues.

Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties.

This does not offer any relief to obligations under existing Legislation.

Land Drainage Consent

3) The proposed crossing of the existing concrete channelled watercourse to enable access to the site, will require Land Drainage Consent. An application, including a detailed design for this should be submitted to the Lead Local Flood Authority, prior to any works commencing on the site.

Coal Mining Risk

4) The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); sites of recorded mine gas incidents and former surface mining. Although such features are seldom readily visible, they are often present and problems can occur, particularly as a result of new development taking place.

Any form of development over, or within the influencing distance of a mine entry, can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstances where this is unavoidable, expert advice should be sought to ensure a suitable engineering solution can be designed, which takes into account all the relevant risk factors, including mine gas and mine water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require a Coal Authority

Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Land Contamination - Model Procedures and Good Practice

5) The Environment Agency recommends that developers should:

- Follow the risk management framework provided in LCRM - Land Contamination Risk Management when dealing with land affected by contamination.
- Refer to the Environment Agency's Guiding Principles for Land Contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

You are also referred to the Environment Agency's groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- waste management;
- discharge of liquid effluents;
- land contamination;
- ground source heat pumps; and
- drainage.

Requirement for an Environmental Permit

6) The proposal for an energy from waste facility associated with this development will require an environmental permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies. The applicant is

advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at: https://www.gov.uk/environmental-permit-check-if-you-need-one.

Biodiversity

7) You could be liable to criminal prosecution under the:

- Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).
- Conservation of Habitats and Species Regulations 2017 for European Protected Species.
- Protection of Badgers Act 1992.

There are several protected species present on site including bats, badgers, great crested newts, grass snakes and nesting birds. It is the applicant's responsibility to ensure that these species are taken into account regarding the impact of the works. Appropriate licenses, such as from Natural England should be sought and mitigation measures implemented to reduce the impact of the works e.g., ensuring a 30m buffer zone from any active badger sett.

It is recommended that vegetation clearance is conducted with the presence of a suitably qualified ecologist due to the possibility of nesting birds, great crested newts and grass snakes.

The new proposed culvert should have a consistent bed level to ensure that it doesn't act as a barrier to fish movement. The invert of the culvert shall be set a minimum of 300mm below the existing bed so that there shall be no step or drop in the final level of the bed. It is also recommended that any fencing on top of the culvert has a bar spacing of at least 150mm to allow free otter passage.

It is your responsibility to minimise the impact on the water quality by reducing the chances of pollution to nearby watercourses and existing great crested newt ponds on site. Therefore, surface water run-off should be directed to the new ponds for filtration before entering the watercourse. Also, where possible there should be an 8m buffer zone between the compound site and any watercourse.

It is recommended that the new ponds created on site should have a gradual gradient to allow mammal egress.

You should be aware that they may require a tree felling license for the removal of woodland.

Opportunities to enhance the built compound for ecology should be explored such as green roofs, bird boxes and bat boxes. In addition, some dead wood could be retained on site as standing dead wood for willow tits or for reptile and amphibian habitat creation.

The National Planning Policy Framework (Paragraph 175) states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. A Biodiversity Net Gain plan including the provision and management of compensatory habitat creation should be submitted and agreed to by the Waste Planning Authority. It should then be implemented as approved.

In accordance with the Planning Practice Guidance (Reference ID: 7-043-20140306), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide the Environment Agency with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. (Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present)).

Rail Asset Protection – Bridge Strikes

8) Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in ‘Bridge strikes’. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer’s expense. I would also like to advise that where any damage, injury or delay to the rail network is caused by

bridge strikes (related to the application site), the applicant or developer will incur full liability.

Gas Infrastructure

9) Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

   If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

   Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

   Your responsibilities and obligations.

   Cadent may have a Deed of Easement on the pipeline, which provides us with a right of access for a number of functions and prevents change to existing ground levels, storage of materials. It also prevents the erection of permanent/temporary buildings, or structures. If necessary Cadent will take action to legally enforce the terms of the easement. This letter does not constitute any formal agreement or consent for any proposed development work either generally or related to Cadent's easements or other rights, or any planning or building regulations applications.

   Cadent Gas Ltd or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

   If you need any further information or have any questions about the outcome, please contact us at plantprotection@cadentgas.com or on 0800 688 588 quoting your reference at the top of this letter.

Statement of Compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended.

The Mineral Planning Authority engaged with the applicant in a positive and pro-active manner based on seeking solutions to problems and issues arising in the processing of this planning application in full compliance with this Article.

The Environmental Statement, as submitted, covered all the necessary topics but did not fully address or explain all the relevant aspects and issues of each topic in a manner which enabled the Mineral Planning Authority to make a full and comprehensive assessment. In accordance with the Town and Country Planning (Environmental Impact Assessment) (EIA) Regulations 2020, the applicant was given clear advice as to the form and content of the supplementary evidence and survey work required to enable an appropriate assessment of the proposed development to be made. The requested information identified the need to complete a range of survey work which was not submitted with the application.

The planning application was accompanied by an Environmental Statement and this was supplemented by additional submissions in response to the request referred to above. The environmental information and the subsequent supplementary information were taken into consideration by the Mineral Planning Authority in reaching this decision.

Chris Henning
Executive Director - Place

Appendix 1

Implications

Financial

1.1 The correct fee of £32,105 has been received.

Legal

2.1 This is an application under Part III of the Town and Country Planning Act 1990, which falls to be determined by the County Council as Waste Planning Authority. By section 66 of the Listed Buildings and Conservation Areas Act 1990, the Council is required, in considering the application, to have special regard to the desirability of preserving the affected listed building setting.

2.2 I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Recommendation.

Human Resources

3.1 None.

Information Technology

4.1 None.

Equalities Impact

5.1 Not applicable.

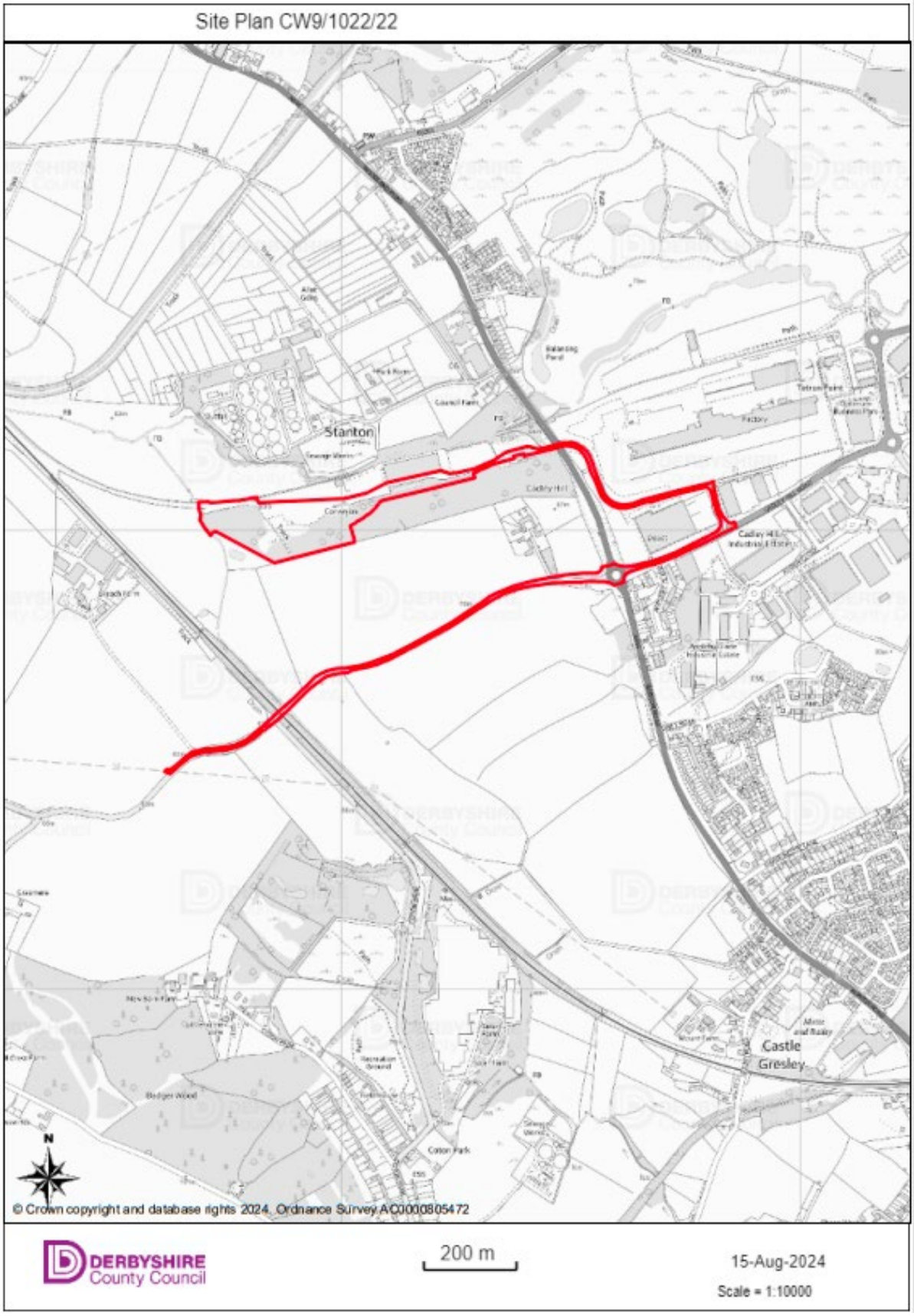
Corporate objectives and priorities for change

6.1 None.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None

Appendix 2


Site Plan CW9/1022/22
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Castle Gresley
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