

**Land adjacent to M4 Membury Airfield, Lambourn Woodlands, Hungerford (“the Site”)**

**Appeal (“the Appeal”) against the refusal of planning permission for the installation and operation of an asphalt plant and associated ancillary development (“the Scheme”)**

**LPA application reference number 23/02142/MINMAJ (“the Application”)**

**Statement of Case (“SoC”) on behalf of Putnam Properties Ltd (“PPL”)**

## **A. Introduction**

1. This SoC sets out the full case of PPL in its Appeal against the refusal of planning permission for the Scheme by West Berkshire Council (“the LPA”) on 21 March 2025 (“the DN”).
2. The Application was recommended for approval by the LPA but was refused at the LPA’s Western Area Planning Committee at its meeting on 19 March 2025.
3. The DN includes three reasons for refusal:
  1. The application site is located in an unsustainable location, having regard to its rural location and the lack of active travel and public transport options for the site. Therefore, the proposed development will not reduce the need for travel, improve and promote opportunities for healthy and safe travel, minimise the impacts of travel on the environment and help tackle climate change, or promote sustainable transport contrary to West Berkshire Core Strategy policies CS13 and CS9 and the National Planning Policy Framework (“RfR1”).
  2. Insufficient information on traffic movements and impact has been provided, with particular regard to the unknown quantity of vehicles using the motorway service station and not Ramsbury Road/Ermin Street in order to access the M4 motorway. This may be suppressing the baseline vehicle movements in the transport assessments and it is not possible to accurately conclude whether the residual cumulative impacts on the road network would be severe in line with NPPF paragraph 116. The Local Planning Authority is therefore also unable to conclude whether the proposal will be able to mitigate impacts on the local transport network or result in unacceptable impacts on road safety and local amenity, in line with West Berkshire Core Strategy policy CS9, West Berkshire Minerals and Waste Local Plan policy MWLP22, and the National Planning Policy Framework (“RfR2”).
  3. The local racehorse industry is of high value to the local rural economy, and it is a highly sensitive and mobile industry. Insufficient evidence has been provided to demonstrate the proposal would not have an adverse effect on horse respiratory health. It is therefore not possible to conclude whether the proposal will have unacceptable impacts on air quality or unacceptable pollution of the environment in line with West Berkshire Minerals and Waste Local Plan policy MWLP26 and West Berkshire District Local

Plan Saved Policy OVS.5. The proposal also has the potential to harm the local racehorse industry based on the perceived impact from environmental pollution, potentially making the local area unattractive for continued investment and for trainers making use of local facilities. This is contrary to West Berkshire Core Strategy policies ADPP5 and CS12 which require the local racehorse industry to be supported and maintained ("RfR3").

4. For the reasons set out in this SoC, PPL disagrees with each of the three reasons for refusal and requests that the Inspector allows the Appeal.

## **B. RfR1**

1. The Site is located within the North Wessex Downs National Landscape, adjacent to the Protected Employment Area ("PEA") of Membury Airfield.
2. Policy CS9 requires development outside PEAs to be assessed against the following criteria:

"compatibility with uses in the area surrounding the proposals and potential impacts on those uses; and capacity and impact on the road network and access by sustainable modes of transport."

3. The Officer's Report ("OR") assessed the Application against these requirements (paragraph 6.12) and concluded that the Site was in a sustainable location: "Given the extant B8 Use Class of the site and surrounding employment uses, which includes a waste treatment facility at Rutpen, it is considered that the site is consistent with the integrity and function of the location for employment purposes".
4. On 23 September 2022, the LPA granted planning permission at the Site for "change of use of land to Class B8" (application reference number 21/03083/COMIND) ("the 2022 Permission") (**Appendix 1**). In paragraph 6.2 of the Officer's Report for the 2022 Permission (**Appendix 2**), the Officer stated as follows:

"Policy CS9 allow for new employment generating schemes adjacent existing Protected Employment Areas (PEAs). This site is one such case. As determined in the previous permission for the same development (change of use to B8, ref: 18/01092/FUL) [{"the 2018 Permission"}], the principle of the development is therefore acceptable."

5. In the Officer's Report for the 2018 Permission (**Appendix 3**), the LPA's Policy Team commented as follows:

"Application site lies adjacent to a Protected Employment Area [PEA]. The NPPF encourages rural economic development. Policy CS9 in this case does allow in appropriate circumstances, the provision of new employment generating schemes adjoining such areas, even if on greenfield sites as is the case here. The assessment is made on the compatibility with adjacent uses, and the impact on the local highways network... It is advised that, if the application is approved, it will not comprise a departure from the Development Plan, given the wording of CS9."

The Officer's Report also noted the following:

"The development is confirmed as not being a departure since policy CS9 does allow for new economic schemes adjacent to existing employment areas - an approved scheme has recently been permitted to the south of this application site [17/02116/outmaj] but has not been implemented....

As already highlighted above, Policy CS9 allows for new employment generating schemes adjacent existing PEAs. This site is one such case. In addition the need for the new development should be set out. The applicants have not set out a specific reason as to why this site should be developed in the manner proposed. However, given the site is unused at present and has the potential for creating new jobs, on balance, given

the advice in the NPPF in supporting the rural economy and the advice in policy CS10 in the WBCS, such schemes are to be promoted by the LPA. In addition it is considered that the wording in the text of both policies ADPP1 and 5 in the WBCS allow for employment intensification in the right context. As noted, the surrounding visual context of the site is predominantly built form or highways. A new B8 use on the site is accordingly appropriate in this context.”

6. PPL agrees with the above assessments, which have been consistent since (at least) 2018. Despite its rural location, the Site location’s determinative characteristic is its adjacency to the PEA. It is surrounded by industrial uses. Policy CS9 does not restrict development outside PEAs.
7. In relation to the first limb of the two criteria in Policy CS9, the Scheme is for an industrial use which will be compatible with uses in the area. In land-use planning terms, it is the right location for the Scheme.
8. In relation to the second limb, the Scheme will not have an adverse impact on the capacity of the road network (see the analysis of RfR2 below). For the purposes of the second limb as it applies to RfR1, it is correct that the closest bus stop is 1.5km from the Site. However, the Scheme will employ 5 people, which is a very low number in terms of the environmental impact which they may have by using non-sustainable modes of transport.
9. It is also impractical, as the OR confirms (at paragraph 6.33) “for deliveries or customers to access the site using anything other than vehicles that are capable of carrying aggregate and hot Tarmac”. In addition, the LPA’s Transport Officer did not identify the absence of sustainable modes of travel as a planning concern, nor would it be practical for the Site to be serviced by rail or water.
10. Furthermore, and more importantly, RfR1’s reference to the Scheme being ‘unsustainable’ fails to have regard to the numerous sustainability benefits of the Scheme. Some of these are set out in the OR (for example, at paragraphs 6.2 and 6.3) and can be summarised and expanded upon as follows:
  - a. reduction in the long-distance vehicular journeys which are currently required into West Berkshire as a result of West Berkshire being a net importer of crushed rock (eg Waste Objective W3 in the Council’s adopted Minerals and Waste Local Plan (December 2022) (“the MWLP”) and Policy 3 of the MWLP;
  - b. proximity of the Site to customers, thereby avoiding travel by those customers to plants outside West Berkshire;
  - c. reduction in anticipated closures for resurfacing of the M4 due to the proximity of the Scheme to the motorway, leading to fewer diversions and traffic jams;
  - d. the reuse of up to 30% of pavement asphalt in its manufacture of new asphalt, reducing waste and the district’s carbon footprint;
  - e. enhance and support the transition to a low carbon future with waste being moved up the waste hierarchy, consistent with the MWLP and its Waste Objectives W2 and W4; and
  - f. the use of previously-developed land, avoiding the need to identify a greenfield site for the Scheme (with its consequential ecological impacts).
11. Whilst Policy CS13 requires transport impacts to be reduced and travel choices to be improved, Policy CS13 also requires development to “help tackle climate change”, a requirement which is included in RfR1. Contrary to the statement in RfR1 that the Scheme will not “help tackle climate change”, the reverse is true. The climate impact of 5 members of staff travelling to their place of work will be significantly and demonstrably outweighed by the reductions in the district’s carbon footprint as a result of the siting of the Scheme within West Berkshire generally, and next to the M4 in particular.

12. As Policy CS13 notes, “Development proposals may not need to fulfil each bullet point”. For example, the explanatory text notes that Policy CS13 “reflects the Council’s desire to plan for people to live in places where there are local facilities and services, whether these are fixed or mobile (development that is in accordance with the settlement hierarchy in ADPP1 will help to achieve this)” (paragraph 5.84 of the Core Strategy). The term “reflects the Council’s desire” explains that the purpose of the policy is aspirational rather than restrictive, and that not each bullet point will be achievable.
13. Applying the planning balance, therefore, the Scheme will be sustainable. Whilst travel to work will require the use of cars, the number of workers using this mode will only be 5. Weighed against this negligible harm are the numerous sustainability benefits of the Scheme. In addition, use of the Site for B8 has already been acknowledged by the Council as being acceptable due to its proximity to the PEA, notwithstanding the lack of public transport facilities.
14. In planning terms, RfR1 is not a sound reason for refusing permission for the Scheme. It is hoped that discussions with the LPA will result in RfR1 not being maintained by the LPA in the Appeal.

#### C. RfR2

1. RfR2 is based on insufficient information having been provided in relation to traffic movements. This is not accepted.
2. The OR summarises the position in relation to traffic impact at paragraphs 6.38 to 6.46. In short, and having regard to the traffic surveys carried out on behalf of PPL, the local highways authority (“the LHA”) has confirmed it is satisfied that the Scheme will not have an adverse impact on the local road network.
3. Given the LHA’s stated position (as confirmed in its consultation response (21 February 2025 (**Appendix 4**)), PPL is struggling to understand the justification for RfR2 and how it could be maintained by the LPA in the Appeal. Furthermore, the absence of harm to the road network would be reinforced by a planning condition (to which PPL would agree and which would be clear and enforceable) which would limit the throughput of the Scheme to 25,000 tonnes per annum .
4. It appears that notwithstanding the LHA’s stated position, the context for RfR2 relates to the “in particular” example, namely, an unquantified concern regarding the unauthorised use of the service road (“the Service Road”) connecting Ramsbury Road with the motorway service station (shown edged green in **Appendix 5**).
5. The Service Road is owned by National Highways and is not a public highway. The Service Road has an existing sign which states that its use is reserved for authorised vehicles only. National Highways was consulted on the Application and did not object, subject to the imposition of a Construction Environmental Management Plan (**Appendix 6**).
6. In order to provide further clarity on this issue, PPL commissioned Hub Transport Planning Ltd to prepare a Transport Technical Note (“TTN”). This was submitted during the course of the Application and was considered by the LHA (eg in its response dated 21 February 2025).
7. Paragraph 2.11 of the TTN states as follows:  
  
“A seven-day Automatic Traffic Count (ATC) from 4th December to 10th December 2024 was collected just to the east of the entrance to the services to understand how much traffic utilises it for access to/from the M4. The results are summarised in Table 1 with the raw ATC data presented at Appendix D.”
8. The survey results explained that there were a total of 1,014 (two-way) vehicle moments per day along the Service Road, equating to an average of c.42 vehicles per hour (two-way). Paragraph 2.42 stated that “no

HGV traffic will utilise the link road to the Membury Service Station and appropriate restrictions will be put in place to ensure this, including a lorry control plan". Whilst the draft planning conditions set out in the OR did not include such restrictions, PPL would agree to the imposition of such a condition if the Inspector considered it to be necessary.

9. Any current unauthorised use of the Service Road is a matter for National Highways. The Scheme, meanwhile, must be assessed on its terms. As the TTN data confirmed, the use of the Service Road is not problematic and draft conditions could limit its use by traffic associated with the Scheme. The LHA did not maintain an objection based on the impact of the Scheme on the Service Road.
10. Accordingly, the Scheme will not have an adverse impact on the capacity of the road network and there is no planning justification for RfR2. In common with RfR1, it is hoped that discussions with the LPA will result in RfR2 not being defended by the LPA in the Appeal.

#### **D. RfR3**

1. RfR3 lacks any evidential basis. It requires the Scheme to prove a negative, namely, that the Scheme would not have an adverse impact on horse respiratory health, despite no evidence having been provided to the LPA that a risk of harm to the respiratory health of horses exists.
2. Ordinarily, it would be sufficient for an appellant not to engage with such a reason for refusal, on the grounds that there is neither any evidence with which to engage, nor alleged harm to refute. For example, by way of parallel, there is similarly no evidence that emissions from the Scheme would not cause harm to the pupils at Lambourn Primary School, yet there would be no planning reason for PPL to engage with such an assertion.
3. However, for the purpose of completeness and the Inspector's assessment of the Appeal, RfR3 is addressed below.
4. The OR considered this issue at paragraphs 6.65 and 6.56. For the purposes of applying planning judgement, the OR placed the Scheme in its proper locational context, namely, adjacent to the intensively-used PEA and the M4 motorway, which would already impact air quality area in the area and which have "not been perceived to impact the local racing industry".
5. In order to assist the Inspector (and building on the locational context identified in the OR), an audit of existing uses within the local area has been prepared and is attached at **Appendix 7**. This audit confirms that there are (at least) 24 industrial uses within the PEA, with more to be added under the extended DEA (see paragraph E(1)(i) below). The location of the Scheme at the Site would be commensurate in land-use terms with these numerous adjacent uses.
6. In addition to its context (which confirms that the Site is an appropriate location for the Scheme), the OR also explained that the Council's Environmental Health Officer accepted the submitted Air Quality Assessment ("AQA"). The AQA assessed the particulate matter which would be emitted by the Scheme and explained as follows (at paragraph 2.2.6):

"within the surrounding area of the proposed asphalt plant at Membury Airfield, the PM10 and PM2.5 levels would be influenced by road traffic on the M4, activity from Membury Airfield Industrial Estate, and farming activity. Additionally, global PM10 and PM2.5 emissions will also have a considerable influence."

7. The AQA also made the following important observations, including in relation to mitigation:

"2.4.1 Medical studies have consistently failed to find any link between dust arising from mineral working and public health....

- 2.4.4 The Health and Safety Executive have set the occupational exposure limit for dust at 10 mg/m<sup>3</sup> as an 8-hour time weighted average. As previously mentioned such a figure may have significance within a site if workers are immediately adjacent to a particular operation prone to high dust emissions. However, due to dilution and dispersion it is extremely unlikely that any residential property around a site would ever experience concentrations of dust as high as this, with environmental dust levels some 100 times less being the norm.
- 3.4.6 The material will be conveyed into the asphalt plant, where it will be dried through a rotary drier before being elevated to the top of the plant where it will be screened and stored prior to being mixed with bitumen and other additives. The mixed asphalt will then be transferred to one of the hot mixed storage bays prior to customer collection. The throughput of the proposed plant is intended to process up to 25,000 tonnes of asphalt per annum.
- 3.4.7 The IAQM suggests that a throughput of less than 200,000tpa is considered a small dust raising potential. The plant used is of a compact design and makes use of conveyors. It is therefore considered that mineral processed at the site be classed as a small residual source emission.
- 3.4.11 The IAQM deem 25 collections per day on a hardstanding paved surfacing as a small residual source emission.
- 5.3 For a dust event to occur there must also be a failure of dust control measures. Particles greater than 30µm make up the greatest proportion of dust emitted from mineral processing and largely deposit within 100m of sources. Particles between 10 and 30µm are likely to travel from 250 to 400m, while sub 10µm particles, which make up a small proportion of dust emitted from most mineral processing operations, may travel up to 1km from sources.
- 5.4 In considering the climatic conditions, it is clear the winds will predominate from the west-south-west quadrant with an analysis of the number of dry windy working days giving a maximum of some 4.5 such days likely in a west-south-westerly direction in any one year.
- 5.27 When conditions for dry windy working days do occur, the implementation of the dust suppression measures discussed in Section 3 and Appendix 3, will ensure that dust emissions are minimised. The use of such best practice measures, which have been implemented at mineral extraction and asphalt sites throughout the United Kingdom, suggest that such measures will be effective.
- 6.14 For Grid Square 429500, 175500 the highest annual mean when combined with the site attributable load of 1 µg/m<sup>3</sup> is for the year 2021 and gives a projected burden of 14.42 µg/m<sup>3</sup>. Such an annual mean is calculated to produce less than 1 daily exceedance of 50 µg/m<sup>3</sup>.
- 6.15 Hence the proposed asphalt plant would satisfy the UK Air Quality Objectives for PM<sub>10</sub> of no more than 35 exceedances per year of a 24 hour mean of 50µg/m<sup>3</sup> and an annual mean of 40 µg/m<sup>3</sup>.
- 6.16 This procedure clearly indicates that the PM<sub>10</sub> from this proposal is not likely to exceed the Air Quality Objectives and it is considered that the best practice measures proposed for dust control are appropriate and in proportion to the potential for dust emission.
- 6.21 If the development is permitted, an increase in the annual mean concentration of PM<sub>10</sub> and PM<sub>2.5</sub> would not exceed the Air Quality Objectives."
- 8. In addition to the OR's acknowledgment that the AQA's thorough assessment and conclusion confirmed that the Scheme would comply with Air Quality Objectives, the OR also noted that the Scheme would be operated under an Environmental Permit, correctly stating that "planning decisions should assume that these regimes

will operate effectively” (per *R (Hereford Waste Watchers Ltd v Herefordshire CC* [2005] Env LR 29 (at para 34(5)):

“However, it [the authority] should assume that other agencies will act competently and it should not therefore anticipate problems or difficulties on the basis that those agencies may not do so.”

9. The OR also pointed out that the Council’s Economic Development Team, whose remit is to promote the local economy, had neither raised the effect on the local racehorse industry as a concern nor objected to the proposal.
10. It is PPL’s view that the conclusions of the AQA should be given substantial weight. Not only do they represent the professional opinion of an experienced environmental consultant specialising in this discipline, and the OR has agreed with these conclusions, but also that there is no evidence that these conclusions are incorrect
11. Whilst it relates to another site, it is also relevant to note that planning permission was granted in February 2013 for “the provision of a covered horse training track” (“the 2013 Permission”) (**Appendix 8**). The location of the application site is a few hundred metres north of the M4 (**Appendix 9**). The proposed scheme included a canopy as the cover for the training track but the sides of the track were open. Despite the proximity of the horse training track to the M4, and the open sides of the track, the Lambourn Trainers Association was “fully in support” of the scheme (**Appendix 10**). This unequivocal support is significant, as there is no rational basis for concluding that the proximity of an open track close to the M4 (and the PEA) would not be harmful to the respiratory health of horses, whilst an asphalt plant which has been demonstrably shown not to affect existing air quality would have such an impact.
12. The support given by the local racehorse industry to the 2013 Permission disproves the suggestion made by many objectors to the Application that the scheme could “result in horse owners choosing to stable their horses elsewhere”. However, this suggestion is mirrored in RfR3 where it states that the local racehorse industry is “a highly sensitive and mobile industry”, and needs to be examined.
13. There is no evidence to suggest that the industry would move elsewhere if the Appeal was allowed, other than by unsubstantiated assertion. However, if it was to move then an obvious location would be Newmarket. In that respect, it is relevant to note the grant of planning permission in 2016 for “a racehorse training establishment and the erection of up to 63 dwellings” at Meddler Stud, Bury Road, Kentford, Newmarket (“the 2016 Permission”) (**Appendix 11**).
14. In the Inspector’s Decision Letter for the 2016 Permission, the Inspector identified “the effect of the proposed development on the Horse Racing Industry” as a ‘main issue’ (**Appendix 12**). At paragraph 18, the Inspector noted as follows: “the proposed RTE [Racehorse Training Establishment] would provide a modern facility that would be attractive to trainers setting up new businesses.”
15. The Jockey Club objected to the application for the 2016 Permission on the grounds that the scheme would result in the loss of existing RTE land. However, neither the Jockey Club, any other members of the racehorse industry, any statutory consultees, the LPA nor the Inspector considered there would be harm to the racehorses due to their proximity to the existing Tarmac Higham Asphalt Plant located just over 1km from the proposed RTE (**Appendix 13**).
16. If the racehorse industry is “highly mobile” (for which there is no evidence), and if it would move to Newmarket if the Appeal was allowed, it is relevant that the industry did not find any reasons to object to the 2016 Permission notwithstanding that it would be located c.1km from an existing asphalt plant. For the same reason, there is no basis for the industry’s current claim that the Appeal (if allowed) would result in the industry moving to a different location, as the co-existence of RTEs and asphalt plants is demonstrably not objectionable to the racehorse industry.

17. It is also relevant to note that even if the national targets for PM<sub>2.5</sub> were exceeded by the Scheme (which is not the case), those targets are not binding on planning decision-makers (*R (Shirley) v SSCLG* [2019] PTSR 1614). Similarly, the WHO guidelines on PM<sub>2.5</sub> do not apply to the UK (as confirmed at paragraph 12 in the recent appeal decision for a development on land at Titford Road, Oldbury (**Appendix 14**)).
18. Notwithstanding the absence of evidence of harm due to air quality and the location of the Site within an established industrial area and next to the M4, RfR3 continues with an unsubstantiated assertion that “the proposal has the potential to harm the local racehorse industry based on the perceived impact from environmental pollution, potentially making the area unattractive for continued investment and for trainers making use of local facilities” (emphasis added).
19. In terms of planning decision-making, perception of harm can be a material consideration. However, such perception (or ‘fear and concern’, as the Court has described similar examples) must have some reasonable basis and be objectively justified (*West Midlands Probation Committee v SSETR* [1998] 76 P&CR). Moreover, as the Court held in *Gateshead MBC v SSE* [1994] 1 PLR, such fear or concern must be assessed by the decision-maker in terms of whether it is baseless:
- “Public concern is, of course, and must be recognised by the Secretary of State to be, a material consideration for him to take into account. But if in the end that public concern is not justified, it cannot be conclusive. If it were, no industrial development—indeed very little development of any kind—would ever be permitted.” (emphasis added)
20. For example, in a decision relating to a proposed development of an asphalt production plant at Whitewall Quarry, North Yorkshire (**Appendix 15**), an Inspector dismissed the appeal on the grounds that “the plant could well influence owners about where to stable their racehorses”. In the Inspector’s Opinion, the scheme would have this unacceptable effect because of the following factors:
- (a) emissions from the stack would be evident and visible;
  - (b) the quarry site was close to a town;
  - (c) there would be an unacceptable, cumulative impact of additional HGV traffic which would alter the character of roads which led to some of the training yards.
- The Inspector concluded that the appeal should be dismissed, citing that it was unsustainable development in the countryside, would cause noise harm, and unacceptable traffic noise for sensitive residential receptors. The harm caused by the perception of impacts on the horse racing industry was just one factor in the decision.
21. In contrast, an Inspector recommended allowing an appeal (with which the Secretary of State agreed) for a dry anaerobic digestion facility, waste transfer station and other infrastructure in Somersham (**Appendix 16**). In that case, risks to public health and local businesses were considered in the appeal. However, the Inspector concluded that “the information before me confirms there is no compelling scientific basis to find the level of these risks to be unacceptable” (paragraph 12.66). The Inspector acknowledged that the “local community and business owners” had “genuine concerns” and that “perception matters are material” (paragraph 12.67) but concluded that only “limited weight” could be given to these concerns “paragraph 12.69).
22. Comparisons between the land-use planning acceptability of the Scheme and these two appeal decisions are inherently unhelpful. However, they have been mentioned in this SoC because, at least in relation to the decision at Whitewall Quarry, it is understood that this decision may be used by some parties as justification for RfR3. If that is the case, such reliance would be misplaced, for the following reasons:

- (a) it is trite (but nevertheless necessary) to note that each development must be assessed on its merits;



- (b) the locational context for the scheme at Whitewall Quarry was substantially different to the one which exists for the Scheme;
  - (c) the scheme at Whitewall Quarry was found to be unacceptable for many reasons, with the perception of harm to the horse-racing industry being just one of those reasons;
  - (d) even if the Inspector for the Appeal agrees that a perception of harm exists, and even if the Inspector considers that such harm is not baseless, it would represent just one planning harm set against numerous planning benefits of the Scheme, including (but not limited to) the following:
    - a. the importance of ensuring that the UK has a sufficient supply of minerals;
    - b. the sustainability benefits of the Scheme;
    - c. the location of the Site next to an active, industrial area;
    - d. the location of the Site next to the M4;
    - e. the economic benefits of the Scheme;
    - f. the absence of any harm to air quality; and
    - g. the absence of any harm to the local road network.
23. When carrying out the planning balance, the Inspector is respectfully requested to give substantial weight to each of items 15(d)(a) to (d) above and moderate weight to (e). When combined with 15(e), (f) and (g), the weight to be given to the perception of harm to the horse racing industry, particularly in the absence of any evidence that such harm exists, cannot outweigh the benefits of the Scheme.
24. Furthermore, the support of the local horse-racing industry for the covered racing track (paragraph D(11) above) is also evidence that the industry does not consider the location of equine facilities close to the M4, and the poor air quality of that environment, would dissuade businesses from using those facilities. On the contrary, this support shows that the horse-racing industry is unconcerned by co-locating horses close to motorways and the air pollution which they emit.
25. In summary, there is no basis for concluding that an unsubstantiated (and, given the support of the race-horsing industry for the covered racing track) baseless concern that the Scheme would have any effect on the horse-racing industry. Even if (which PPL does not accept) there is a genuine concern to which the Inspector wishes to give weight, such weight is significantly outweighed by the obvious and numerous planning benefits of locating the Scheme on the Site.

## **E. Other Material Considerations**

1. Three other planning issues are also material to the Inspector's determination of the Appeal.
  - (i) Draft Local Plan Policy SP20
    - a. The draft Local Plan is at an advanced stage, and commensurate weight should be given to it (per paragraph 49 of the NPPF). It includes draft Policy SP20, which (together with draft Policies SP21 and DM32) will replace Policy CS9. This is relevant to RfR1.
    - b. Draft Policy SP20 states (where relevant) as follows:

“Appropriate proposals for business development (offices, industrial, and storage and distribution) will be supported where they are located;

a. on sites allocated for business development as set out Policy SP21 and in accordance with the individual site specific policy; or

....

c. within a Designated Employment Area (DEA) [formerly PEAs] in accordance with Policy DM32 and as defined on the Policies Map; or

d. on previously developed land within existing suitably located employment sites....”

- c. The Inspector’s Main Modifications have proposed the following amendments to draft Policy SP20 (amendments shown underlined / strikethrough):

‘Through the LPR the Council will seek to facilitate the growth and forecasted change of business development over the plan period through site allocations and by promoting the supply of office and industrial space across the District to the meet the identified ~~shortfall~~ needs. For the plan period 2023 – 2041 there is a requirement across the District for a minimum of 57,531sqm (NIA) of office space and a minimum of 98,196sqm (GIA) (24.5ha) of industrial space.

Appropriate proposals for business development (offices, industrial and storage and distribution) will be supported where they are located:

a) On sites allocated for business development as set out Policy SP21 and in accordance with the individual site specific policy (ESA1 – ESA6) in this Plan or any subsequent neighbourhood plans; or

b) On a suitable site within a settlement boundary; or

c) Within a Designated Employment Area (DEA) in accordance with Policy DM32, and as listed in Appendix 4 and as defined on the Policies Map; or

d) On previously developed land within existing suitably located employment sites; or

e) Within the countryside provided the proposal is in accordance with other relevant policies within the Plan, in particular policy DM35.

Proposals for.....’

Amendments to the boundary of the following Designated Employment Areas:

- Youngs Industrial Estate
- Membury Industrial Estate

as shown in the Schedule of Changes to the Policies Map (PMC8 & PMC9)”

- d. In relation to the DEAs, paragraph 7.14 explains as follows:

“As a result the ELR recommends safeguarding existing employment sites. West Berkshire has a number of designated employment areas (DEA) which are specific locations across the District designated for business

uses/development providing a range of sites and locations to promote sustainable economic growth. The District's DEAs contribute significantly to the supply of employment land and provide opportunities for regeneration and intensification and therefore Policy DM32 seeks to safeguard these areas to protect and strengthen their function and integrity."

- e. The Inspector's Main Modifications also includes a new paragraph 8.3:

"Membury Industrial Estate has seen a number of redevelopments and expansions in recent years and through the LPR the boundary of the DEA has been extended to reflect these changes and to support the creation of local job opportunities in the more western rural areas of the District. The allocated sites at Membury (ESA2 and ESA3) will also aid in addressing a local and rural demand."

- f. In addition, the draft Local Plan includes two allocations at the Membury Industrial Estate which have expanded its size, namely, land west of Ramsbury Road (ESA2) and land to the south of Trinity Grain (ESA3).
- g. The draft local Plan includes a plan showing the extent of the enlarged Membury Industrial Estate DEA (**Appendix 17**). The extended area can be compared against the existing extent of the PEA (**Appendix 18**) which shows (inter alia) the extension of the PEA to the west, ie towards, beyond and adjacent to the Site.
- h. The Site's location under the draft Local Plan further underlines its sustainability, being adjacent to the expanded DEA, with the M4 (and further DEA) to the north, and the motorway services to the west.
- i. The proposed allocation of two new sites within the expanded DEA also confirms that the Site is within a sustainable location, as otherwise these two new sites (and the retention and expansion of the DEA) would not have been proposed by the LPA in the draft Local Plan, nor approved for inclusion within it by the Local Plan Inspector.

(ii) The NPPF

- (a) As the OR explains, the NPPF is supportive of the Scheme in many sections, including paragraphs 8, 89, 100, 116, 222 and 223(b).
- (b) For example, paragraph 110 notes that "opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making", which is a key planning point in favour of the Scheme being located on the Site.
- (c) The NPPF is a significant material consideration which weighs in favour of allowing the Appeal.

(iii) The Fallback Position

- (a) The Site has the benefit of an extant consent under the 2022 Permission. Whilst condition 14 of the 2022 Permission limits the use of the Site under the permission to "the storage of groundworks and construction vehicles, plant, equipment, materials, machinery and other items associated with the groundworks contracting business", there are no limits on the hours of use of the approved development, or HGV and other traffic movements.
- (b) Accordingly, the fallback position (which is a material planning consideration as the prospect of the B8 use being intensively used is a real possibility) is that there are currently no controls over how the Site should be operated, other than in relation to the goods which may be stored. In contrast, the Scheme would provide planning controls which would ensure that any planning harm is avoided and mitigated (as necessary).

## **F. Conclusion**

1. The OR was correct to recommend approval for the Application. There are no objections to it from any consultee (except a sustainability objection from LHA). The Scheme is located adjacent to the PEA and the soon-to-be adopted DEA. The Scheme accords with the development plan and, in addition, there are several material planning considerations which further weight in its favour. In land-use planning terms, it is the right scheme in the right location.
2. None of the reasons for refusal are supportable. Taking each reason for refusal briefly in turn:

### **(a) RfR1**

- a. the Scheme is for an industrial use which will be compatible with uses in the area (per limb 1 of Policy CS9);
- b. the Scheme will not have an adverse impact on the road network (per limb 2 of Policy CS9 and Policy CS13);
- c. the location of a bus stop 1.5km from the Site will have a negligible impact in sustainable transport terms, as the Scheme will only employ 5 people; and
- d. the Scheme will have numerous sustainability benefits, including (i) reducing long-distance journeys currently required to manage the fact that West Berkshire is a net importer of crushed rock, (ii) reducing closures to the M4, (iii) reusing up to 30% of pavement asphalt in the manufacture of new asphalt, (iv) using previously-developed land, and (v) enhancing the transition to a low carbon future by moving waste higher up the waste hierarchy (per Policy 3 of the MWLP and waste Objectives 2, 3 and 4).

### **(b) RfR2**

- a. the Scheme includes sufficient information in relation to traffic movements;
- b. no objection has been maintained by the LHA in relation to traffic movements;
- c. the Scheme would be limited to 25,000 tonnes per annum, which is accepted by the LHA as having no adverse impact on movements;
- d. the Service Road is owned by National Highways which has not objected to the Scheme;
- e. the data for use of the Service Road confirms that the Scheme will not have any adverse effect on its use; and
- f. a planning condition may be imposed, if necessary, restricting HGV traffic utilising the Service Road to the west of the Site entrance.

### **(c) RfR3**

- a. no evidence has been provided which demonstrates that the Scheme will cause harm to the respiratory health of horses;

- b. the Scheme is adjacent to both the PEA (and soon to be DEA) and the M4, which defines the air quality of the area and in relation to which there is no evidence that the respiratory health of horses has been harmed by the presence of these existing uses;
  - c. the Council's Environmental Health Officer has accepted the conclusions of the submitted AQA;
  - d. an audit of existing consents in the area demonstrates the extensive presence of industrial uses, whilst the horse industry has continued to thrive;
  - e. any "fear and concern" for the horse industry has no reasonable basis and has not been objectively justified;
  - f. the Council's Economic Development Team, whose remit includes the local horse-racing industry, has raised no objection to the Scheme;
  - g. the Scheme is not located close to a town and its emissions would not be visible in the wider area, unlike (for example) the scheme at Whitewall Quarry; and
  - h. the existing PEA did not dissuade an application for a partially-covered racing track close to both the PEA and the M4, nor support for that scheme from the local horseracing industry.
- (d) In addition, the Scheme will comply with the emerging Local Plan and the expansion of the PEA (into a new DEA), the Scheme complies with the key paragraphs in the NPPF and the Scheme already has the benefit of planning permission for a B8 use (the fallback position).
- (e) It is hoped that the LPA will agree not to contest the Appeal, and discussions will be held between PPL and the LPA in this regard following the submission of the Appeal.
- (f) For all these reasons, the Inspector is respectfully requested to allow the Appeal.

**23 May 2025**

## APPENDIX 1

Artland Ltd  
Mr Andrew Turvill  
Highwood House  
Well Lane  
Lower Froyle  
Alton  
Hants  
GU34 4LP

**Applicant:**  
Putnam Properties Ltd

### **PART I - DETAILS OF APPLICATION**

**Date of Application**

7th December 2021

**Application No.**

**21/03083/COMIND**

### **THE PROPOSAL AND LOCATION OF THE DEVELOPMENT:**

Change of use of land to Class B8

Land Adjacent To M4, Membury Airfield, Road Known As Ramsbury Road, Lambourn Woodlands Hungerford West Berkshire

### **PART II - DECISION**

**In pursuance of its powers under the Town and Country Planning Act 1990, West Berkshire District Council GRANTS planning permission for the development referred to in Part I in accordance with the submitted application form and plans, subject to the following condition(s):-**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

Location Plan, drawing number PUT/002 Rev A received on 7 December 2021;  
Entrance Surfacing Plan, drawing number PUT/003 received on 9 December 2021;  
Swept Path Analysis Plan, drawing number JG02 received on 9 December 2021;  
Block Plan, drawing number PUT/001 Rev B received on 16 May 2022;  
Existing Levels, drawing number SU00485- SHT01 received on 17 August 2022.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. The use hereby approved shall not commence until details of the sustainable drainage measures to be implemented at the site including any hardstanding

material, cross sections drawings, resultant ground levels and management/maintenance details have been submitted to and approved in writing by the Local Planning Authority and implemented in full in accordance with the approved details. The sustainable drainage measures shall be maintained in accordance with the approved details thereafter and no other hardstanding shall be laid within the site.

Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity. This condition is applied in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Sustainable Drainage Systems (December 2018).

4. The use hereby approved shall not commence until a detailed soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The soft landscaping scheme shall include detailed plans, including cross section diagrams of the western boundary landscaping alongside the service road showing the depth of each of the different landscaping elements to be placed there, the landscaping, planting and retention schedule, programme of works, management prescriptions including the management of landscaping after 5 years post implementation to ensure that mitigation measures continue, and any other supporting information. All soft landscaping works shall be completed in accordance with the approved soft landscaping scheme within the first planting season following first use of the site and managed and maintained in accordance with the approved details thereafter. Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of this completion of the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

Reason: Landscaping is an integral element of achieving high quality design and is also necessary to mitigate the impact of the proposal in respect of ecology and biodiversity. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14, CS17 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.

5. The use hereby approved shall not commence until boundary treatments for the site have been implemented in accordance with a boundary treatment scheme that has first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall include details of fauna access points to be provided as part of the development that allow fauna to utilise the planting proposed within the site.

Reason: To ensure the protection of species and habitats, which are subject to statutory protection under European Legislation. This condition is imposed in accordance with the National Planning Policy Framework (2019) and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

6. The mitigation measures described in the Ecological Appraisal created by Aluco Ecology Ltd dated January 2021 shall be implemented in full (except for landscaping, the timing of which is defined in condition 4) before the use hereby



approved is brought into first use and the measures shall thereafter be retained. This measures include (but not limited to):

- carrying out works on any woody vegetation at an appropriate time of year, usually considered to be between September to February unless the area is checked by a suitably qualified ecologist beforehand;
- trenches in excess of one metre in depth should be covered or secured and a means of escape provided for any animal that does fall in (a suitable escape can be provided by wooden planks placed at a 45 degree angle);
- any temporarily exposed open pipe system should be capped in such a way as to prevent Badgers gaining access;
- chemicals and fuels should be stored carefully and as far away from any setts and badger paths as possible, and in accordance with the Code of Construction Practice;
- updated badger survey where works have not commenced within 12 months;
- provision of bird boxes, bat boxes located by a suitably qualified ecologist.

Reason: To ensure the protection of species and habitats, which are subject to statutory protection under European Legislation. This condition is imposed in accordance with the National Planning Policy Framework (2019) and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

7. No items including structures, plant, equipment, materials, products or goods shall be placed or stored above a height of 4 metres from the existing ground levels shown on drawing number SU00485- SHT01 received on 17 August 2022. The ground levels on the site shall not be altered unless approved as part of the details submitted in respect of sustainable drainage (condition 3) or landscaping (condition 4).

Reason: To ensure that future storage on site has an acceptable visual impact in the surroundings in accord with the National Planning Policy Framework and Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

8. No vehicles accessing the site shall be routed via the unnamed road to the south of the site via the Motorway Service Area. All access must be via Ramsbury Road to the east of the site only.

Reason: To ensure that unauthorized vehicles from the proposed development do not access the M4, via the westbound Membury Services, from the unnamed access road and therefore does not have a detrimental impact on the M4, and to ensure the M4 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

9. The use hereby approved shall not be brought into first use until the vehicular site access to the site from the unnamed road off of Ramsbury Road and visibility splays have been completed in accordance with the Block Plan, drawing number PUT/001 Rev B received on 16 May 2022, and, the Entrance Surfacing Plan, drawing number PUT/003 received on 9 December 2021.

Reason: The timely completion of the site access is necessary to ensure safe and suitable access for all. This condition is applied in accordance with the

National Planning Policy Framework, and Policy CS13 of the West Berkshire Core Strategy 2006-2026.

10. The use hereby approved shall not be brought into first use until vehicle parking have been completed in accordance with the approved plans (including any surfacing arrangements and marking out). Thereafter the parking shall be kept available for parking (of private cars and/or private light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026, and Policy P1 of the Housing Site Allocations DPD 2006-2026.

11. The use hereby approved shall not be brought into first use until cycle parking/storage facilities have been provided in accordance with the approved drawings. Thereafter the facilities shall be maintained and kept available for that purpose at all times.

Reason: To ensure the provision of cycle parking/storage facilities in order to encourage the use of cycles and reduce reliance on private motor vehicles. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026, Policy P1 of the Housing Site Allocations DPD 2006-2026, Quality Design SPD, and the Council's Cycle and Motorcycle Advice and Standards for New Development (November 2014).

12. The development hereby approved shall be undertaken in accordance with the Construction and Environmental Management Plan (CEMP) dated 6 July 2021 and received on 9 July 2021.

Reason: To safeguard the amenity of adjoining land uses and occupiers and biodiversity and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework, Policies CS5, CS13 and CS17 of the West Berkshire Core Strategy (2006-2026), Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

13. No external lighting shall be installed until a lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

(a) Identify those areas on the site that are particularly sensitive for bats and that are likely to cause disturbance.

(b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species.

(c) Include isolux contour diagram(s) of the proposed lighting.

(d) Ensure all lighting levels are designed within the limitations of Environmental Lighting Zone 1, as described by the Institute of Lighting Engineers unless sufficient evidence is provided to demonstrate that a different lighting zone is appropriate.

No external lighting shall be installed within the site except in accordance with the above strategy.

Reason: To ensure the conservation and enhancement of the biodiversity assets of the site and to conserve the dark night skies of the North Wessex Downs AONB. This condition is applied in accordance with the National Planning Policy Framework, the North Wessex Downs AONB Management Plan 2019-24, and Policies CS17 and CS19 of the West Berkshire Core Strategy 2006-2026.

14. Irrespective of the provisions of the Town and Country (General Permitted Development) Order 2015 or any subsequent variation thereof, the use of the site shall be for purposes of the storage of groundworks and construction vehicles, plant, equipment, materials, machinery and any other items associated with the groundworks contracting business only, and no other use within use Class B8 or any other Class of the Town and Country Planning (Use Classes) Order 1987 (or any subsequent use thereof) will be permitted.

Reason: In the interests of highway safety and in order to ensure that the use of the site is of an scale and intensity commensurate to its rural location in accordance with the recommendations of the National Planning Policy Framework and Policies CS13 and CS14 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012.

The decision to grant Planning Permission has been taken having regard to the policies and proposals in the National Planning Policy Framework, South East Plan 2006-2026, West Berkshire District Local Plan 1991-2006 (WBDLP) Saved Policies 2007, the Waste Local Plan for Berkshire, adopted 1998, the Replacement Minerals Local Plan for Berkshire 1991-2006 (incorporating the alterations adopted in December 1997 and May 2001) and to all other relevant material considerations, including Government guidance, Supplementary Planning Document; and in particular guidance notes and policies:

The reasoning above is only intended as a summary. If you require further information on this decision please contact the Council via the Customer Call Centre on 01635 519111.

#### **INFORMATIVE:**

- 1 The applicant's attention is drawn to the fact that above conditions must be complied with in full before any work commences on site, failure to do so may result in enforcement action being instigated.
- 2 The above Permission may contain pre-conditions, which require specific matters to be approved by the Local Planning Authority before a specified stage in the development occurs. For example, "*Prior to commencement of development written details of the means of enclosure will be submitted to and approved in writing by the Local Planning Authority*". This means that a lawful commencement of the approved development cannot be made until the particular requirements of the pre-condition(s) have been met. A fee is required for an application to discharge conditions.

- 3 This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance

to secure high quality appropriate development which improves the economic, social and environmental conditions of the area.

4 The unnamed road serving the Membury motorway service area is owned by National Highways. You must obtain the prior consent of the owner of that land upon which it is necessary for you to enter in order construct, use, or in any other way carry out any works in connection with this development. This permission granted by the Council in no way authorises you to take such action without first obtaining this consent.

5 All bats are protected by The Wildlife and Countryside Act 1981 (WCA) (as amended) & The Conservation of Habitats and Species Regulations 2010. Should you find bats during development, all work must stop until advice has been sought from Natural England. Their local contact number is 0300 060 3886.

Decision Date :- 23rd September 2022

**Bob Dray**  
**Interim Development Control Manager**

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against the local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online using the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk).
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

#### **Purchase Notices**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## APPENDIX 2

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(3)	21/ 030 83/ COM IND La m bo urn	10 M arch 202 2 <sup>1</sup>	Ch ange o f use o f lan d to Cl ass B8  La nd A djac ent To M 4 Mem bur y A irfie ld Roa d K no wn A s R am sbu ry R oa d La m bo urn Wo od la nds Hu nger fo rd W est Ber kshi re  Pu tnam Pr op ertie s L td

The application can be viewed on the Council's website at the following link:

<http://planning.westberks.gov.uk/rpp/index.asp?caseRef=21/03083/COMIND>

**Recommendation Summary:** To **DELEGATE** to the Service Director, Development and Regulation to **GRANT PLANNING PERMISSION** subject to the schedule of conditions (Section 8.2 of the report)

**Ward Member(s):** Co unc illor Ho ward Woo llast on

**Reason for Committee Determination:** Mo re t han 10 l etters o f o bjec tion

**Committee Site Visit:** 25 A ugu st 2022

#### Contact Officer Details

**Name:** Jak e Br ow n  
**Job Title:** Pr inc ipal Pl ann ing Of ficer  
**Tel No:** 016 35 5191 11  
**Email:** ja ke.b row n@w est ber ks.gov .u k

## 1. Introduction

- 1.1 This application seeks planning permission for the change of use of land use Class B8 (storage and distribution).
- 1.2 The application site is located to the west of Ramsbury Road, immediately adjacent to, but not within, the designated Protected Employment Area of Membury Airfield Industrial Estate. The application site lies within the North Wessex Downs Area of Outstanding Natural Beauty.
- 1.3 The application documents submitted advise that the site will be occupied by the applicant as a storage depot for their groundwater contracting businesses.

## 2. Relevant Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision / Date
18/ 010 92/ FU L	Change of Use of land to Use Class B8.	Approved 26/ 07/ 201 8
16/ 021 16/ OU TMAJ	Outline application for the erection of three units for research and development and associated facilities - matters to be considered - access and layout.	Approved 16/ 11/ 201 6
21/ 018 09/ COND 1	Application for approval of details reserved by conditions 2 (landscaping), 3 (ground levels), 6 (surface arrangements), 7 (access), 8 (vehicle parking and turning), 9 (cms) and 10 (cycle parking/turning) of approved 18 /010 92/ FU L - Change of Use of land to Use Class B8.	Cannot be determined 08/ 09/ 202 1
20/ 028 92/ SC REE N	EIA Screening Opinion Request for the proposed Asphalt Bat ching Plant (Class B 2).	No t EIA Development

- 2.2 It is important to note that permission for the same use at the same site was granted in 201 8 (ref: 18/010 92/FU L) as detailed above. Matters reserved by conditions attached to that permission were submitted for approval (ref: 21/0180 9/CON D1). However, as permission 18/010 92/FU L had expired and the development had commenced without lawfully complying with those conditions, that application could not be determined. As a result, this application seeking permission for the same development previously granted has been submitted.

## 3. Procedural Matters

- 3.1 The proposed development falls within the column 1 description at paragraph 10(a) (Industrial estate development projects) of Schedule 2 of the Town and County Planning (Environmental Impact Assessment) Regulation 201 7. Although it does not meet/exceed the relevant threshold in column 2, it is located in a sensitive area, namely



the North Wessex Downs Area of Outstanding Natural Beauty. The proposal is therefore “Schedule 2 development” within the meaning of those Regulations.

- 3.2 However, an EIA screening exercise has been undertaken taking into account the selection criteria in Schedule 3 of the regulations which concluded that the proposal is likely to have significant effects on the environment. Accordingly, the proposal is not considered “EIA development” within the meaning of the Regulations. This is consistent with a formal EIA Screening previously undertaken for a development that is considered to have the potential for greater impact (ref: 20/02892/SCREEEN for proposed Asphalt Batching Plant).
- 3.3 A site notice was displayed on 7 January 2022 and the deadline for representations expired on 28 January 2022. A press notice was advertised in the Newbury Weekly on 16 December 2021.
- 3.4 Community Infrastructure Levy (CIL) is a levy charged on most new development to pay for new infrastructure required as a result of the new development. CIL is only charged on residential and retail development. The proposed development would not require any financial contributions to be made in respect of the Council’s Adopted CIL Charging Schedule. More information is available at [www.westberks.gov.uk/cil](http://www.westberks.gov.uk/cil)

## 4. Consultation

### *Statutory and non-statutory consultation*

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council’s website, using the link at the start of this report.

<b>Lambourn Parish Council:</b>	<p>Object:</p> <ul style="list-style-type: none"> <li>• Traffic Impact and sustainability issues: Highway surveys recommended that planning permission not be granted at this time, due to the impact on the Strategic Road Networks. The Parish Council have serious concerns in relation to the impact that this development will have on the local rural road networks, as recent developments in this area now impact on the surrounding villages if there are problems on the B4000, Ermin Street or the M4 road networks.</li> <li>• There has been much development on the Membury Industrial Site in the past three years, West Berkshire Council (WBC) need to undertake an urgent cumulative impact assessment of the site before granting any further planning applications in this area.</li> <li>• In addition to examining the Critical Infrastructure, which has been impacted by the industrial growth in the area.</li> <li>• The site sits outside the Protected Employment Area, within the AONB.</li> <li>• We urge WBC to conduct an Environmental Impact Assessment on the site as these have not been undertaken to date, due to the salinisation of land parcels.</li> </ul>
---------------------------------	--

	<ul style="list-style-type: none"> <li>WBC's Consultants report that informed the Local Development Plan, clearly states that there is no need for more industry in this part of West Berkshire (Santec).</li> <li>The Swept Path Analysis does not stop traffic entering or exiting this site from blocking Emergency Vehicle Access to or from the Motorway Access Road.</li> </ul>
<b>WBC Highways (1st response):</b>	No objections, request conditions as per previous permission.
<b>WBC Highways (2nd response):</b>	No objections to amended conditions proposed following receipt of additional information.
<b>National Highways (1st response):</b>	Holding objection.
<b>National Highways (2nd response):</b>	No objections, request in formative advising of land ownership.
<b>Archaeology:</b>	No objections.
<b>Environment Agency:</b>	No comments.
<b>Ecology Officer:</b>	No response received.
<b>Lead Local Flood Authority (LLFA):</b>	No response received.
<b>Environmental Health:</b>	No response received.
<b>Thames Water:</b>	No response received.
<b>Ramblers:</b>	No response received.

### ***Public representations***

- 4.2 Representations have been received from 26 contributors, 5 of which support, and 21 of which object to the proposal.
- 4.3 The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following issues/points have been raised objecting to the development proposed:
- Impact on AONB;
  - Increase in HGV traffic;
  - Noise impact;
  - Impact on highway safety and vehicles blocking emergency access road to M4;
  - Loss and harm to trees;

- Impact on rural character and appearance of the area;
- Located outside of designated Protected Employment Area;
- Over industrialisation of Memory Area;
- Impact on Local and Strategic Road Network (SRN);
- Lack of public transport to site;
- Cumulative impact with other developments;
- Requires EIA;
- Light pollution;
- Air pollution;
- Impact on neighbouring amenity;
- Impact on ecology and biodiversity;
- Pollution of aquifer impacting River Lambourn and Kennet;
- Topsoil and vegetation has already been removed;
- Unsustainable location;
- Lack of notification to landowner;
- Structural impact of HGVs on neighbouring properties;
- Set back precedent for future applications;
- Inadequate electrical infrastructure;
- Lack of surface water drainage strategy.

4.4 The following issues/points have been raised supporting the development proposed:

- Improvement in appearance of area;
- Additional trees and vegetation providing biodiversity benefit;
- Would bring employment and jobs to the area;
- Site already surrounded by existing industrial area, services and M4 motorway;
- Site is maintained in a tidy state;
- Support for local business and growth;
- Good location for distribution;
- Site previously used as a dumping ground;
- No negative impact on neighbouring businesses or businesses in the local area;
- Good location for development.

## 5. Planning Policy

5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

- Policies ADPP1, ADPP5, CS5, CS9, CS10, CS13, CS14, CS16, CS17 and CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policies OV S.5, OV S.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

5.2 The following material considerations are relevant to the consideration of this application:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- North Wessex Downs AONB Management Plan 2014-19

## 6. Appraisal

6.1 The main issues for consideration in this application are:

- Principle of development;
- Character and appearance and AONB;
- Highway matters;
- Ecology;
- Sustainable drainage;
- Neighbouring Amenities.

### ***Principle of development***

6.2 Policy CS9 allows for new employment generating schemes adjacent existing Protected Employment Areas (PEAs). This site is one such case. As determined in the previous permission for the same development (change of use to B8, ref: 18/010 92/ FUL), the principle of the development is therefore acceptable.

### ***Character and appearance and AONB***

6.3 As considered in the previous permission granted, the proposed change of use is not considered to harm the character and appearance of the area or AONB subject to securing appropriate landscaping.

6.4 This application is accompanied by a Landscape and Visual Appraisal (LVA) which concludes that the site is currently degraded land and with suitable mitigation in the form of new and additional supplementary planting on the site's boundaries, any localised adverse effect would be adequately addressed.

6.5 A planting scheme is detailed in the LVA similar to that previously submitted under application 21/018 09/COND 1 to which the Tree Officer advised was considered to form a comprehensive planting scheme and raised no objections.

6.6 Subject to the same conditions imposed by the Council for the previous permission - to agree ground levels, limit the maximum height of storage to 4 metres and implement the proposed planting scheme - it is considered that the development proposed would be acceptable in respect of the impact on the character and appearance of the area and AONB.

### ***Highway matters***

6.7 The Local Highway Authority (LHA) Officer has reviewed the application and raises no objections subject to conditions to secure the implementation of details previously sought by condition which have now been submitted as part of this application.

6.8 Matters regarding access, trip generation, highway safety and movements were considered under the previous approval and as per the previous permission, the LHA have raised no issues in respect of this application for the same development.

6.9 National Highways have confirmed, following a detailed review of the application and discussion with the applicants, that they have no objections to the proposal and its impact on the SRN.

6.10 Therefore the development is not considered to run contrary to development plan policies in respect of highway matters.

- 6.1 1 Representations received raise concern with HGVs blocking the emergency access road to the M4 motorway service area. That road is owned by National Highways and permission for the use of that road will need to be sought separately by the applicant from National Highways. However, that is a civil matter and not a consideration for this planning application but should that road be blocked by vehicles either accessing the application site, or other sites along this road, National Highways are responsible and have powers to ensure that does not occur. Moreover, suitable access to the application site has been proposed with a suitable pull in area to reduce any instances of vehicles stopping on the access road. As such, the likelihood of vehicles blocking the access road to the motorway service area is considered to be very limited.

## ***Ecology***

- 6.1 2 No issues were raised in respect of ecology and biodiversity for the previous permission granted. An updated Ecological Appraisal has been submitted which concludes that there will be an improvement in biodiversity subject to securing the measures set out in the appraisal, including the proposed landscaping scheme. Those measures can be adequately secured by conditions.

## ***Sustainable Drainage***

- 6.1 3 The site is not located within Flood Zones 2 or 3. An area at risk from surface water flooding is located east of the application site, approximately 130 metres from the site at the junction with Ramsbury Road.
- 6.1 4 No response from the LLFA has been received. As noted in the submitted design and access statement, a site infiltration test has been undertaken which demonstrates good infiltration potential for the disposal of surface water on the site, such that the proposed development will not give rise to flood risk elsewhere.
- 6.1 5 It is proposed that the site will be surfaced with road planings to provide a permeable hardstanding which the applicant considers is consistent with the previous permission considered and granted by the Council. The submitted design and access statement also advises that from earlier conversations from the West Berkshire Council's Land drainage engineer that flooding events have occurred on the service Road near to the junction with Ramsbury Road.
- 6.1 6 However, road planings and MOT Type 1 are not permeable. Therefore, insufficient details have been provided to ensure that surface water will be managed in a sustainable manner. As it is considered that suitable sustainable drainage can be achieved within the site, a condition is proposed requiring such details prior to the laying of any hardstanding.
- 6.1 7 Subject to securing those measures, it is considered that the proposal will not give rise to any concern in respect of surface water flooding.

## ***Neighbouring amenity***

- 6.1 8 Representations received raise concerns in respect of noise, light and air pollution and the impact on neighbouring amenity. No response to this application has been received from the Environmental Health officer.
- 6.1 9 Such issues would have been considered in the determination of the previous approval and the use of the land for the storage and distribution is not considered to give rise to any significant concerns regarding noise and air pollution. Light pollution can be adequately controlled by condition, particularly as the site is located within the AONB

where dark skies are to be protected (noting that some light pollution may already exist from the nearby motorway services).

- 6.2.0 The nearest neighbouring residential property is located some 350 metres south-west of the application site. The proposed change of use is not considered to introduce any significant detrimental impact on the amenity of this residential property. In respect of the neighbouring properties adjacent to the application site, these are industrial/storage uses and the proposed change of use of the application site is not considered to introduce any significant detrimental impact on the amenity of those immediate neighbouring properties.

## 7. Planning Balance and Conclusion

- 7.1 The NPPF states there is a presumption in favour of sustainable development, which paragraph 8 advises should be applied in assessing and determining development proposals. The NPPF identifies three dimensions to sustainable development: economic, social and environmental.
- 7.2 The proposal is considered to contribute to economic development in the long term weighing in significantly in favour of granting permission. The environmental considerations have been assessed in terms of design, amenity and impact on the area as well as surface water flooding and ecology and are considered acceptable. Social considerations overlap those of the environmental in terms of amenity and are considered acceptable. Having assessed the application in terms of design, impact on the area, highways, ecology and impact on neighbouring amenity the development is considered to be representative sustainable development.
- 7.3 It is acknowledged that objections have been received from the public and Parish Council. However, it is considered that the objections have been satisfactorily addressed throughout this report and the previous permission granted is a material consideration of significant weight in favour of the proposal.
- 7.4 No material changes in planning policy have occurred since the previous permission for the same development at the same site was granted. It is acknowledged that other developments in the nearby area (Membury Industrial Estate) have been also been granted since that previous permission (such as land south of Tower Works, ref: 19/02979/OU TMAJ; and land immediately opposite the application site (south), ref: 20/00562/COM IND). However, the cumulative impacts of those alongside this permission sought are not considered sufficient to give rise to any concerns.

## 8. Full Recommendation

- 8.1 To delegate to the Service Director of Development & Regulation to GRANT PLANNING PERMISSION subject to the conditions listed below.

### **Conditions**

1.	<p><b>Commencement of development</b></p> <p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
----	---

2.	<p><b>Approved plans</b></p> <p>The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:</p> <p>Location Plan, drawing number PU T/002 Rev A received on 7 December 2021 ;          Landscaping Plan, drawing number WH L-136 1-05 received on 7 December 2021 ;          Entrance Surfacing Plan, drawing number PU T/003 received on 9 December 2021 ;          Septic Tank Analysis Plan, drawing number JG02 received on 9 December 2021 ;          Block Plan, drawing number PU T/001 Rev B received on 16 May 2022 ;          Existing Levels, drawing number SU 004 85 - SH T01 received on 17 August 2022 .</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning .</p>
3.	<p><b>Sustainable Drainage</b></p> <p>No hardstanding shall be laid within the site until details of the hardstanding material, including cross sections drawings, demonstrating provision of permeable surface to ensure that no surface water is shed from the site on to the unimproved road have been submitted to and approved in writing by the Local Planning Authority and implemented in full in accordance with the approved details. The hardstanding shall be maintained in accordance with the approved details thereafter and no other hardstandings shall be laid within the site.</p> <p>Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity. This condition is applied in accordance with the National Planning Policy Framework, Policy CS 16 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Sustainable Drainage Systems (December 2018).</p>
4.	<p><b>Soft Landscaping</b></p> <p>All soft landscaping works shall be completed in accordance with the approved soft landscaping scheme (LVA dated November 2021 and drawing number WH L-136 1-05 received on 7 December 2021 and the General Notes for Soft Landscaping received on 9 July 2021 ) within the first plantings season following completion of building operations / first use of the site (whichever occurs first). Any trees, shrubs, plants or hedgerows planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of this completion of the approved soft landscaping scheme shall be replaced within the next plantings season by trees, shrubs or hedgerows of a similar size and species to that originally approved.</p> <p>Reason: Landscaping is an integral element of achieving high quality design. This condition is applied in accordance with the National Planning Policy Framework, Policies CS 14 and CS 19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.</p>
5.	<p><b>Ecology</b></p> <p>The mitigation measures described in the Ecological Appraisal created by Aluco Ecology Ltd dated January 2021 shall be implemented in full (except for landscaping, the timing of which is defined in condition 5) before the use hereby approved is brought into first use and the measures shall thereafter be retained. These measures include (but not limited to):</p>

	<ul style="list-style-type: none"> <li>- carrying out works on any woody vegetation at an appropriate time of year, usually considered to be between September to February unless the area is checked by a suitably qualified ecologist beforehand;</li> <li>- trenches in excess of one metre in depth should be covered or secured and a means of escape provided for any animal that does fall in (a suitable escape can be provided by wooden planks placed at a 45 degree angle);</li> <li>- any temporarily exposed open pipe system should be capped in such a way as to prevent Badgers gaining access;</li> <li>- chemicals and fuels should be stored carefully and as far away from any sets and badger paths as possible, and in accordance with the Code of Construction Practice;</li> <li>- updated badger survey where works have not commenced within 12 months;</li> <li>- provision of bird boxes, bat boxes located by a suitably qualified ecologist.</li> </ul> <p>Reason: To ensure the protection of species and habitats, which are subject to statutory protection under European Legislation. This condition is imposed in accordance with the National Planning Policy Framework (2019) and Policy CS 17 of the West Berkshire Core Strategy (2006-2026).</p>
6.	<p><b>Maximum Height of Storage and Ground Levels</b></p> <p>No items including structures, plant, equipment, materials, products or goods shall be placed or stored above a height of 4 metres from the existing ground levels shown on drawing number SU 004 85 - SH T01 received on 17 August 2022. The ground levels on the site shall not be altered except for the landscape bund in accordance with drawing number WH L-136 1-05 received on 7 December 2021.</p> <p>Reason: To ensure that future storage on site has an acceptable visual impact in the surroundings in accordance with the National Planning Policy Framework and Policies CS 14 and CS 19 of the West Berkshire Core Strategy (2006-2026).</p>
7.	<p><b>Access via Ramsbury Road only</b></p> <p>No vehicles accessing the site shall be routed via the unnamed road to the south of the site via the Motorway Service Area. All access must be via Ramsbury Road to the east of the site only.</p> <p>Reason: To ensure that unauthorised vehicles from the proposed development do not access the M4, via the westbound Membury Services, from the unnamed access road and therefore does not have a detrimental impact on the M4, and to ensure the M4 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.</p>
8.	<p><b>Access Creation and Surfacing</b></p> <p>The use hereby approved shall not be brought into first use until the vehicular site access to the site from the unnamed road off of Ramsbury Road and visibility splays have been completed in accordance with the Block Plan, drawing number PUT/001 Rev B received on 16 May 2022, and, the Entrance Surfacing Plan, drawing number PUT/003 received on 9 December 2021.</p> <p>Reason: The timely completion of the site access is necessary to ensure safe and suitable access for all. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS 13 of the West Berkshire Core Strategy 2006-2026.</p>



9.	<p><b>Parking</b></p> <p>The use hereby approved shall not be brought into first use until vehicle parking have been completed in accordance with the approved plans (including any surfacing arrangements and marking out). Thereafter the parking shall be kept available for parking (of private cars and/ or private light goods vehicles) at all times.</p> <p>Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is applied in accordance with the National Planning Policy Framework, Policy CS 13 of the West Berkshire Core Strategy 2006 -2026, and Policy P1 of the Housing Site Allocations DPD 2006 -2026.</p>
10.	<p><b>Cycle Parking/Storage</b></p> <p>The use hereby approved shall not be brought into first use until cycle parking/storage facilities have been provided in accordance with the approved drawings. Thereafter the facilities shall be maintained and kept available for that purpose at all times.</p> <p>Reason: To ensure the provision of cycle parking/storage facilities in order to encourage the use of cycles and reduce reliance on private motor vehicles. This condition is applied in accordance with the National Planning Policy Framework, Policy CS 13 of the West Berkshire Core Strategy 2006 -2026, Policy P1 of the Housing Site Allocations DPD 2006 -2026, Quality Design SPD, and the Council's Cycle and Motor cycle Advice and Standards for New Development (November 2014).</p>
11.	<p><b>Construction and Environmental Management Plan (CEMP)</b></p> <p>The development hereby approved shall be undertaken in accordance with the Construction and Environmental Management Plan (CEMP) dated 6 July 2021 and received on 9 July 2021.</p> <p>Reason: To safeguard the amenity of adjoining land uses and occupiers and biodiversity and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework, Policies CS 5, CS 13 and CS 17 of the West Berkshire Core Strategy (2006-2026), Policies OV S.5, OV S.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>
12.	<p><b>Lighting strategy (AONB/Ecology)</b></p> <p>No external lighting shall be installed until a lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:</p> <ul style="list-style-type: none"> <li>(a) Identify those areas on the site that are particularly sensitive for bats and that are likely to cause disturbance.</li> <li>(b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species.</li> <li>(c) Include isolux contour diagram(s) of the proposed lighting.</li> <li>(d) Ensure all lighting levels are designed within the limitations of Environmental Lighting Zone 1, as described by the Institute of Lighting Engineers unless sufficient evidence is provided to demonstrate that a different lighting zone is appropriate.</li> </ul>

	<p>No external lighting shall be installed within the site except in accordance with the above strategy.</p> <p>Reason: To ensure the conservation and enhancement of the biodiversity assets of the site and to conserve the dark night skies of the North Wessex Downs AONB. This condition is applied in accordance with the National Planning Policy Framework, the North Wessex Downs AONB Management Plan 2019-24, and Policies CS 17 and CS 19 of the West Berkshire Core Strategy 2006-2026.</p>
13.	<p><b>Use Restriction</b></p> <p>Irrespective of the provisions of the Town and Country (General Permitted Development) Order 2015 or any subsequent variation thereof, the use of the site shall be for purposes of the storage of ground works and construction vehicles and machinery only, and no other use within Use Class B8 or any other Class of the Town and Country Planning (Use Classes) Order 1987 (or any subsequent use thereof) will be permitted.</p> <p>Reason: In the interests of highway safety and in order to ensure that the use of the site is of an scale and intensity commensurate to its rural location in accordance with the recommendations of the National Planning Policy Framework and Policies CS 13 and CS 14 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012.</p>

### **Informatives**

1.	<p>This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development which improves the economic, social and environmental conditions of the area.</p>
2.	<p>The unna med road serving the Membury motorway service area is owned by National Highways. You must obtain the prior consent of the owner of that land upon which it is necessary for you to enter in order to construct, use, or in any other way carry out any works in connection with this development. This permission granted by the Council in no way authorises you to take such action without first obtaining this consent.</p>
3.	<p>All bats are protected by The Wildlife and Countryside Act 1981 (WCA) (as amended) &amp; The Conservation of Habitats and Species Regulations 2010. Should you find bats during development, all work must stop until advice has been sought from Natural England. Their local contact number is 03 00 060 388 6.</p>

## APPENDIX 3

# **CASE OFFICER'S (MBB) REPORT ON APPLICATION NUMBER 18/01092/FUL**



**Site: Land Adjacent To M4  
Membury Airfield  
Lambourn Woodlands  
Hungerford**

## **CONSULTATIONS.**

Parish Council - No objections but request any commercial traffic is not routed via Lambourn.

Highways - Conditional permission is recommended. The vehicle trip movement suggested in the TA of 20 per day may in fact be higher, but even so it is not considered that the application could be rejected on this basis given the established industrial nature of the surrounding Membury Estate and the advice in para 32 of the NPPF and policy CS13 in the WBCS. Sufficient space on site to allow conditioning of parking etc. and future layout of access.

Policy - Application site lies adjacent to a Protected Employment Area [PEA]. The NPPF encourages rural economic development. Policy CS9 in this case does allow in appropriate circumstances, the provision of new employment generating schemes adjoining such areas, even if on greenfield sites as is the case here. The assessment is made on the compatibility with adjacent uses, and the impact on the local highways network. However policies ADPP1 and ADPP5 in the WBCS seek to allow only limited new development in the open countryside and, in particular, the AONB must be protected in accord with the advice in paras 115 and 116 in the NPPF. Given the importance of the local landscape a LVIA should be requested from the applicant, or reasoning as to why such a LVIA need not be submitted. It is advised that, if the application is approved, it will not comprise a departure from the Development Plan, given the wording of CS9.

Highways England - No objection but recommend a condition that the current Membury access road, off which the proposed new access is to be, will not allow access via the MSA to the M4 westbound.

Trees - Conditional permission is recommended.

SUDS - No response received.

No letters of representation received.

## **COMMENT .**

On 6th June 2018, the Council wrote to the applicants agent confirming that no ES was required to be submitted with the planning application. This was required since the application lies in the AONB and so a sensitive location in terms of the 2015 EIA Regulations.

The development is confirmed as not being a departure since policy CS9 does allow for new economic schemes adjacent to existing employment areas - an approved scheme has recently been permitted to the south of this application site [17/02116/outmaj] but has not been implemented. Presently the Council is considering an alternative form of development on that site under 18/01320/comind. This may or may not be approved by the Council. In addition the land to the immediate east of the application site comprises hangars in the CS9 PEA. To the west of the site lies

the Membury MSA which, whilst not in the PEA, still comprises built form. Finally to the north of the application site lies the M4 motorway, and beyond that lies a further portion of the CS9 area. Accordingly the site is effectively "land locked" by present built form or highways.

Notwithstanding the above the site is certainly green field at present although a level of unauthorised development has been commenced on site - it has not been considered expedient to initiate enforcement action given the relative lack of harm in visual terms, but also the fact that this application has been submitted, which must be examined on its merits.

To confirm there is no planning history on the site post 2000.

## DESCRIPTION.

The application site is 0.8ha in extent and roughly triangular in nature. It is proposed to permit a B8 storage use on the site for a local Company but, if permission is granted, it will not be personal to that particular Company. The applicant, notwithstanding is Rutpen Limited who have been at the Membury Estate for some considerable period, being a well established Company. They own the land but if approved it is expected that A Plant will take over the site, employing up to an additional 11 employees on site for plant hire services. This would sit well with the surrounding context of permitted car storage to the south and HE Services to the south as well.

The principal points to examine in the application are as follows:-

### 1 - Principle.

As already highlighted above, Policy CS9 allows for new employment generating schemes adjacent existing PEAs. This site is one such case. In addition the need for the new development should be set out. The applicants have not set out a specific reason as to why this site should be developed in the manner proposed. However, given the site is unused at present and has the potential for creating new jobs, on balance, given the advice in the NPPF in supporting the rural economy and the advice in policy CS10 in the WBCS, such schemes are to be promoted by the LPA. In addition it is considered that the wording in the text of both policies ADPP1 and 5 in the WBCS allow for employment intensification in the right context. As noted, the surrounding visual context of the site is predominantly built form or highways. A new B8 use on the site is accordingly appropriate in this context.

### 2 - Highways / Amenity.

The officer has recommended conditional approval. The access is existing onto a lightly trafficked unnamed road leading to the MSA on the M4 to the west. This direct access is acceptable [but not of course via the MSA as Highways England have noted]. It is recognised in terms of local amenity and the planning history of the wider site at Membury that two particular dwellings may be affected by increased traffic movements arising. The TA notes that it is expected only circa 11% of the movements generated by this new scheme would access the site from the south via the Ramsbury Road where these two cottages lie. Accordingly the officer considers any amenity impact will be minimal.

Consideration has also been given as to whether it would be appropriate to apply a condition restricting timings of use of the new site. Para 206 of the NPPF provides advice on when planning authorities should apply conditions to planning permission. They should be [inter alia] enforceable, and reasonable. It is not considered that the control of vehicle movements in the evenings and night time is enforceable by the Council as the access roads are all public, the proposed movements are low, the M4 is adjacent and most [but not all] businesses at Membury historically have no such conditions applied.

### 3 - Visual and landscape impact.

The application site lies in the NWD AONB a nationally designated landscape. It is not however major development being less than 1.0 ha in extent. Accordingly the advice in para 115 in the NPPF refers. This notes that [inter alia] great weight should be given to the conservation of the landscape and scenic beauty of AONBs. The application was not however accompanied by a full LVIA which would have been normally expected to justify the application. In the light of this the applicant was requested to submit one but instead has submitted a landscape opinion as to why no LVIA is necessary in this case. This concluded that given the degraded nature of the surrounding landscape and the significant elements of built form such as the new solar array park to the west and the grain silos to the south, with the M4 intervening with the MSA, the level of positive contribution that this parcel of land makes to the surrounding AONB is low - accordingly new B8 development on it will not be harmful. A full LVIA is thus not needed.

The case officer has visited the site on a number of occasions and is familiar with the surrounding vicinity. It has been concluded that the opinion submitted is acceptable. It is in fact self evident. The application once approved will as well be subject to a landscaping condition .

## CONCLUSION

All planning applications are required to be determined in accord with the three tenets of sustainability in the NPPF.

In environmental terms the application is, on balance, considered acceptable. There will be an inevitable highways impact arising out of the scheme but this will be relatively self contained - the highways report confirms this as has the Council Highways Officer. Para 32 of the NPPF refers - the impact will not be severe so it should not be rejected.

With the proposed maximum height condition and the landscaping condition, the scheme will be acceptable in landscape impact terms [see above]. The surrounding visual context is also very important in this regard.

In social terms the application will create up to 11 jobs. These will tend toward the less skilled where there is the "most" unemployment in the District. This must be of benefit - indeed, this will clearly be of economic benefit in assessing the scheme.

## RECOMMENDATION .

Approval - subject to conditions. No s106 or CIL charges refer.

Copy for  
Lambourn Parish Council  
Lambourn Memorial Hall  
Oxford Street

Lambourn  
Hungerford  
RG17 7XP

## APPENDIX 4



**From:** Alistair Buckley <Alistair.Buckley@westberks.gov.uk>  
**Sent:** 24 Feb 2025 02:54:16  
**To:** dmsimport@westberks.gov.uk  
**Cc:**  
**Subject:** FW: 23/02142/MINMAJ Land Adjacent To M4 Membury Airfield Lambourn Woodlands  
**Attachments:**

**From:** Paul Goddard <Paul.Goddard@westberks.gov.uk>  
**Sent:** 21 February 2025 16:33  
**To:** Elise Kinderman <Elise.Kinderman1@westberks.gov.uk>; Alistair Buckley <Alistair.Buckley@westberks.gov.uk>  
**Cc:** Cheryl Evans <Cheryl.Evans@westberks.gov.uk>; Gareth Dowding <Gareth.Dowding@westberks.gov.uk>  
**Subject:** 23/02142/MINMAJ Land Adjacent To M4 Membury Airfield Lambourn Woodlands

Hi both, further to my email below, we've now viewed all available traffic data further. This includes data obtained from the Walkers Logistics planning application 19/02979/FUL, traffic surveys undertaken by this Council, and traffic data now included with this planning application. Data from the Ermin Street / Ramsbury Road crossroads and the B4000 near St Marys church has been viewed with the following results:

**Total through Ermin Street / Ramsbury Road crossroads**

	08:00-09:00		17:00-18:00	
	Light	Heavy	Light	Heavy
30/04/2019	395	30	409	27
26/11/2024	293	39	368	8

**B4000 Woodlands St Marys St Marys Parish Church - Lat/Lng. 51.48193,-1.54501**

	Eastbound		Westbound	
	Light	Heavy	Light	Heavy
24/01/2020	1958	199	1723	243
27/01/2020	1920	157	1432	204
03/11/2021	2102	221	1864	325
04/11/2021	2068	238	2015	362
05/11/2021	1808	197	1809	280
25/11/2024	1974	433	2474	362
26/11/2024	1858	420	2660	388
27/11/2024	1888	409	2885	375
28/11/2024	1787	388	2348	374
29/11/2024	1815	404	2481	342

*NB - Heavy vehicles include all vehicles exceeding a length of 5.2 metres*

Unfortunately, the information is still somewhat limited in places including only two days of snapshot of the Ermin Street / Ramsbury Road crossroads. From those figures it is interesting that it is suggested that in 2024, there is a decrease in the number of vehicles using the crossroads compared to 2019. But much more data would need to be obtained to gain a better picture. Unfortunately, the 2019 data is also only a one day survey.

The traffic flows along the B4000 near St Mary's church do suggest a definite upward trend particularly westbound in total traffic numbers and the overall number of heavy vehicles using the road, which goes some way to confirming the concerns raised by many residents in the Lambourn Woodlands area. Due to the data from the crossroads, it is not possible to conclude that the increase in traffic on the B4000 since 2019 is due to Membury. The increases may also be quite possibly to or from the Lambourn or Baydon area, or even further in those directions.

Either way, the Local Highway Authority is becoming increasingly concerned regarding the increase in traffic that seems to be occurring along the B4000 through Lambourn Woodlands. However, there are now two questions that need to be

answered, being is this increase causing detriment with regards to congestion along links and junctions, and highway safety and secondly is this development proposal potentially adding to those numbers to sufficiently to raise an objection.

I consider that currently there is not yet enough evidence to suggest that junctions and links are becoming congested, and from the Personal Injury Accident data mentioned in my previous e-mail below, there is yet to be a definite increase in the number of PIA's that are taking place along the B4000. Of course, every PIA is regrettable, and it could be argued that caution should be taken to ensure that there aren't increases in PIA's along the B4000, but unfortunately I consider that it would be difficult to win at any planning appeal unless there is a definite upward trend in the number of PIA's. And then, as mentioned in my previous e-mail below, the proposal will increase traffic overall by just over 1% along the B4000, which in my view is a very small increase.

I therefore consider on balance with the data that is available above, that it would still be difficult to refuse this planning application of traffic level grounds and highway safety at this stage, but the situation along the B4000 and towards Membury will need to be monitored and recorded further with any further significant development proposals in the area.

I would conclude with paragraph 116 of the NPPF, which states that *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios"*. I would therefore conclude on balance that the traffic impact of this development would not be severe.

I have copied in colleagues in Traffic Management and Road Safety for any further comments that they may have.

Overall, a highway objection on sustainability grounds still stands.

Best wishes

**Paul Goddard** (he/him)  
**Highways Development Control Team Leader**  
Environment Department, West Berkshire Council, Market Street, Newbury RG14 5LD  
(01635) 519207 | Ext 2207 | [paul.goddard@westberks.gov.uk](mailto:paul.goddard@westberks.gov.uk)  
[www.westberks.gov.uk](http://www.westberks.gov.uk)

[Click here to sign up to the monthly Environment Delivery Newsletter](#)



Please consider the environment before printing this e-mail

The majority of our office based teams are working from home. We are fully enabled to work remotely so this will not impact on our service to our clients or our colleagues. However, we do require that all communications are sent to us electronically by email so that we will be in a position to receive and respond. Thank you for your co-operation.

---

**From:** Paul Goddard <[Paul.Goddard@westberks.gov.uk](mailto:Paul.Goddard@westberks.gov.uk)>  
**Sent:** 14 February 2025 16:01  
**To:** Alistair Buckley <[Alistair.Buckley@westberks.gov.uk](mailto:Alistair.Buckley@westberks.gov.uk)>  
**Cc:** Elise Kinderman <[Elise.Kinderman1@westberks.gov.uk](mailto:Elise.Kinderman1@westberks.gov.uk)>; Gareth Dowding <[Gareth.Dowding@westberks.gov.uk](mailto:Gareth.Dowding@westberks.gov.uk)>  
**Subject:** 23/02142/MINMAJ Land Adjacent To M4 Membury Airfield Lambourn Woodlands

Hi Alistair, I refer to the Transport Technical Note prepared by Hub Transport Planning Ltd, and I have also read other submissions recently received including letters from the public

## INTRODUCTION

1. This additional TN was sought to address concerns raised in relation to trip generation and traffic impact from a local community that has been for some years and continues to be concerned regarding trip generation and traffic impact.
2. The TN sets out to provide:
  - Assess the potential cumulative impact of the proposed development traffic on the B4000, specifically in relation to the number of HGVs.
  - Examine and validate the existing survey data recorded on Ermin Street (B4000).
  - Consider the future impact of vehicles by applying growth factors to the existing traffic survey data to 2029, and add traffic associated with local committed developments, and the proposed development.
  - Undertake a review of Personal Injury Accidents (PIAs) along the B4000 from Membury over the most recent 10 years, comparing the latest five years with the preceding five years and identify any trends.

## PERSONAL INJURY ACCIDENT TRENDS

3. Personal Injury Accident data was supplied directly from West Berkshire Council for the most recent ten year period up to June 2024. The TN compares the most recent five years from June 2019 to June 2024, with the preceding five years being June 2014 to June 2019.
4. Tables in Section 2 of the TN shows that from 2014 to 2019, there were a total of nine PIA's, six resulting in slight injuries and three resulting in serious injuries. For the following five years from 2019 to 2024 there were a total of ten PIA's, again six resulting in slight injuries and four resulting in serious injuries. Every PIA is regrettable, but from these figures it would be difficult to tell so far whether there is a clear trend on the roads within the vicinity of the site or along the B4000 that they are so becoming more susceptible to PIA's
5. Considering the letters of objection that have also been submitted, it also needs to be made clear that only incidents that result in personal injuries are recorded. Incidents involving damage to vehicles or property are not recorded by Thames Valley Police.

TRAFFIC TRENDS

6. The applicants have conducted a traffic count on the B4000 at location 51.48193,-1.54501, which is the same location to earlier surveys undertaken by West Berkshire Council in 2019 and 2021. The 2024 survey was an Automatic Traffic Count (ATC) survey, undertaken between November 25<sup>th</sup> and December 1<sup>st</sup> 2024. I have compared the 2024 traffic flow figures to the 2019 and 2021 figures and provided the following:

From 0 to 24 hours	westbound	eastbound	total
Tuesday June 18th 2019	1188	1158	2346
Tuesday November 2nd 2021	2377	2306	4683
Tuesday November 26th 2024	3048	2278	5326

B4000 Ermin Street traffic flows

7. The overall increases would appear significant, and I will need to continue to liaise with colleagues within the Traffic Management and Road Safety team on these figures and general trends including with HGV's. I will need to write further on this point in due course.
8. To project traffic flows to a 2030 future year, NTEM adjusted average day growth factors, obtained from TEMPro for MSOA West Berkshire for background traffic growth have been added to the 2024 traffic survey data. In addition, local committed developments confirmed by West Berkshire Council were also included:
- Land south of Tower Works (Ref: 19/02979/OUTMAJ) – 10,381 sqm (B8)
  - Land adjacent to Membury Airfield (20/00562/COMIND) – 1.44 ha (B8)
9. In addition to the above, the following emerging Local Plan sites are included within the cumulative assessment. The email response is included at Appendix C.
- Site LAM10 – Land adjacent grain silo, Membury – 5,200 sqm (B2)
  - Site RSA14 – Land adjoining Lynch Lane, Lambourn – 60 dwellings
10. I am content with how traffic has been distributed on to the network from these committed developments

TRAFFIC IMPACT FROM PROPOSAL

11. It is understood that the proposed development will operate as a collect style asphalt plant that will aim to serve local contracting companies seeking to purchase smaller quantities of asphalt loads of up to 10 tonnes. It is also an aim that the plant will serve mainly local highways contractors, with up to 25% of production likely to be supplied to this market. Unfortunately, it is not possible to guarantee and secure that the plant will operate that way and supply product for such local uses. Customers could be of any source and any distance.
12. According to the TS in Section 3, per day the development will result in an increase in 30 additional heavy good vehicle (HGV) movements (15 in, 15 out), 68 light good vehicle (LGV) movements (34 in and 34 out) and 16 car vehicle movements (8 in, 8 out) onto the vehicle network. I understand that this is based on 25,000 tonnes per year and for additional robustness, a 20% buffer increase has also been provided. The 25,000 tonne level has often been challenged by objectors, but no solid evidence has been provided anywhere to my knowledge that the 25,000 tonne level will be exceeded significantly by the proposal.
13. The above is projected to increase the total daily weekday traffic flows to 5,702 vehicles per day, with this proposal expected to increase it slightly further to 5,764 vehicles per day, an increase of just over 1%.

## CONCLUSION

14. The Local Highway Authority will continue to raise objection to this proposal on sustainability grounds as previously mentioned. It may be difficult with a 1% increase in traffic to object to this proposal on traffic grounds, but the steady and onward increase in traffic levels recorded along the B4000 is a cause for concern, which I will wish to look into further, along with trends in HGV numbers and to aim to identify where the traffic increases have increased from. It is possible that objection may be raised on traffic grounds, but we need to view traffic surveys data figures from 2019 to 2024 in more detail before making a final decision. We will update you further as soon as we can.

Best wishes

**Paul Goddard** (he/him)

**Highways Development Control Team Leader**

Environment Department, West Berkshire Council, Market Street, Newbury RG14 5LD

(01635) 519207 | Ext 2207 | [paul.goddard@westberks.gov.uk](mailto:paul.goddard@westberks.gov.uk)

[www.westberks.gov.uk](http://www.westberks.gov.uk)

[Click here to sign up to the monthly Environment Delivery Newsletter](#)

 Please consider the environment before printing this e-mail

The majority of our office based teams are working from home. We are fully enabled to work remotely so this will not impact on our service to our clients or our colleagues. However, we do require that all communications are sent to us electronically by email so that we will be in a position to receive and respond. Thank you for your co-operation.

## APPENDIX 5





Google Earth

RG177TJ

© 2017 Google

Imagery Date: 4/9/2017

51°28'44.33" N 1°33'11.71" W elev 203 m eye alt 946 m

00:00

1999

## APPENDIX 6



## National Highways Planning Response (NHPR 22-12) Formal Recommendation to an Application for Planning Permission

From: South East Regional Director  
Operations Directorate  
Southeast Region  
National Highways  
[PlanningSE@nationalhighways.co.uk](mailto:PlanningSE@nationalhighways.co.uk)

To: Alistair Buckley, West Berkshire District Council

CC: [transportplanning@dft.gov.uk](mailto:transportplanning@dft.gov.uk)  
[spatialplanning@nationalhighways.co.uk](mailto:spatialplanning@nationalhighways.co.uk)

**Council's Reference:** 23/02142/MINMAJ

**Location:** Land Adjacent To M4, Membury Airfield, Lambourn Woodlands, Hungerford

**Proposal:** The installation and operation of an asphalt plant and associated ancillary development.

**National Highways Ref:** NH/23/03224

Referring to the consultation on the planning application referenced above, in the vicinity of the M4 that forms part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:

- ~~a) offer no objection (see reasons at Annex A);~~
- b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways recommended Planning Conditions & reasons);**
- ~~c) recommend that planning permission not be granted for a specified period (see reasons at Annex A);~~
- ~~d) recommend that the application be refused (see reasons at Annex A)~~

Highways Act 1980 Section 175B is not relevant to this application.<sup>1</sup>

---

<sup>1</sup> Where relevant, further information will be provided within Annex A.



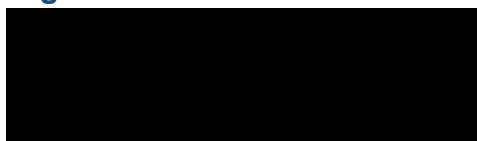
This represents National Highways' formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should the Local Planning Authority not propose to determine the application in accordance with this recommendation they are required to consult the Secretary of State for Transport, as set out in the [Town and Country Planning \(Development Affecting Trunk Roads\) Direction 2018](#), via [transportplanning@dft.gov.uk](mailto:transportplanning@dft.gov.uk) and may not determine the application until the consultation process is complete.

The Local Planning Authority must also copy any consultation under the 2018 Direction to [PlanningSE@nationalhighways.co.uk](mailto:PlanningSE@nationalhighways.co.uk).

**Signature:**

**Date:** 08/05/2024

A black rectangular box redacting the signature.

**Name:** Mrs Beata Ginn

**Position:**

Area 3 Assistant Spatial Planner  
National Highways  
[planningSE@nationalhighways.co.uk](mailto:planningSE@nationalhighways.co.uk)

**National Highways**

**Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ**

[Beata.Ginn@nationalhighways.co.uk](mailto:Beata.Ginn@nationalhighways.co.uk)

## **Annex A**      **National Highways' assessment of the proposed development**

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such National Highways works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long- term operation and integrity.

National Highways is concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case the M4 motorway. National Highways is responsible for the service road where the proposal is currently accessed.

Subsequent to our previous responses, we have continued to engage with the applicant to provide the information to enable National Highways to determine the potential impact to the safe and efficient operation of the SRN from the proposals set out in 23/02142/MINMAJ. The applicant provided this information and following consultation we can confirm that subject to the condition set out below, we are content that the proposal will not adversely impact the safe and efficient operation of the SRN.

### **Recommendation**

National Highways recommends that the following condition or similar is attached to any planning permission that may be granted for the planning application ref: 23/02142/MINMAJ.

#### **Condition 1: Construction Environmental Management Plan (CEMP):**

No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways) and the agreed details should be fully implemented prior to start of construction works.

**Reason:** To mitigate any adverse impact from the development on the M4 motorway, to ensure that it continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

### **Standing advice to the local planning authority**

The Climate Change Committee's [2022 Report to Parliament](#) notes that for the UK to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel. The NPPF supports this position, with paragraphs 73 and 105

prescribing that significant development should offer a genuine choice of transport modes, while paragraphs 104 and 110 advise that appropriate opportunities to promote walking, cycling and public transport should be taken up.

Moreover, the build clever and build efficiently criteria as set out in clause 6.1.4 of [PAS2080](#) promote the use of low carbon materials and products, innovative design solutions and construction methods to minimise resource consumption.

These considerations should be weighed alongside any relevant Local Plan policies to ensure that planning decisions are in line with the necessary transition to net zero carbon.

## APPENDIX 7



## APPENDIX 8

## TOWN AND COUNTRY PLANNING ACT 1990

Phillips Planning Services Limited  
Mr J Phillips  
Kingsbrook House  
7 Kingsway  
Bedford  
Bedfordshire  
MK42 9BA

**Applicant:**  
Kingwood Stud Management  
Company Limited

### PART I - DETAILS OF APPLICATION

**Date of Application**

13th February 2012

**Application No.**

**12/00376/COMIND**

### THE PROPOSAL AND LOCATION OF THE DEVELOPMENT:

The provision of a covered horse training track.

Land To The South Of Rookery Cottages, Kingwood, Lambourn Woodlands, Hungerford

### PART II - DECISION

**In pursuance of its powers under the Town and Country Planning Act 1990, West Berkshire District Council GRANTS planning permission for the development referred to in Part I in accordance with the submitted application form and plans, subject to the following condition(s):-**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004) to enable the Local Planning Authority to review the desirability of the development should it not be started within a reasonable time.

2. The development hereby approved shall be carried out in accordance with the approved plans and additional amended plans received on 25th July 2012:

PPS covering Report

3754\_PLO1\_existing and proposed location plan

3754\_PLO2\_existing Site aerial

3754\_PLO3\_A-w proposed site aerial

3754\_PLO4\_B-w existing site plan

3754\_PLO5\_B-w site plan proposed

3754\_PLO6\_B site elevations

3754\_PLO7\_B Site sections

3754\_PLO8\_B Track layout



3754\_PLO9 module detail  
3754\_PL10\_B-w proposed aerial views  
3754\_PL11\_A-w contextual views

The Landscape Partnership response 20 Jul12  
B11012 09A Rendered Landscape proposal  
Risk Assessment- footpath crossing

Reason: For the avoidance of doubt and in the interest of proper planning.

3. The development hereby permitted shall be removed and the land restored to its former condition within six months of the development failing to be used for its approved purpose or if no longer required for its approved purpose, whichever occurs first. The land shall be restored to its former condition in accordance with a scheme of decommissioning work and land restoration that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the land is restored to its original undeveloped condition once no longer in use. In the interests of protecting the amenity of the open countryside. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CC1, CC6 and C4 of the South East Plan (May 2009), and Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026.

4. The holding known as Kingwood Stud within the red line and blue line area of this application shall remain as one whole unit and be used as an establishment in conjunction with the horse racing industry; and for no other purposes including any other Class within the Schedule of the Town and Country Planning (Use Classes) Order 2005 (as amended) or any subsequent amendment to this Order. No part of the site shall be used as separate residential use, B8 use or B1 office use, sold/leased/rented or used as a separate unit or commercial yard, other than in association with the racehorse industry and no separate curtilage shall be created.

Reason: Any other use may not be acceptable on the site and to ensure that the use of the whole site does not give rise to an intensification of external traffic entering the site. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies C4 of the South East Plan (May 2009) and Policies ADPP1, CS12 and CS14 of the West Berkshire Core Strategy 2006-2026.

5. Samples of the materials to be used in the proposed development shall be submitted to and approved in writing by the Local Planning Authority before development starts. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of fencing, surfacing, roof cover and edging materials.

Reason: To ensure that the external materials are visually attractive and respond to local character. This condition is imposed in accordance with guidance set out in the National Planning Policy Framework March 2012, Policies CC6 and C4 of the South East Plan Regional Spatial Strategy 2009, Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design (June 2006).

6. Prior to the commencement of development or other operations, a detailed scheme of landscaping for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include schedules of plants noting species, plant sizes and proposed



numbers/densities, an implementation programme and details of written specifications including cultivation and other operations involving tree, shrub and grass establishment. The scheme shall ensure;

a) Completion of the approved landscape scheme within the first planting season following completion of development.

b) Any trees shrubs or plants that die, become seriously damaged or die within five years of this development shall be replaced in the following year by plants of the same size and species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping. This condition is imposed in accordance with guidance set out in the National Planning Policy Framework March 2012, Policies CC6 and C4 of the South East Plan Regional Spatial Strategy 2009, Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design (June 2006).

7. Prior to the commencement of development or other operations, a detailed scheme for the proposed kissing gates, associated fencing and safety notices to be installed at each footpath crossing PROW Lambourn 23 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved details.

Reason: To ensure the safety of the public using Lambourn Footpath 23 and to protect the public right of way. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CC6 and C4 of the South East Plan (May 2009), Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

8. Prior to the commencement of development or other operations, a detailed scheme for the proposed permissive path and associated fencing, notices to be installed and landscaping as an alternative route to the use of PROW Lambourn 23 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved details.

Reason: To provide an alternative for the public using Lambourn Footpath 23. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CC6 and C4 of the South East Plan (May 2009), Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

9. No development shall commence on site until full details of the importation, exportation or management of spoil within the site has been submitted to and been approved in writing by the Local Planning Authority. The movement of spoil shall be carried out in accordance with these approved details.

The approved scheme shall ensure that:-

The full details of existing and proposed levels across the site are provided prior to the commencement of works.

No spoil shall be removed from the site unless in accordance with the approved scheme.

No subsoil material placed in accordance with the approved scheme shall be placed without the prior removal of topsoil

Any spoil removed in accordance with the approved scheme shall be disposed of at an appropriately licensed facility

Details of soil handling techniques to ensure that soil movement operations only take place in fine, dry weather and when the soil and ground are in a dry and friable condition.

Reason: To ensure appropriate management of spoil and to ensure that ground levels are altered in accordance with the approved plans, in accordance with Policy CC4 of the Regional Spatial Strategy 2009, Policy ADPP1 of the West Berkshire Core Strategy 2006-2026 and Policy W2 of RPG9 of the Waste Local Plan for Berkshire Saved Policies 2007.

The decision to grant This decision has been taken having regard to the policies and proposals in the South East Plan Regional Spatial Strategy for the south east of England 2009 West Berkshire District Local Plan 1991-2006 (WBDLP) Saved Policies 2007, the Waste Local Plan for Berkshire, adopted 1998, the Replacement Minerals Local Plan for Berkshire 1991-2006 (incorporating the alterations adopted in December 1997 and May 2001) and to all other relevant material considerations, including Government guidance, supplementary planning guidance notes; and in particular guidance notes and policies:

The reasoning above is only intended as a summary. If you require further information on this decision please contact the Council via the Customer Call Centre on 01635 519111.

#### **INFORMATIVE:**

1. The applicant's attention is drawn to the fact that above conditions must be complied with in full before any work commences on site, failure to do so may result in enforcement action being instigated.
2. The above Permission may contain pre-conditions, which require specific matters to be approved by the Local Planning Authority before a specified stage in the development occurs. For example, "*Prior to commencement of development written details of the means of enclosure will be submitted to and approved in writing by the Local Planning Authority*". This means that a lawful commencement of the approved development cannot be made until the particular requirements of the pre-condition(s) have been met.
- 3 This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. The local planning authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area.

- 4 The decision to grant planning permission has been taken because the development is in accordance with the development plan, has a manageable impact on the character of the North Wessex Area of Outstanding Natural Beauty and is in keeping with the character and appearance of the surrounding local area. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning Service or the Council website.
- 5 The applicants attention is drawn to the fact that footpath 23 crosses the development in two places. An obstruction and/or nuisance to users of footpath 23 would occur if the development takes place without first securing a diversion. Therefore an application to divert the footpath will need to be made and granted under s247 Town and Country Planning Act 1990. We would refer you to the Highways Act 1980 regarding the Highway Authority's enforcement powers to remove obstructions or prevent a nuisance.
- 6 The applicant is advised that this planning permission does not in any way allow the Right of Way to be obstructed at any time during the course of the development.
- 7 The applicant is advised that all visitors to the site should be made aware that they would be driving along a public footpath/bridleway/RUPP/Byway. As a result they should drive with caution when manoeuvring into and out of the site and should give way to pedestrians, cyclists and equestrians at all times.
- 8 Nothing connected with either the development or its construction must adversely affect or encroach upon the footpath/bridleway/RUPP/Byway, which must remain available for public use at all times.
- 9 The applicant is advised that the Rights of Way Officer must be informed prior to the laying of any services beneath the path.
- 10 No alteration of the surface of the Right of Way must take place without the prior written permission of the Rights of Way Maintenance Officer, before the laying of any services below the path.
- 11 The attention of the applicant is drawn to the Berkshire Act, 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway, cycleway or grass verge, arising during building operations.
- 12 The attention of the applicant is drawn to the Highways Act 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.

Decision Date :- 1st February 2013

A handwritten signature in black ink, appearing to read 'G. Lugg', written in a cursive style.

**Gary Lugg**  
**Head of Planning & Countryside**

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against the local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

#### **Purchase Notices**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## APPENDIX 9



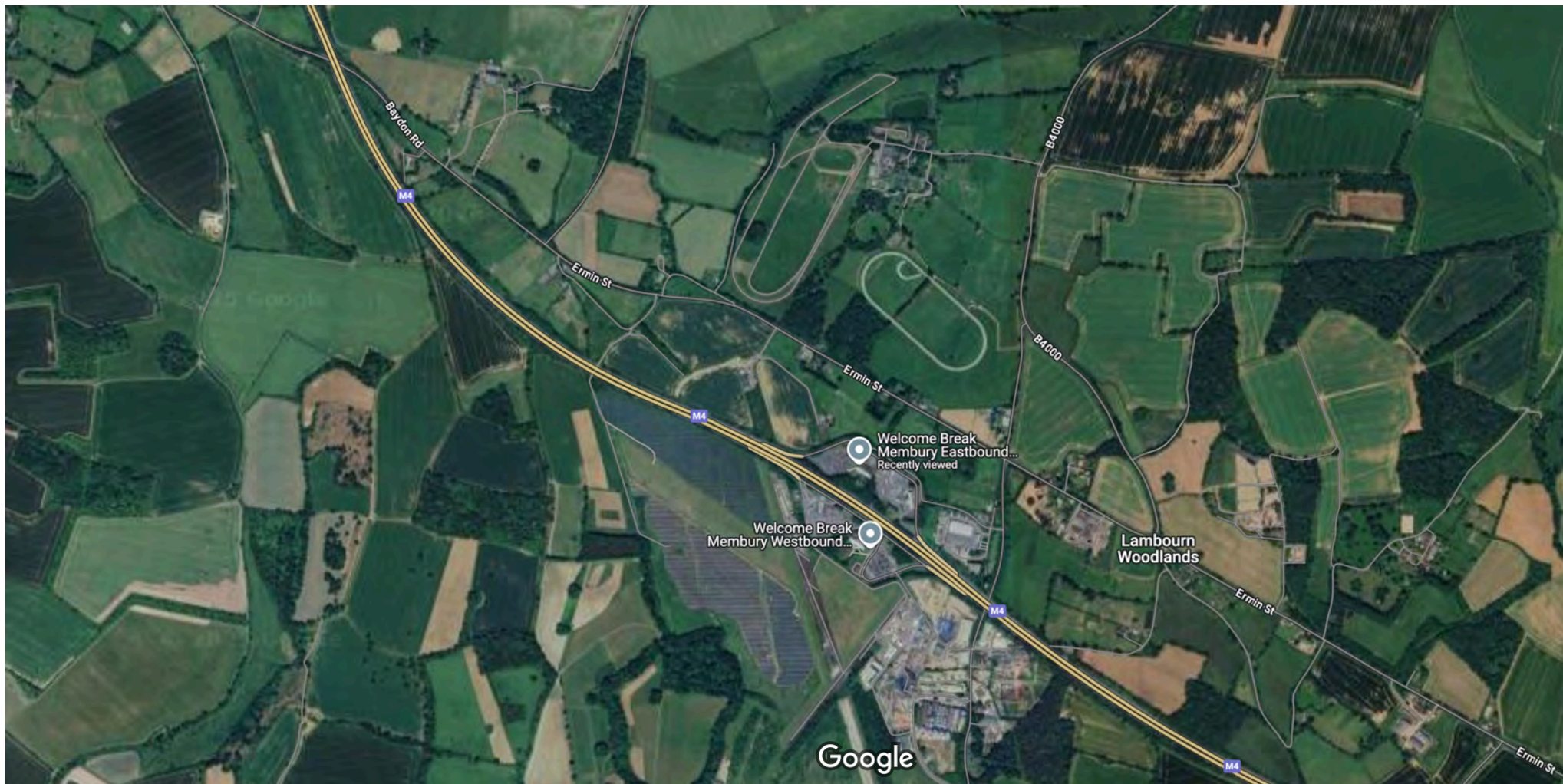


**Existing**  
1 : 2500



**Proposed**  
1 : 2500







## APPENDIX 10

# Lambourn Trainers Association

Peter Walwyn  
Tumbleweed Cottage  
Upper Lambourn, Hungerford  
Berkshire RG17 8QT  
Tel. 01488 71347  
racehorses.peterwalwyn@uwclub.net

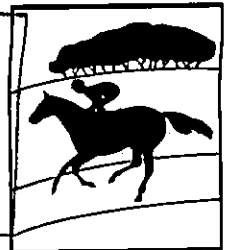
Tel: 01488 71347

Fax: 01488 72664

Email: racehorses.peterwalwyn@uwclub.net

WEST BERKSHIRE  
COUNCIL  
- 5 MAR 2012  
PLANNING AND  
COUNTRYSIDE SERVICE

LAMBOURN



VALLEY OF THE RACEHORSE

1/3/2012

ref Application Number  
12/00376 / COMIND

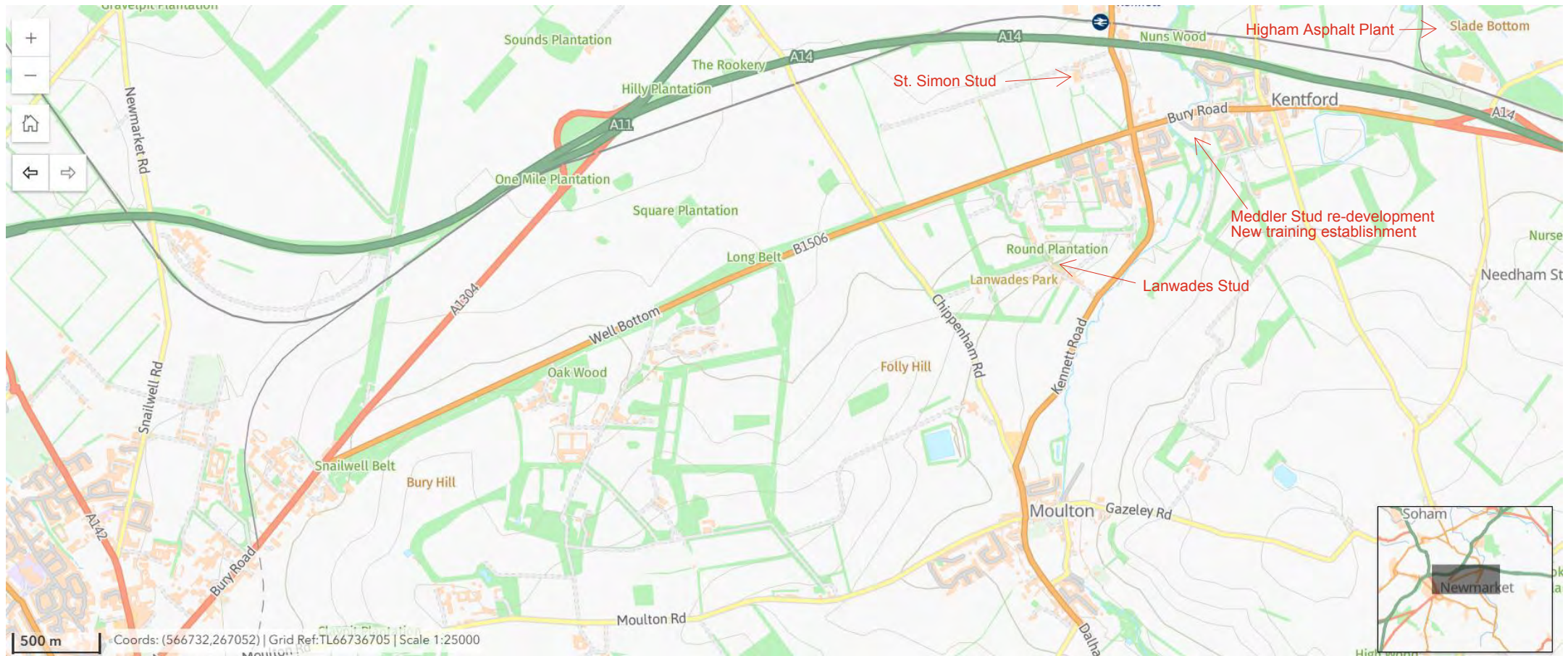
Dear Sirs, with reference to the new application  
The L.T.A. is fully in support of the scheme

yours sincerely

Peter Walwyn  
Chairman

M.B.E.

## APPENDIX 11









## APPENDIX 12

## Appeal Decision

Inquiry held between 15 and 17 March 2016

Site visit made on 16 March 2016

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 05 May 2016**

---

**Appeal Ref: APP/H3510/W/15/3070064**

**Meddler Stud, Bury Road, Kentford, Newmarket CB8 7PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Clive Damsell of Meddler Properties Ltd against the decision of Forest Heath District Council.
  - The application Ref DC/14/0585/OUT, dated 28 March 2014, was refused by notice dated 23 January 2015.
  - The development proposed is a racehorse training establishment and the erection of up to 63 dwellings including associated access arrangements and open space provision.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a racehorse training establishment and the erection of up to 63 dwellings including associated access arrangements and open space provision at Meddler Stud, Bury Road, Kentford, Newmarket CB8 7PT in accordance with the terms of the application, Ref DC/14/0585/OUT, dated 28 March 2014, subject to the conditions set out in the attached schedule.

### Application for costs

2. At the Inquiry an application for costs was made by Mr Clive Damsell of Meddler Properties Ltd against Forest Heath District Council. This application is the subject of a separate Decision.

### Procedural Matter

3. The application is for outline planning permission with all matters apart from access reserved. A layout plan was submitted with the application and I have considered that plan on the basis that it is illustrative of a possible scheme.

### Main Issues

4. The main issues in the appeal are:
    - i) the effect of the proposed development on the Horse Racing Industry (HRI);
    - ii) whether or not the Council has a five year supply of deliverable housing sites;
    - iii) whether or not the proposed development would make adequate provision for infrastructure; and
-

- iv) whether or not the proposed development would be sustainable.

## **Reasons**

### *Horse Racing Industry (HRI)*

5. Meddler Stud was originally of some 100 hectares but the majority of the land was sold to the adjoining Lanwades Stud in the 1990s. The site is the remaining 7.16 hectares which previously included stables and paddocks. The majority of the buildings have been demolished and most of the site has been sown with winter wheat.
6. The HRI is of prime importance to the local economy of Newmarket and is also important at national and international levels. The site is about 4 miles from Newmarket and is within the area covered by the HRI although towards its outer periphery. Newmarket provides HRI facilities that are of importance both economically and culturally. It is the historic home of horse racing and includes a range of facilities that together make the HRI of considerable importance to the area.
7. There has been a general trend of growth in the number of horses in training in the area and Newmarket has been successful in maintaining its position in this respect. There are a number of central gallop facilities in the town. Much of the growth in the industry comes from trainers setting up new businesses for which 'starter yards' are required. The proposed development would provide a Racehorse Training Establishment (RTE) that would be suitable as such a starter yard. The proposed residential development would however occupy land that was previously in use for equine purposes associated with the HRI.
8. The Development Management Policies document<sup>1</sup> (DMP) includes policies DM48 and DM49 which protect the HRI. Policy DM48 requires that development does not adversely affect operational HRI sites or threaten the long term viability of the HRI as a whole. Policy DM49 restricts the change of use of existing HRI land or land that was last lawfully so used to other uses. In protecting the HRI those policies are consistent with the National Planning Policy Framework (the Framework) which has as a core planning principle the support of sustainable economic development.
9. The majority of the site has been sown with a crop and therefore can be said to be in agricultural use. The land formerly occupied by the buildings and hard surfaces has not been actively used for agricultural purposes. The soil contains hard core from the demolition of the buildings and hard surfaces and has been ripped in preparation for soil improvement. That land is about 1.34 hectares in area and forms a significant proportion of the site.
10. Policy DM49 restricts the change of use of racehorse training yards, stud farms, racecourses and horse training grounds, including associated residential accommodation or other uses directly related to the HRI (and buildings/land last lawfully used for such purposes) to uses not directly related to the HRI. The site was previously used for uses directly related to the HRI including stud and racehorse training purposes. Most of the site is now in agricultural use, such use having commenced lawfully. The words in parenthesis in policy DM49 refer to the last lawful use and as such would cover situations where there has

---

<sup>1</sup> Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015)



been a subsequent unlawful use or the original HRI use has been abandoned. The circumstances applying to the current use of the appeal site are unusual. The last use of the site in the sense of the use before the current use was for HRI purposes and in this sense the words in parenthesis in policy DM49 would cover that use. It is also the case that a significant proportion of the site has not been actively used for agriculture and remains in HRI use.

11. The purpose of policy DM49 in retaining adequate land in Newmarket and the surrounding area for HRI purposes would be undermined if it were possible to overcome the policy by using land for agriculture. I take the view for the reasons given that policy DM49 of the DMP applies to the proposal.
12. The proposed RTE as shown on the illustrative master plan would occupy 2.23 hectares of the site. The remaining 4.93 hectares would be lost to the HRI and for this reason the proposal would not accord with policy DM49 of the DMP.
13. The site did however have a number of limitations in relation to HRI use when previously so used. Firstly, following its separation from the majority of the original stud farm it is of limited size for stud purposes. The appellants' Horse Racing Impact Statement says that a brood mare with her foal and yearling would normally require 10 acres. On this basis the site would at most accommodate two mares and their followers, which would be unlikely to be sufficient to support a business.
14. Secondly there is no residential accommodation associated with the site. Such accommodation would normally be necessary for security and good husbandry.
15. Thirdly the former stables were said to be in poor repair and to require significant investment which would have affected business viability.
16. The site has in the past been used for horse training and there was previously access to a nearby exercise facility off Gazeley Road which the appellants say is no longer available. It would be necessary to transport horses to the gallops in Newmarket which although not making the site unviable would add to costs.
17. The appellants have provided evidence relating to failed attempts to run the site as a boarding stud, training yard and pre-training yard since 2001. The two occupiers during that period ran into financial difficulties. This does not necessarily show that the site cannot be made financially viable for HRI purposes but it is consistent with the evident limitations of the site.
18. The proposed RTE would provide a modern facility that would be attractive to trainers setting up new businesses. The illustrative master plan shows a facility including 20 stables, a trainer's house, paddock and exercise track. There is evidence of demand for this type of facility and the appellants have demonstrated that it would be financially viable. Because the appellants own the land the RTE would not incur the cost of land acquisition. The RTE would accord with policy DM47 of the DMP which allows for HRI development where there is evidence of business viability and functional need.
19. The previous appeal Inspector<sup>2</sup> in dismissing a proposal for residential development on the whole of the site considered evidence that a 20 box RTE would have a reasonable prospect of success on the site. The proposal would provide such a facility.

---

<sup>2</sup> APP/H3510/A/13/2197077

20. The site is not in operational HRI use and therefore the proposal would not have an adverse impact in this respect. Neither is there any evidence that the proposal would threaten the long term viability of the HRI as a whole. Taking the above considerations into account the proposal would accord with policy DM48 of the DMP in that it would not directly affect the HRI.
21. The proposals would result in a loss of HRI land but that land had limited potential for HRI use. The proposed RTE facility would provide a benefit that would counterbalance the loss of HRI land. For the reasons given I conclude that the proposals would not adversely affect the HRI either directly or through the loss of land.

### *Housing Land Supply*

22. Policy CS1 of the Core Strategy<sup>3</sup> sets out the spatial strategy for the District. Kentford is identified in that policy as a Primary Village which is suitable for housing allocations dependant on the capacity of the village to accommodate growth and to meet local needs. Policy CS7 of the Core Strategy which makes provision for the total number of dwellings required up to 2031 and their distribution has been partially quashed following a High Court Challenge and the Council is now undertaking a 'Single Issue Review' of that policy.
23. The parties are agreed that there is no up to date development plan provision for housing in Kentford. Therefore paragraph 14 of the Framework is engaged. That paragraph states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
24. There was disagreement between the parties as to whether or not the Council can demonstrate a five year supply of deliverable housing sites. This would affect the weight to be given to the benefit of the proposal. The Council's objectively assessed need as identified in the Core Strategy is 6,800 dwellings giving an annual requirement of 340. The High Court judgement did not affect the overall level of housing need and no evidence has been put forward to indicate that a different figure should be used.
25. The Inspector in the previous appeal considered that there was no evidence to justify the application of a 20% buffer to housing supply on the basis of past rates of delivery. Although in the past two years housing delivery has been below the annual requirement the figures for the last 10 years do not indicate that there has been persistent under-delivery. For these reasons a 5% buffer would be appropriate.
26. A shortfall in housing provision since the start of the Core Strategy period of 239 dwellings has been identified. The Council has calculated its housing need using both the 'Liverpool' and 'Sedgefield' methods of apportioning that shortfall. The Council's figures demonstrate a five year supply using both methods but the appellants consider that a number of sites should be discounted from the supply.
27. The Council's assessment of its housing land supply includes a major site for 400 dwellings at Hatchfield Farm. That site is subject to a called-in appeal and cannot be considered realistically available at the present time.

---

<sup>3</sup> Forest Heath Core Strategy Development Plan Document (May 2010)

28. The Council supplied further information regarding the deliverability of 6 sites which are included in its housing trajectory but which do not have permission. Five of those six sites are identified in the Site Allocation Local Plan (SALP) (Preferred Options) which is shortly to be subject to consultation. There is therefore uncertainty as to whether those sites will be allocated. However the Council presented information regarding applicable constraints and time scales for the delivery of housing on those sites.
29. Development of the site at Warren Close, Brandon is dependent on the relocation of pre-school and library facilities. The library has already relocated and the County Council envisages that the pre-school will relocate within one year. An alternative location for that facility has been identified.
30. The site at Drift Road, Lakenheath appears to be green field and adjacent to the built up area of the town. Constraints in terms of flood risk and archaeology have been identified but a developer is involved in conjunction with adjoining sites. The site at Gas House Drove, Brandon has been sold subject to contract. 54 Kingsway, Mildenhall adjoins a site which has been subject to planning permission and is within the urban area. There are no significant constraints to delivery of housing on those sites which are indicated to deliver 108 dwellings within five years.
31. Development of the identified sites at land north of Red Lodge will require Appropriate Assessment under the Habitats Regulations. This introduces some uncertainty as to whether those sites would be realistically available and suitable for development within five years.
32. A further site which is not in the SALP is that of the Council offices and adjacent library, surgery and police station in Mildenhall. Those facilities are to move to a new hub elsewhere. However the availability of the site depends on the alternative site being available and the existing site is in separate ownerships. These factors may potentially delay housing delivery on that site.
33. Taking the above into account, if the 108 dwellings are included in the housing land supply there would be a 5.03 year supply using the Sedgfield method. If the Liverpool method was used the supply would be 5.7 years.
34. I note the appellants' point about using a 10% lapse rate but no evidence has been provided to justify the use of this. For these reasons I conclude that the Council has a five year supply of deliverable housing sites. This does not alter the situation regarding the local plan being out of date but it tempers the weight to be given to the benefit of the proposal in terms of housing supply.

#### *Infrastructure*

35. The main parties agree that the Unilateral Undertaking provided by the appellants overcomes the second reason for refusal. In addition to affordable housing and public open space this would secure financial contributions towards healthcare, primary education, pre-school facilities and sustainable travel facilities.
36. The provisions of the Unilateral Undertaking would be necessary to meet the Council's policy on affordable housing and to provide for the recreational, educational and health needs arising from the development. The pre-school and primary education contributions have been calculated using standard methodologies as has the health services contribution.

37. The Unilateral Undertaking would also secure improvements to sustainable transport infrastructure, namely bus stop and cycling facilities which are necessary to encourage the use of those modes of transport.
38. For these reasons the obligations meet the tests in regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations)<sup>4</sup>. The Council has also confirmed that the number of pooled contributions does not exceed the limit imposed by regulation 123 of the CIL Regulations.
39. For these reasons the proposal would make adequate provision for infrastructure and would accord with policy CS13 of the Core Strategy which has this requirement.

### *Sustainability*

40. I have found that although there would be a loss of HRI land this would be counterbalanced by the proposed RTE facility. On this basis the RTE would meet the economic dimension of sustainable development. It would also be consistent with the social dimension through supporting the HRI and the culture of the Newmarket area.
41. The proposals would also meet the economic dimension in terms of supporting local businesses in the area, particularly those in Kentford and by providing employment and other economic benefits during construction. There are sources of employment locally in Kentford and the proposal would be potentially supportive of those businesses.
42. In Kentford there is a post office and convenience store, two public houses and a church. There is a railway station and regular bus services to Newmarket which is within a reasonably short distance. The site has a good level of accessibility by means other than the car and the proposal would be sustainable having regard to the three dimensions in this respect.
43. Although the Council has a five year supply of housing land the development would provide a choice of homes locally including affordable housing which would meet the social dimension of sustainable development. Other housing development is underway in the village which is identified in the Core Strategy as a Primary Village suitable for growth.
44. The improvements to infrastructure to be secured by the Unilateral Undertaking would be consistent with the three dimensions of sustainable development.
45. The land is open and is between the two built up parts of the village. The Council has no objection in terms of the impact of the development on the character and appearance of the area or in terms of other environmental factors. Conditions may be attached to ensure that the design and appearance of the development are acceptable and that measures relating to biodiversity and open space are secured. The development would accord with the environmental dimension to sustainable development in these respects.
46. The illustrative layout plan shows that the residential development would be within an area at low risk of flooding. The means of access would pass through an area of high flood risk but a separate pedestrian access to the east is available. The development would not be at unacceptable risk of flooding and

---

<sup>4</sup> The Community Infrastructure Levy Regulations 2010

would be sustainable in this respect having regard to the three dimensions of sustainable development.

47. Overall, for the reasons given the development would accord with the economic, social and environmental dimensions of sustainable development.

*Other matters*

48. I have had regard to all other matters raised including surface water drainage, effect on living conditions and highway safety. With respect to the latter point the Highway Authority had no objection and I see no reason to disagree. The other matters raised do not alter my conclusions on the main issues.

**Planning Balance**

49. I have found that the development would be sustainable and that the presumption in favour of sustainable development in paragraph 14 of the Framework applies. Although there is a five year supply of housing land, the delivery of additional housing would be of benefit in the context of the Framework's requirement to boost significantly the supply of housing<sup>5</sup>. The proposed dwellings would be in a sustainable location in a Primary Village with access to services and facilities. For these reasons a moderate degree of weight can be given in favour of the proposal in terms of housing supply.
50. The provision of 30% of the dwellings as affordable housing also attracts weight in favour of the proposal and I give further moderate weight to that benefit.
51. The improvements to infrastructure to be secured by the Unilateral Undertaking would off-set the impacts of the development and would not represent net benefits although the public transport and cycle provision would benefit the wider community. For these reasons I give limited weight to those benefits.
52. I have concluded that the proposal would not harm the HRI in Newmarket. The proposed RTE would be of economic benefit but that benefit would be balanced by the loss of HRI land. For these reasons the effect of the proposal on the HRI is neutral in the planning balance.
53. For the above reasons the benefits of the proposal are not significantly and demonstrably outweighed by any adverse impacts having regard to the Framework as a whole.
54. Although I have found that the proposal would not accord with policy DM49 of the DMP the above considerations weigh against that policy conflict sufficiently to indicate that permission should be granted.

**Conditions**

55. I have imposed the conditions as suggested by the Council and discussed at the Inquiry with some amendments. In doing so I have had regard to the tests in paragraph 206 of the Framework.
56. Because the planning permission defines the number of dwellings approved it is not necessary to repeat this within a condition. I have imposed a condition

---

<sup>5</sup> Paragraph 47

- restricting occupation of residential accommodation provided as part of the RTE in accordance with policy DM47 of the DMP.
57. A Design Code is necessary to ensure that the development is of a good standard of design and that its appearance is acceptable.
  58. A programme of archaeological work is necessary because the site is in an area identified as being of archaeological interest.
  59. Conditions requiring the means of access and visibility splays to be provided in accordance with the approved plan and restricting discharge of surface water onto the highway are necessary in the interest of highway safety.
  60. Similarly conditions requiring the provision of parking areas and construction of roads and footways up to at least base-course level are necessary to ensure highway safety. The Council suggested the inclusion of a separate condition requiring details of car turning space but this would be covered under the reserved matters and the condition requiring car parking and manoeuvring areas.
  61. It is necessary to provide a pedestrian crossing facility on Bury Road to allow for the safe movement of pedestrians between the development and facilities within the village.
  62. I have imposed conditions requiring the drainage measures as set out by the Environment Agency. Those conditions are necessary to provide for sustainable drainage, to prevent pollution and to mitigate the effect of any flooding from the river. The Council has requested a number of detailed drainage requirements in its suggested condition 15 but the need for those requirements including any response from the drainage authority is not before me. However condition 12 would enable the Council to control the detailed drainage scheme.
  63. A condition requiring foul drainage measures to be approved is necessary to ensure that those measures meet the required standards.
  64. I have imposed a condition requiring an Arboricultural Method Statement and a Tree Protection Plan to ensure that trees are adequately protected. The statement and plan submitted with the application appear to relate to an earlier proposal.
  65. A plan for the minimisation of waste during construction is necessary to sustainably manage the waste produced including measures to minimise waste and I have included a condition accordingly.
  66. A Landscape and Ecology Management Plan is necessary to secure the management and maintenance for biodiversity enhancement of any areas of open space that are not open to the public and therefore not covered by the provisions in the Unilateral Undertaking.
  67. A condition requiring the proposed ecological mitigation measures is necessary to protect biodiversity. At the Inquiry the parties agreed that the suggested condition relating to bat mitigation could be included in the condition requiring ecological mitigation measures. I have incorporated this requirement into condition 19.

68. I have included conditions limiting the hours of construction work and controlling noise during construction in the interests of the living conditions of nearby residents.
69. A condition requiring an investigation of any contamination is necessary to ensure that a safe environment is provided without risk to its users.
70. A condition requiring the provision of fire hydrants is necessary to ensure that adequate provision is made for fire safety.
71. Conditions requiring the provision of hard and soft landscaping are necessary to ensure the appearance of the development is acceptable. The Council requested that all soft landscaping is carried out before occupation. However in order to be reasonable I have required that planting is done during the first planting season after occupation or completion, whichever is the sooner.
72. A condition restricting the use of piled foundations is necessary for the protection of groundwater.
73. Conditions requiring the provision of the RTE and its marketing are necessary in order to secure this facility in the interest of the HRI. Condition 27 defines the elements to be included in the RTE which are as proposed in the application documentation for the avoidance of doubt.
74. The parties agreed at the Inquiry that the Council's suggested condition 35 which would require the sale or renting of the RTE to an equine operator before a specified number of dwellings are occupied, should be deleted. I agree that such a requirement would not meet the test of reasonableness and so have not included that suggested condition.

### **Conclusion**

75. For the above reasons I conclude that the appeal should be allowed.

*Nick Palmer*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Any residential accommodation provided as part of the Racehorse Training Establishment shall only be occupied by those directly employed in the day-to-day operation and management of the Race Horse Training Establishment and their dependants.
- 5) Concurrently with the application(s) for approval of reserved matters a Design Code for the Racehorse Training Establishment and the residential development shall be submitted to and approved in writing by the local planning authority. The Design Code shall include the following: the function and treatment of open spaces, street types and street materials, parking, lighting, security principles and boundary treatments (including the details of screen walls and fences for individual dwellings). Details of the external facing materials to be used shall be included. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The scheme shall include provision for analysis, publication and dissemination of results and archive deposition.
- 7) No building shall be occupied until the vehicular access and the visibility splays have been provided in accordance with the approved plan Ref 47060091/C01 P2. There shall be no obstruction above 0.6 metre in height within the visibility splays.
- 8) Before the development is commenced details of the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.
- 9) The reserved matters shall include details of the areas to be provided for the parking, loading, unloading and manoeuvring of vehicles and secure bicycle storage provision. The approved areas and facilities shall be provided before the buildings to which they relate are occupied.
- 10) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least base-course level in accordance with the approved details.
- 11) No dwelling shall be occupied until an uncontrolled pedestrian crossing facility has been provided on Bury Road to the west of the new access in



accordance with details which shall have been submitted to and approved in writing by the local planning authority.

- 12) Before commencement of development a scheme for surface water disposal shall be submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The drainage strategy shall demonstrate that the surface water run-off generated up to and including the 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall include details of how it will be maintained and managed after completion. The scheme shall include details of infiltration testing. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. Development shall take place in accordance with the approved details.
- 13) Before commencement of development a scheme to provide floodplain compensation to ensure that there is no increase in flood levels on or off site has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.
- 14) Before commencement of development a scheme for the provision of pollution control to the water environment shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.
- 15) Before commencement of development a scheme for foul water drainage shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.
- 16) Before commencement of development a detailed Arboricultural Method Statement and Tree Protection Plan shall be submitted to and approved in writing by the local planning authority. The Statement shall include details of the following:
  - i) measures for the protection of those trees and hedges on the application site which are to be retained;
  - ii) details of all construction methods within the Root Protection Areas of those trees which are to be retained, specifying the position, depth and method of construction/installation, service trenches, building foundations, hard-standings, roads and footpaths; and
  - iii) a schedule of proposed surgery works to be undertaken to those trees and hedges which are to be retained.

Development shall take place in accordance with the approved details.

- 17) Before commencement of development a Site Waste Minimisation Statement/Waste Management Plan for construction waste shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved details.

- 18) Before commencement of development a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include the following:
- i) details of the areas and features to be managed;
  - ii) ecological trends and constraints on the site;
  - iii) the management aims and objectives, management actions and a work schedule;
  - iv) details of the organisation responsible for management; and
  - v) details of monitoring and how necessary remedial actions will be taken.

The LEMP shall be carried out in accordance with the approved details.

- 19) Before commencement of development the recommendations in the Ecological Risk Appraisal & Protected Species Surveys by URS (March 2014) shall be carried out and a scheme for ecological mitigation and enhancement including measures for the protection of bats shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 20) Site preparation, construction works and deliveries shall only be carried out between 08:00 hours and 18:00 hours Mondays to Fridays and between 09:00 hours and 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 21) Before commencement of development a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Statement shall include the following:
- i) noise management responsibilities and measures;
  - ii) monitoring and auditing procedures;
  - iii) complaints response procedures; and
  - iv) community liaison procedures.
- 22) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 23) No development shall take place until a scheme for the provision of fire hydrants has been submitted to and approved in writing by the local planning authority. The fire hydrants shall be provided in accordance with the approved scheme before the development is occupied.
- 24) All hard landscape works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 25) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 26) Piling or any other foundation design and investigative boreholes using penetrative methods shall not be permitted without the express written consent of the local planning authority.
- 27) The Race Horse Training Establishment which shall include 20 stables, an exercise ring, barn, paddock and trainer's dwelling shall be completed in accordance with details to be submitted as part of the reserved matters before any dwelling hereby approved is occupied.
- 28) Before any dwelling is occupied a strategy for the marketing of the Race Horse Training Establishment (including any residential accommodation associated with it) shall be submitted to the local planning authority for approval. The Race Horse Training Establishment shall be marketed in accordance with the approved strategy until such time as an equine operator (such person(s) to be defined in the strategy) is secured. The Race Horse Training Establishment shall continue to be used as such and for no other purpose and shall be re-marketed in accordance with the approved strategy in the event that the Race Horse Training Establishment is vacated by an equine operator.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Paul Shadarevian, of Counsel

He called

Tony Kernon BSc (Hons) MRICS FBIAC

Kernon Countryside Consultants Ltd

Mark Flood BA (Hons) Dip TP MRTPI

Insight Town Planning Ltd

### **FOR THE APPELLANTS:**

Christopher Boyle, of Queens Counsel

He called

Thomas Smith BSC (Hons) Dip TP MRTPI

AECOM

### **INTERESTED PERSON:**

William Gittus MRICS

Chairman, Newmarket Horsemen's  
Group

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

### **SUBMITTED BY THE COUNCIL**

- 1 Opening submissions on behalf of Forest Heath District Council
- 2 Letter from the Council to Mr Smith dated 9 March 2016
- 3 Site photographs submitted by Mr Kernon
- 4 Notes on sites without planning permission and included in the housing trajectory
- 5 Forest Heath District market Signals and Objectively Assessed Housing Need - Peter Brett Associates (February 2016)
- 6 Housing Trajectory (Appendix A)
- 7 List of Planning Conditions
- 8 Closing submissions on behalf of Forest Heath District Council

### **SUBMITTED BY THE APPELLANTS**

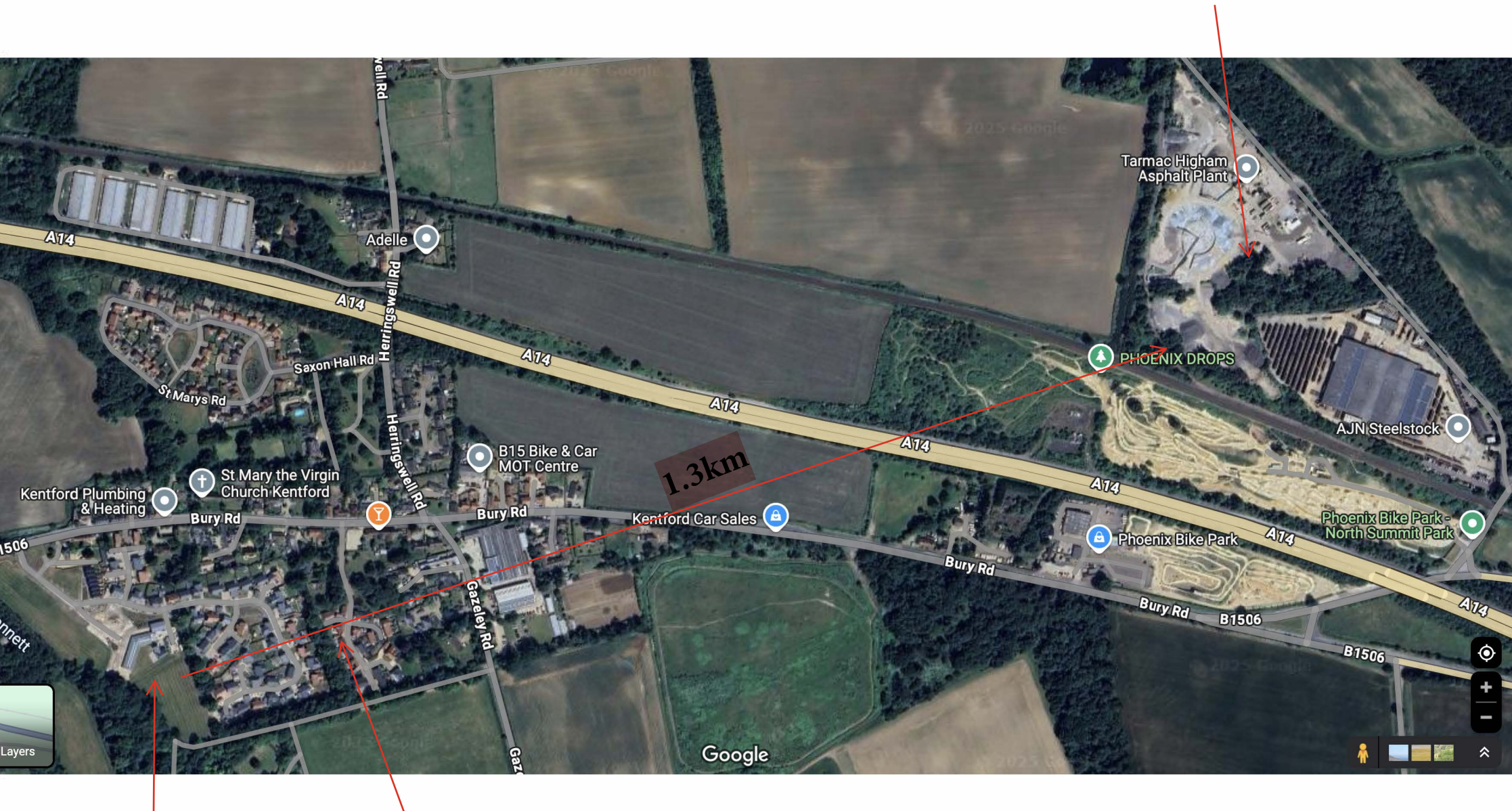
- 9 Extracts from the Town and Country Planning Act 1990
- 10 Letter from Natural England to AECOM dated 3 March 2016
- 11 Update tables to Thomas Smith proof of evidence p 23

- 12 West Suffolk 2016 Strategic Housing Land Availability Assessment (SHLAA) draft review report for consultation (February 2016)
- 13 Costs application on behalf of the appellants
- 14 Closing submissions on behalf of the appellants
- 15 E-mail from Chair of Kentford Parish Council to Philippa Kelly dated 15 March 2016

## APPENDIX 13



# Tarmac Higham Asphalt Plant



Site of new RTE

Site of 2016 Permission

## APPENDIX 14





---

## Appeal Decision

Site visit made on 19 March 2025

**by T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

---

### **Appeal Ref: APP/G4620/W/24/3350164**

### **Land at Titford Road, Oldbury B69 4QD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Countryside Partnerships, Asda and McLagan Investments Ltd against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref is DC/23/68927.
  - The development proposed is Erection of 60 affordable dwellings with associated landscaping and works.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for Erection of 60 affordable dwellings with associated landscaping and works at Land at Titford Road, Oldbury B69 4QD in accordance with the terms of the application, Ref DC/23/68927, and subject to the conditions set out in the schedule to this decision.

### **Preliminary Matters**

2. During the appeal, the appellant submitted a dated legal agreement made as a Deed pursuant to section 106 of the 1990 Act and imposing obligations on the site (s106 agreement). I have had regard to it in reaching my decision.

### **Main Issues**

3. The main issues are:
  - Whether air quality for future occupiers of the proposed development would be acceptable, with particular regard to fine particulate matter (PM<sub>2.5</sub>) targets;
  - the effect of the proposed development on the living conditions of existing occupiers, with particular regard to noise and air quality; and
  - the effect of the proposed development on highway safety.

### **Reasons**

#### *Air quality*

4. One of the leading environmental risk factors globally, air pollution is a serious public health issue, increasing morbidity and mortality, the disease burden and preterm births, and is associated with various types of cancer. As set out in the Council's Black Country Air Quality Supplementary Planning Document (SPD), new developments have the potential to be affected by poor air quality; and this is capable of being a material consideration as part of the planning process in order to limit exposure and protect people from unacceptable risks to their health.

5. The proposed development is categorised by the SPD as ‘medium development’ due to the number of vehicle trips it would generate. However, the Council’s Public Health consultation response to the planning application sets out that, once operational, the appeal proposal would not by itself make existing pollution concentrations significantly worse and the submitted Air Quality Assessment (AQA, dated October 2023) shows the predicted PM<sub>2.5</sub> impacts as negligible.
6. Despite the proximity of various roads and junctions in the locality, including the M5 motorway, Wolverhampton Road and Tittford Road, the submitted Technical Note (TN, dated 08/02/2024) also identifies that road traffic accounts for only a very small proportion of PM<sub>2.5</sub> at the appeal site. Nevertheless, PM<sub>2.5</sub> from whatever source is a harmful pollutant, with the Environmental Improvement Plan 2023 (EIP) identifying it as the most damaging pollutant to human health.
7. As per the Air Quality Standards Regulations 2010, the current national standard limit value for PM<sub>2.5</sub> is an annual mean concentration of 20 micrograms per cubic metre (µg/m<sup>3</sup>). The AQA calculates that the concentration of PM<sub>2.5</sub> on the site in 2026 would be well within this limit.
8. However, the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 and the EIP, which effectively implement the Environment Act 2021, contain future legal targets for PM<sub>2.5</sub>. This includes a maximum annual mean concentration target in ambient air of 10 µg/m<sup>3</sup> by the end of December 2040, with an interim target of 12 µg/m<sup>3</sup> by the end of January 2028; and a population exposure reduction target of at least 35% by the end of December 2040 compared to 2018 levels, with an interim target to reduce population exposure by 22% by the end of January 2028.
9. To address these targets, the TN, providing further detail than the AQA, models the 2018 and 2028 scenarios. The updated modelling identifies that the highest concentration of PM<sub>2.5</sub> on the site in 2028 – at 7.41 µg/m<sup>3</sup> – would be well within the interim target. Whilst the 2040 scenario has not been modelled<sup>1</sup>, the above figure is also within the long-term target and the available evidence does not suggest that PM<sub>2.5</sub> concentrations on the site are likely to rise. The proposed development would therefore be in an area with levels of PM<sub>2.5</sub> which would be within both the 2028 and 2040 maximum annual mean concentration targets.
10. However, the modelled difference between the 2018 baseline and the concentration in 2028, at just under a 10% reduction, would fall short of the 22% interim reduction target. Nevertheless, that target relates to population exposure and, being a national target, is not of itself directly related to individual developments which would not increase emissions, such as the appeal proposal. For example, with PM<sub>2.5</sub> not being part of the Local Air Quality Management framework, the Air Quality Strategy identifies that local authorities should support the delivery of national PM<sub>2.5</sub> targets by taking action to reduce emissions from sources within their control.
11. I am also mindful that the National Planning Policy Framework (Framework) sets out that planning decisions should assume pollution control regimes will operate effectively; and it is clear to me that significant effort and resource is being put in to achieving the long-term reduction target. In addition, the submitted Chief Planner

<sup>1</sup> Because the 2040 DEFRA background concentrations had not been projected at the time of writing the TN, it does not model the 2040 scenario.

March 2023 Planning Newsletter sets out that the metric is a national average, some places will reduce exposure more and others less, and the exposure reduction target cannot be directly applied locally. Furthermore, the scale of the development proposed means that, both alone and cumulatively, the appeal proposal cannot reasonably be described as either having a significant effect at the population scale or being likely to hinder the government's ultimate achievement of the legally binding 2040 population exposure reduction target.

12. Although the World Health Organisation's guidelines on PM<sub>2.5</sub> set a lower limit, the guidelines do not form part of the country's air quality or planning regimes; and whilst the development would not be in an area modelled to have PM<sub>2.5</sub> reductions in line with the interim population exposure target, it would nonetheless be in an area that is within the current, interim and long-term limit values/maximum targets. The PM<sub>2.5</sub> concentrations on the site are also clearly reducing. I therefore conclude that air quality for future occupiers of the proposed development would be acceptable, with particular regard to PM<sub>2.5</sub> targets. Consequently, I find that it accords with Policy ENV8 of the Black Country Core Strategy (BCCS). Amongst other aspects, this sets out that new residential development should, wherever possible, be located where air quality meets national air quality objectives.
13. However, Policy SAD DC 4 of the Site Allocations and Delivery Development Plan Document (SADDP) sets out that the Council will only permit pollution-sensitive developments close to potentially polluting uses where it can be shown that there would be no detrimental impact on future occupiers' health; and the submitted evidence indicates that there is currently no known safe level of PM<sub>2.5</sub> below which there are no adverse effects on human health. For example, the submitted Air Quality Assessment (AQA) sets out that the current evidence has not identified thresholds for effect at the population level, meaning that even low concentrations of pollutants are likely to be associated with adverse effects on health; and the WHO classify PM<sub>2.5</sub> as carcinogenic. On this basis, the appeal proposal does not accord with a strict reading of SADDP Policy SAD DC 4.

#### *Existing occupiers*

14. The appeal site is situated between housing and a supermarket, beyond which is the M5 motorway. The surrounding area also includes various other highways, including the relatively large Wolverhampton Road and the smaller Titford Road. Although previously developed, the appeal site is overgrown and contains extensive trees and other vegetation.
15. It has been put to me that the site's ecology currently absorbs noise and airborne contaminants and that the loss of trees and other vegetation on the site would thus exacerbate noise and air pollution for existing residents on Titford Road. However, there is little substantive evidence that the existing planting on the site significantly or effectively offsets or reduces noise and/or air pollution reaching existing residents. In addition, the AQA shows that the proposed development would not change the levels of nitrogen dioxide, particulate matter (PM<sub>10</sub>) or PM<sub>2.5</sub> (in 2026) at various points along Titford Road. The submitted Noise Assessment also identifies the Asda store building and changes in land levels/heights as effecting noise levels rather than planting.
16. In any event, even if the site's existing trees and other vegetation were to absorb noise and airborne contaminants, the available evidence indicates that the site

could be cleared without the need for planning permission. The proposed development would also retain some planting along the existing watercourse, include additional planting in that corridor, and incorporate soft landscaping throughout the remainder of the site. Furthermore, the Council's Public Health consultation response sets out that, once operational, the development would not by itself make existing pollution concentrations significantly worse.

17. For the above reasons, whilst I acknowledge existing residents' concerns, I conclude that the proposed development would not harm their living conditions, with particular regard to noise and air quality. I therefore find that it accords with BCCS Policy ENV8. Amongst other aspects, this refers to development which would be likely to generate significant air quality impacts.

### *Highway safety*

18. Although Titford Road is a residential street, is rather cramped in places and has extensive on-street parking, it is a relatively busy route. During my site visit, I also observed increased levels of traffic and some congestion in places – partly due to double and/or illegally parked vehicles – during the school pick-up and around the evening rush hour, with vehicles seemingly using Titford Road as a through-route.
19. The proposed development of 60 dwellings would clearly increase the number of vehicles using Titford Road and the surrounding highway network. The submitted Transport Statement (TS) identifies that it would be likely to generate just over 300 daily vehicle trips, with 38 two-trips in the morning peak and 33 two-way trips in the evening peak. However, equating to approximately one extra vehicle every two minutes, this is not significant given the site's built-up context and the number of vehicles using Titford Road. Due to the proximity of various local services and facilities, including the nearby primary school, the number of trips predicted by the TS is also likely to represent a worst-case scenario. Indeed, the calculations in the Council's Addendum report show fewer trips generated by the development.
20. I recognise that existing residents clearly find the real-world situation is different to the number of vehicles that Titford Road can theoretically handle and I saw some congestion on my site visit and parked vehicles slowing the passage of some drivers. However, the TS sets out that the number of vehicles using Titford Road is well below its design capacity and that it would continue to operate with significant spare capacity with the development in place. With the additional number of vehicles using Titford Road not being significant, the effect of the development on congestion on the street is also likely to be negligible. In addition, the submitted evidence indicates that, over a five-year period (up to May 2023), there was only one recorded crash on Titford Road.
21. Whilst the junction with Wolverhampton Road is likely to be trickier to negotiate than some other junctions due to, amongst other reasons, its gradient, it is signal-controlled; and the additional vehicles using the junction due to the development proposed would be insignificant in relation to its capacity and the number of vehicles already using it. As per the submitted evidence, the number of recorded crashes in the vicinity of the junction over a more than five-year period (up to May 2023) is also negligible in relation to the volume of vehicles passing through it.
22. For the above reasons, I conclude that the proposed development would not harm highway safety. The Local Highway Authority also neither objected to the proposed development nor raised concerns with regards to its effect on highway safety or

traffic and congestion in the locality. I therefore find that the appeal proposal accords with paragraph 116 of the Framework. This sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### Other matters

23. Although forming part of a Potential Site of Importance, the available evidence indicates that the site does not meet the threshold to be designated as a site of local importance for nature conservation. Nevertheless, it contains numerous habitats, including scrub, woodland, a watercourse and areas of tall ruderal, rough grassland and recolonising ground; and it falls within a wildlife corridor. As per the submitted Ecological Appraisal (EA, dated October 2023), the woodland and watercourse are also locally important ecological features, and the site's habitats provide opportunities for various protected species, including roosting, foraging and commuting bats, badgers and other mammals, reptiles and birds.
24. With a significant part of the site being cleared to make way for the proposed housing, the development would clearly result in the loss of a number of habitats, including a priority habitat (lowland mixed deciduous woodland), to the detriment of wildlife. However, some habitat on the site would be retained, including the watercourse and nearby vegetation along it and an area of woodland. The EA also identifies replacement habitat to partially offset the losses, such as tree and shrub planting and wildflower grassland creation, along with measures to improve the quality of the retained woodland and watercourse to further partially mitigate for the loss of habitats. A wildlife corridor would therefore be retained and the habitat within it improved compared to the existing situation. Other measures are also proposed, such as use of sensitive lighting, providing small holes in boundary treatment to allow movements of animals, and the provision of boxes/domes/piles for animals to shelter and nest.
25. Whilst the measures contained in the EA would help to mitigate and offset the effect of the development on flora and fauna, there would nevertheless be a residual negative impact on a number of habitats and species. However, the site is not a designated nature conservation site and the construction-related measures in the EA would ensure that protected species and retained habitats would not be harmed during clearance and construction. Overall, the ecological harm would therefore not be significant. It seems to me that the removal of fly-tipped waste, which I saw numerous examples of on my site visit, would also improve the site's environmental condition. In addition, subject to compliance with other relevant legislation, such as the Wildlife and Countryside Act 1981, I note that the site could be cleared without the need for planning permission in any event.
26. A number of other matters have been raised by various parties and I have taken them all into account. This includes: the availability of other sites for the proposed development; the distance to bus stops for some of the proposed dwellings; parking issues; concerns about pedestrian safety – including school children – crossing the new site access; issues regarding the proposed access to the Asda store and route through the site, including safety, crime and anti-social behaviour; increased risk of flooding from the loss of trees and other vegetation; access issues for emergency vehicles; the school being unable to take on extra pupils; the effect on the living conditions and mental health of existing residents from



construction works and future occupiers' use of the site access and Tifford Road, including with regards to disruption, noise and light pollution, overlooking and loss of peace, privacy, outlook and natural light; wildlife being in decline nationally; increased carbon footprint; the local community wishing the site to be turned into an open green space; and the previous proposal for industrial units being refused permission.

27. However, whilst I take these representations seriously and I recognise the strength of local concern, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. Some of the issues raised, such as regarding lighting, flooding/drainage, construction works and mitigation for the loss of wildlife habitat can also be covered by planning conditions.

### **Planning Balance**

28. Although I have found that the development would not harm highway safety or existing occupiers' living conditions and that air quality for future occupiers would be acceptable, the proposal does not accord with SADDP Policy SAD DC 4 for the reasons set out above. Whilst the Council have not identified the loss of designated employment land as a reason for refusal, the available evidence indicates that the appeal proposal would also conflict with BCCS Policies DEL2 and EMP3 in relation to this matter. This leads me to conclude that the proposed development, despite its accordance with some other development plan policies, conflicts with the development plan as a whole.
29. However, the available evidence indicates that the Council has a significant shortfall in housing supply, with it currently having a supply of a little over two years. This means that Framework paragraph 11d) is engaged.
30. The provision of 60 homes would be a substantial benefit, particularly given the need for new homes in general and the inadequate supply and historic under-delivery of housing in the district. Significantly, and well beyond the minimum policy requirement, the submitted s106 agreement secures all the homes as affordable housing. The proposed development would also provide some employment during construction works whilst future occupiers would be likely to support the local economy through their use of local services and facilities.
31. Furthermore, the Council indicates that the proposal would accord with BCCS Policy CSP1, which seeks to secure housing in regeneration corridors, and the general principles of SADDP Policy SAD H2, which encourages windfall housing on previously developed land; and it is satisfied that the scheme's benefits outweigh any conflict with employment-related policies. Although the emerging Sandwell Local Plan is still to be examined and therefore the weight it attracts is limited, it also allocates the site for housing development and the Council has identified that there are no unresolved objections relating to the allocation.
32. These matters weigh significantly in favour of the development. On the other hand, the appeal proposal would conflict with various development plan policies and future occupiers would be exposed to PM<sub>2.5</sub>, of which there is currently no known safe level. Whilst the concentration of the pollutant is modelled to reduce on the site, the decrease would not be within the interim population exposure reduction target. The scheme would therefore introduce sensitive receptors in an area where

air quality is not due to improve as much as the EIP seeks in the short term. The proposal would also have a negative impact on a number of habitats and species.

33. However, it seems to me that SADDP Policy SAD DC4 is, on a strict reading of it, potentially very restrictive and could in theory apply to (and significantly restrict) housing development in many unintended situations. The comments from the Council's policy team also indicate that sufficient evidence has been provided to demonstrate that the site is not particularly suitable for employment uses. The policy conflicts identified above therefore attract limited weight.
34. The concentrations of PM<sub>2.5</sub> on the site are within the current standard and are modelled to be within both the interim and long-term maximum targets. In addition, the Framework sets out that planning decisions should assume pollution control regimes will operate effectively; and the scale of the proposed development means that it would neither effect the level of population exposure nor hinder the government's ultimate achievement of the legally binding 2040 population exposure reduction target. The proposed development would therefore be consistent with Framework paragraph 199 and would not pose a significant risk of poor long-term health outcomes. The SPD also sets out that air quality considerations must be balanced against other aims of the planning system in order to achieve social, economic and environmental goals and meet over-arching national policy requirements.
35. Whilst the development would result in the loss of habitat (including priority habitat), to the detriment of wildlife, the mitigation and compensation measures proposed mean that the residual harm would not be significant. The development would also retain a corridor for wildlife and improve the habitat within it.
36. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and having particular regard to its key policies for making effective use of land and providing affordable homes. The presumption in favour of sustainable development therefore applies in this instance.

## Conditions

37. I have had regard to the various suggested planning conditions and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, for clarity and consistency, and to ensure that details are submitted for the Council's approval where and when relevant.
38. In addition to the standard time limit, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Given the site's position and the extent of development, a pre-commencement condition securing a construction and environmental management plan is necessary and reasonable in the interests of wildlife and good environmental management, the living conditions of residents, and the safe and efficient operation of the highway. I have amended this condition to ensure that it also covers ecological protection measures during construction. I have also included an additional pre-commencement condition relating to tree protection measures, as recommended in the submitted Arboricultural Impact Assessment, in the interests of ecology and character and appearance.

39. The contaminated land conditions are necessary in the interests of public safety and environmental management. With the submitted drainage details not being sufficiently comprehensive, a condition securing full details of proposed drainage works for the disposal of foul sewage and the management of surface water is necessary in the interests of flooding and pollution. This condition combines two of the Council's suggested conditions. The condition relating to external materials is necessary in the interests of character and appearance. A condition relating to finished floor levels is necessary for the same reason and in the interests of the living conditions of adjoining occupiers. Conditions relating to the estate roads and parking/manoeuvring spaces are necessary in relation to highway safety and accessibility. In accordance with BCCS Policy ENV8, and despite the appellant's stated intention to provide various renewable/low carbon energy and efficiency measures to comply with building regulations, a condition securing full details of the renewable energy measures to be provided is necessary in the interests of climate change.
40. Although some details relating to boundary treatment on the site have been submitted, a condition securing full details of all boundary treatment is necessary for certainty and in the interests of character and appearance and the living conditions of existing and future occupiers. In the interests of wildlife and the appearance of the development, a condition securing full details of all hard and soft landscaping is necessary. Conditions covering cycle and waste storage are necessary in the interests of promoting sustainable transport options and to ensure the satisfactory appearance of the development and highway safety respectively.
41. A condition securing implementation of the measures detailed in the Noise Assessment is necessary in the interests of the living conditions of future occupiers. Combined with the condition securing details of boundary treatment, this condition is sufficient to mean that the other two noise-related conditions suggested by the Council are unnecessary.
42. In the interests of public safety and wildlife, a condition covering external lighting is necessary. In the interests of wildlife and ecology, I have imposed a condition relating to Japanese Knotweed. For the same reasons, conditions securing an ecological enhancement and management plan and compliance with the measures detailed in the submitted EA are necessary. On this basis, and given the EA included a survey of the site, the Council's suggested condition requiring a phase 1 habitat survey of the site is, and as per the Council's Addendum report, not necessary. I have therefore declined to impose that latter condition.
43. I have also not imposed the Council's suggested condition relating to employment opportunities. This is because the proposed development is not an employment generating use and it has not been demonstrated that the condition is necessary to make the development acceptable in planning terms and is directly related to it. In addition, I have declined to impose the suggested condition removing certain permitted development rights because the submitted evidence does not indicate that removing those rights would be necessary to protect the living conditions of existing and future residents. Finally, the conditions listed in the Officer Report relating to electric vehicle charging and low emission boilers are not necessary because these matters, as the Council indicated during the appeal, are now covered by building regulations.



## Conclusion

44. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the clear need for more accommodation in the district and the delivery of all the proposed dwellings as affordable housing outweigh the policy conflicts and the harm arising from the appeal proposal. This indicates that the development proposed should be permitted notwithstanding its conflict with the development plan as a whole. The appeal is therefore allowed.

*T Gethin*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (Drawing No PL-01, Rev B); Topographical survey (Drawing No 30601\_T, Rev O); Proposed layout (Drawing No PL-02, Rev N); Proposed boundary treatments plan (Drawing No SKM241-BTP-01, Rev D); Proposed streetscenes (Drawing No SKM241-SS-01, Rev C); Proposed materials plan (Drawing No SKM241-MP-01, Rev C); Fences types A to D (Drawing No NSD 9102); 900mm wall with 900mm closed boarded fence detail (Drawing No NSD 9004); The Worsley; The Atkins; The Allum; The Francis; The Allum Plot 52 (Rev A); The Atkins Plot 4 (Rev A); The Atkins Plot 27 (Rev A); The Atkins Plot 57; The Atkins Plot 58; The Francis Plot 20 (Rev A); The Francis Plot 21 (Rev A); and Site access general arrangement (Drawing No 23204-RPS-XX-XX-DR-C-001, Rev P01).
- 3) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a construction and environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during clearance/demolition and construction works; a scheme for recycling/disposing of waste resulting from clearance/demolition and construction works; delivery, clearance/demolition and construction working hours; and full details of proposed ecological protective measures during clearance and construction works. The approved CEMP shall be adhered to throughout the construction period of the development.
- 4) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a scheme for the protection of the retained trees (the tree protection plan covering those trees which are to be retained in accordance with the approved plans and particulars) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5

and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall be submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

- 5) Prior to commencement of the development hereby permitted, including site clearance and preparatory work, a detailed site investigation shall be completed to establish the degree and nature of the land contamination on the site and its potential to pollute the environment or cause harm to human health. Details of the site investigation and any necessary remediation measures shall be submitted in writing and approved in writing by the Local Planning Authority prior to the commencement of development. All works must conform to Land Contamination Risk Management (LCRM) 2020 (EA, 2020) methods and protocols and be carried out by a competent person.
- 6) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until a remediation and verification scheme(s) has been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) Where remediation works have been carried out in pursuance with the preceding conditions, a post remediation report shall be submitted and approved in writing by the Local Planning Authority before the development is occupied. The post remediation verification report should detail the remedial works undertaken and demonstrate their compliance. The report should be produced in accordance with Land Contamination Risk Management (LCRM) 2020 (EA, 2020).
- 8) With the exception of site investigations, remedial measures and site clearance, no development shall commence until full details of drainage works for the disposal of foul sewage and the management of surface water have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be implemented before any part of the development is first occupied and shall thereafter be retained and maintained in accordance with the approved details.
- 9) With the exception of site investigations, remedial measures and site clearance, no development shall commence until details of the finished floor levels of the permitted development, including their relationship to the levels of the highway and existing developments, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) No development above ground level shall commence until the details of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 11) Prior to construction of the estate roads serving the development hereby permitted, details of the standards to which the estate roads are to be constructed shall be submitted to and approved in writing by the local planning authority. The estate

roads shall be constructed in accordance with the approved details before any part of the development is first occupied and shall thereafter be retained.

- 12) Prior to occupation of the development hereby permitted, the vehicle parking and manoeuvring spaces shall be provided in accordance with Drawing No PL-02 Rev N and shall thereafter be retained for the parking and manoeuvring of vehicles only.
- 13) Prior to occupation of the development hereby permitted, an energy statement detailing the renewable energy measures to be installed to offset at least 10% of the estimated residual energy demand of the development on completion shall be submitted in writing and approved by the local planning authority. The development shall not be occupied until the approved measures have been provided and shall thereafter be retained.
- 14) Prior to occupation of the development hereby permitted, details of the height, type and position of all site and plot boundary walls or fences to be erected shall be submitted to and approved in writing by the local planning authority. The approved boundary walls and fences shall be erected before any part of the development is first occupied and shall thereafter be retained.
- 15) Prior to occupation of the development hereby permitted, full details of all hard and soft landscaping on the site, taking account of the high-level details included in the submitted Landscape strategy plan (Drawing No 8240 / ASP4 / LSP, Rev D), and an implementation programme shall be submitted to and approved in writing by the local planning authority. The approved hard and soft landscaping shall be carried out in accordance with the approved implementation programme. Any trees or plants planted as part of a soft landscaping scheme which within a period of five years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 16) Prior to occupation of the development hereby permitted, details of waste storage to serve the development shall be submitted to and approved in writing by the local planning authority. The approved waste storage shall be provided before the development is first occupied and shall thereafter be retained.
- 17) Prior to occupation of the one-bed flat/apartment units within the development hereby permitted, details of secure cycle parking for each of unit shall be submitted to and approved in writing by the local planning authority. The approved secure cycle parking shall be provided before the one-bed units are first occupied and shall thereafter be retained.
- 18) Prior to occupation of each dwelling within the development hereby permitted, the mitigation measures in the submitted Noise Assessment (by Hepworth Acoustics Ltd, dated October 2023) shall be implemented and thereafter retained.
- 19) Prior to occupation of the development hereby permitted, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved lighting scheme shall be implemented before the development is first occupied and shall thereafter be retained.
- 20) Prior to occupation of the development hereby permitted, a scheme to limit the spread of Japanese Knotweed along the watercourse shall be submitted to and

approved in writing by the local planning authority. The approved scheme shall be implemented before any part of the development is first occupied.

- 21) Prior to occupation of the development hereby permitted, an Ecological Enhancement and Management Plan (EEMP), taking account of the submitted landscape strategy plan (Drawing No 8240 / ASP4 / LSP, Rev D) and the recommendations in section 6 of the submitted Ecological Appraisal (by Aspect Ecology Ltd, dated October 2023) and Technical Note 01 (by Aspect Ecology Ltd, dated 9 February 2024), shall be submitted to and approved in writing by the local planning authority. The EEMP shall be implemented in full in accordance with the approved details.
- 22) The development shall be carried out in accordance with the measures detailed within section 6 of the submitted Ecological Appraisal (by Aspect Ecology Ltd, dated October 2023) and the measures implemented/provided prior to either, as relevant, the commencement of development or first occupation of the development.

## **END OF SCHEDULE**

## APPENDIX 15



# Appeal Decision

Hearing held on 8 July 2015

**by D R Cullingford BA MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 August 2015**

---

**Appeal Ref: APP/P2745/A/15/3002825**

**Whitewall Quarry, Whitewall Corner Hill, Norton, Malton, North Yorkshire YO17 9EH**

- This appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure of the Council to determine an application for planning permission within the prescribed period.
  - The appeal is by Mr David Watts on behalf of Clifford Watts Limited against the North Yorkshire County Council.
  - The application (ref: NY/2012/0340/FUL) is dated 27 September 2012.
  - The development is described as the 'proposed siting of asphalt production plant in existing quarry – as described in submitted supporting statement'.
- 

## Decision

1. I dismiss this appeal.

## Main issues

2. From what I have heard, read and seen, I consider that this appeal turns on whether:
  - i) the scheme would constitute sustainable development or entail an unsustainable proposal inappropriately located in the countryside, and
  - ii) the siting, design and operation of the project would unacceptably exacerbate its environmental impact or appropriately mitigate the potentially harmful effects of any associated traffic, dust and noise.

## Reasons

### *The site*

3. Whitewall Quarry is a limestone quarry with Victorian origins, though the current owners have undertaken the operation here since 1956. The quarry lies, partially screened by intervening hedges and trees, beneath the summit of Sutton Wold and not far beyond the ribbon of dwellings that straggle along the Welham Road and up the lower slopes of Whitewall Corner Hill. The quarry is now a 25m deep rectangular excavation extending to some 11.5ha and annually producing (according to the appellant) between 110,000 and 190,000 tonnes of mainly processed, but also some agricultural, limestone. The open rolling landscape above Norton, in which the quarry lies, is an Area of High Landscape Value. The Welham Hill Verges SINC is adjacent to the quarry and the Bazeley's Lane SINC is about 270m to the north east. Further afield are the Three Dykes SSSI (about 1.2km to the east) and the River Derwent SSSI and SAC (roughly 4.2km to the south west).

4. Dwellings stand at the foot of Whitewall Corner Hill (Nos.185 & 187 Welham Road) or along Whitewall (2 of which are Listed); these dwellings are about 250m from the northern boundary of the quarry but roughly 460m from the proposed position of the asphalt plant. Slightly closer is Whitewall House and its stables (Listed partly for its connection with horse racing since the 18<sup>th</sup> century and as the residence of John Scott, a well-known racehorse trainer during the 19<sup>th</sup> century). Also along the narrow lane are Whitewall Cottages and stables (a further Listed Building). Both properties and other cottages here stand about 180m to the north of the quarry and some 430m from the site of the proposed asphalt plant. Further afield to the west are Welham House and Welham Hall Farm (over 650m distant) with the Malton Golf course within about 500m, though the club house is 780m away. Some 630m to the south west lies Welham Wold Farm and about 720m to the east stands Furze Hill.
5. The quarry access rises and bends from the quarry floor to reach Whitewall Corner Hill and Welham Road. This provides a route northwards through Norton to the awkward junction at Castlegate and Church Street (south of the level crossing). From there a link via Commercial Street (the centre of Norton) and the B1248 connects eastwards either to the A64 at Brambling Fields junction or across the Wolds and beyond via North Grimston: or, by traversing the level crossing and the centre of Malton (designated as an AQMA in 2009), there are links (either east or west) to the A64 and via the B1257 to Thirsk and beyond. To the south, rural lanes meander to the A64 at Kirkham Abbey and via the picturesque village of Langton to the B1248 at North Grimston. Whitewall Corner Hill forms part of the National Cycle Network (route 166) and the circular Yorkshire Wolds Cycle Way. There are bridleways along Bazeley's Lane about 330m to the north and southwards from Bazeley's Lane roughly 500m to the east of the quarry.
6. Swathes of the open rolling landscape to the south of Norton accommodate gallops and training grounds for racehorses, some of the most extensive being about 1-1.5km to the east along Langton Road. Submitted evidence indicates that there are about 15 racehorse trainers operating at stables and yards within about 1.5km of the quarry, often from well-kept and sometimes Listed establishments. Indeed, it is clear from some of the Listing details that Norton has been associated with racehorse training for several centuries. I saw that investment in the business continues, recently upgrading the quality and durability of the gallops and expanding training operations, as evident in the additional stabling permitted at Spring Cottage Stables (13/00864/FUL).

*The proposal*

7. The proposal would entail the installation of an asphalt production plant on the quarry floor adjacent to the western quarry face and south of the wheel wash, weighbridge and offices. The plant was expected to be a second-hand 'ACP Roadmobile 2000 Batch Unit', which would consist of several components, the most noticeable being the batch tower, storage silos and a 15m high exhaust stack, the whole of the installation thus remaining some 10m below the top of the quarry face. However, it was explained at the Hearing that such a unit is no longer available, though something similar is still envisaged. The operational area would extend over some 0.6ha; the appeal site, which includes access roads, is 0.87ha. The scheme would include 5 aggregate storage bays, each about 6m wide, 10.8m deep and 3.6m high, providing a total of 233m<sup>3</sup> of storage and it would utilise existing facilities at the quarry, such as the access arrangements, the internal haul roads, the wheel wash, weighbridge and offices. The project would provide 3 additional full-time jobs.



8. The plant would mix aggregates (gravel or crushed stone) with limestone fines (taken from the quarry) and a bitumen binder. This would add to the activities already operating within the quarry. In addition to the excavation, treatment and transportation of limestone (in various forms), a planning permission, granted in 2002, encompasses recycling operations in part of the quarry. Inert waste material (such as subsoil, topsoil, brick and rubble) is imported on a 'back-haul' basis and stored in stockpiles on the quarry floor until mobile screening equipment is used to process it as 'soil' for site restoration or as recycled aggregates. Subsequently, in 2003, approval was given for the installation of a concrete batching plant followed, in 2009, by a permission for the erection of a portal frame building to accommodate the manufacture of precast concrete construction units and, in 2013, by a further permission for a similar building to store those manufactured units; the latter has not yet been erected. Those activities and permissions are linked to the operation of the quarry, where limestone extraction is authorised (under a permission granted in 2008) until the end of November 2023. There is no explicit restriction on the quantities entailed in those operations or on the number of associated HGV movements generated thereby. However, it is proposed to limit the production of asphalt to 140 tonnes per day, although similar plants to the one proposed appear to be capable of producing such a quantity within an hour or so.
9. The intention is that the production of asphalt would complement the recycling operations and utilise some of the recycled materials. Existing business distribution and collection agreements operating from Whitewall Quarry would potentially allow up to nearly 45% of the total asphalt mix to be derived from recycled aggregate and bitumen (including from road planings) returned to the quarry after deliveries of other products on a 'back-haul' basis. With the limestone fines from the quarry (only about 4% of the asphalt mix), almost half of the asphalt might be derived from recycled sources. Those sources could include recycled materials from the company's Gransmoor and South Cave Quarries in East Yorkshire, where appropriate permits already exist for bitumen and aggregates recovered there to be returned to Whitewall Quarry. However, although about half of the material for the asphalt might be recycled, almost all of it (about 96%) other than the limestone fines (about 4%) would be imported, some of the aggregate, as indicated below, over considerable distances.
10. There are some constraints on the use of recycled material in the production of asphalt here. First, any old road planings (or other excavated materials) containing coal tar would be classified as hazardous waste. Such material could not be imported into Whitewall Quarry and would require treatment at an appropriately licenced facility. The intention is that the proposed development would not entail the re-cycling of any coal tar, so that all recycled materials would continue to be 'inert' and non-hazardous. Second, not all mixes of asphalt are suitable for use everywhere. To be suitable for use as road surfacing material, roughly 14-23% of the stone must be of granite type quality. This might limit the use of recycled aggregate. But it also requires such stone to be imported into the site; current sources are in Cumbria and the Borders. There may be opportunities to transport that material on a 'back-haul' basis because the company supplies agricultural lime at certain times of the year to both places. However, such opportunities would tend to vary with the seasons.
11. The asphalt plant is intended to operate between 06.00-17.30hrs on Mondays to Fridays and between 06.00-12.30hrs on Saturdays, though HGVs would not leave the site before 06.30hrs; there would be no operations on Sundays and Bank Holidays. Current operating hours at the quarry are slightly more restrictive, being between



06.30-17.00hrs on Mondays to Fridays and 07.00-12.00hrs (for the quarry) but up to 13.00hrs for the manufacture of concrete construction units. The earlier start times for the asphalt plant would enable the export of road asphalt before 07.00hrs, so catering for the usual early start of road improvements and the like.

12. On the basis that the asphalt plant would be limited to producing 140 tonnes per day and that some 60% of the aggregate and 40% of the bitumen would be freshly imported (rather than recovered from existing waste material), the operation is estimated to generate a daily average of 20 HGV movements, rounded up to 22 to allow for market variations. It is assumed that most of the asphalt would be transported in 20 tonne loads and that the importation of inert waste (contributing up to nearly 50% of the product) would be delivered on a 'back-haul' basis, thereby contributing no HGV movements to the asphalt production. In effect, the inert waste used in the production of asphalt is assumed to be imported in HGVs returning from delivering other quarry products, such as limestone or fabricated concrete or possibly even inert waste delivered for site restoration or levelling.
13. The traffic movements generated by the existing operations in the quarry are estimated to amount to an average of 77 HGV movements daily. This is partly derived from weighbridge records over the last 5 years, but also from the assumption that, as the recycling activities are carried out as a service to customers taking deliveries from the quarry, the imported material is introduced on a 'back-haul' basis and the relevant HGV movement itemised elsewhere. Hence, the production of asphalt at the quarry would result in an average daily increase of HGVs in the order of about 30%, the daily total rising from 77 to 99 movements. It is suggested that including an allowance for market and other variations the total should be regarded as a daily average of 110 HGV movements or, over a 10.5 hour working day, an average of about 10 HGV movements an hour.
14. It is estimated (based on market research and 'deliverable durability') that asphalt deliveries are likely to be within a 35-mile radius of the quarry, with roughly 82% terminating in North Yorkshire and 18% in East Yorkshire. It is anticipated that about 20% would be very local (within Malton or Norton) with the rest scattered across the main settlements in the area. In contrast, nearly all the materials for the production of the asphalt would be imported into the quarry, some of it from much further afield. The hard stone of granite-like quality is expected to be delivered from Cumbria and the Scottish Borders: the main source of the manufactured bitumen (rather than that reclaimed or recycled) is likely to be from Immingham in north Lincolnshire.
15. The intention is that the HGVs associated with the operation of the asphalt plant would adhere to specific routes largely designed to minimise the number of HGVs traversing Malton town centre and the AQMA. A section 106 Agreement itemises several mechanisms to encourage such adherence entailing the recording of number plates and checks on compliance, the monitoring of electronic records for the company's own vehicles and a system of warnings and bans in relation to all drivers. Broadly, most aggregates would be imported via the A64 and the Brambling Fields junction (east of the town) and thence through the centre of Norton (Commercial Street) to Welham Road and the quarry: the remainder would arrive via the A64 and the A166 from Stamford Bridge and approach the quarry from the south via Welham Hill. The bitumen would also follow that latter route as could the gas or oil used to heat the material. The export of the asphalt would adhere to a similar pattern.

16. A set of draft conditions provide for improvements to the access arrangements; the control of noise (both from vehicles and from the plant); the imposition of noise levels at specified noise sensitive properties in line with the Guidance (NPPG) relating to mineral operators; measures to limit the emission of dust and dirt; the use and installation of wheel washing facilities; the permitted hours of operation relating to both plant and vehicles; and the setting of limits to the daily levels of output and the importing of primary aggregate material.

*Planning policy and the main issues*

17. The Development Plan currently consists of the 'saved' policies of the North Yorkshire Minerals Local Plan (1997) and the Ryedale Plan: Local Plan Strategy (2013). The former includes policy 4/16 which seeks to restrict the use of plant, machinery and buildings at quarries to processes primarily using the minerals produced from the site while allowing ancillary or secondary processes that are sited, designed and maintained so as to minimise the impact on the environment and local amenity. The latter includes policy SP6, which insists that within the open countryside 'major industrial processes involving the extraction, utilisation, working or harnessing of natural materials or land assets will be supported where they are required in that location and no other suitable sites are available in the locality'. In addition, such processes must not result in a significant and adverse highway impact, or impair the amenity of neighbouring occupants, or impinge unacceptably on the surrounding landscape; and the economic benefits should outweigh any adverse impact. One particular benefit claimed for the scheme is that it would reflect the advice in the Framework (NPPF) to make use of 'secondary and recycled materials' in substituting for the 'extraction of primary materials'. Accordingly I identify the issues set out above.

*Sustainability*

18. Policy 4/16 seeks to restrict the use of plant, machinery and buildings at quarries to processes primarily using the minerals produced from the site. In contrast, the proposal envisages the installation of additional plant and machinery to process material, almost all of which (96%), would be imported into the site; the use of limestone produced from the quarry would be negligible (4%). It follows that the production of asphalt could not constitute an ancillary operation to the main quarrying activity; there is simply no sense in which it could be understood *to provide necessary support to the primary activities* involved in the production of limestone. Nor would it be a 'secondary operation' in the sense envisaged by the Plan, for it is clear from the reasoned justification (paragraph 4.2.23) that such operations are intended to entail the use of raw material primarily produced from the quarry; the proposal would, almost exclusively, make use recycled material imported into the quarry. Hence, the support afforded by the Plan to ancillary or secondary processes designed and maintained to minimise any environmental impact would not apply to the production of asphalt here because, whatever the environmental impact of the process might be, it would neither be an ancillary nor a secondary operation to the production of limestone. In those circumstances, the scheme must contravene the requirements of policy 4/16.
19. Policy SP6 insists that major industrial processes located in the open countryside and involving the extraction, utilisation or working of natural materials should be required in that location and demonstrate the absence of alternative suitable sites in the locality in order to warrant support. This quarry lies in the midst of open countryside. And, while not apparently defined, the production of asphalt may be a 'major industrial process'

for, although it would contribute little to the local economy by way of additional employment, it would entail the working of much raw and recycled material and noticeably increase HGV traffic (by some 30%) from what clearly is a major extraction operation. But, as the production of asphalt would entail only a negligible use of the limestone produced within the quarry, there would appear to be no obvious requirement to install an asphalt plant on the quarry floor. Moreover, the fact that 'virgin' raw materials (the granite quality stone and bitumen) must be imported over considerable distances (from Cumbria, the Borders and north Lincolnshire) casts further doubt on the sustainability of producing asphalt here. In any case, no evidence is adduced to demonstrate that suitable alternative sites do not exist within the locality. Hence, whether or not the proposal would satisfy the other elements of the policy (relating to highway, amenity and landscape impacts, as well as economic benefits), it would be contrary to policy SP6. For the same reason, even if this were not a 'major industrial process', it would be contrary to policy SP9 because there is nothing to indicate that it might be necessary to support the sort of land-based activity envisaged; on the contrary, almost all the material to be used in the manufacturing process would be imported from elsewhere.

20. Are there material considerations that would support a decision other than in accordance with these operative policies of the Development Plan? One important material consideration is the advice in the Framework to make use of 'secondary and recycled materials' in substituting for the 'extraction of primary materials'. However, that advice is given in the context 'plan-making' rather than 'decision-taking' and it seems to me to be directed at devising strategies to secure the long-term conservation of minerals in order to make the best use of a finite resource that can only be worked where it is found. This proposal is different. It is not mainly directed at the long-term conservation of the limestone in this quarry. Rather, it would make use of processed inert waste that has been almost wholly imported into the site. That is not a natural finite resource that can only be worked where it is found. On the contrary, it could be transported to, and worked in, many places. And, although it could substitute for natural stone quarried elsewhere, a direct consequence of using such inert waste in the production of asphalt here, would be the necessity of importing quantities of quarried quality stone and manufactured bitumen over substantial distances across the country. I fear that this is a 'cart-before-the-horse' justification. The presence of recycled material, almost all imported into the site, is used to justify the necessity of importing finite (stone) and manufactured (bitumen) resources over substantial distances into this quarry. In my view, that would neither properly reflect the aim of the advice in the Framework nor would it constitute an obviously sustainable arrangement.
21. I also doubt that all the sustainable credentials claimed for this operation would necessarily materialise. First, there is very little concrete evidence that the claimed quantity of recycled material to be processed by the proposed plant could always be achieved. The traffic assessment seems to imply that much of this material would be transported to the quarry on a 'back-haul' basis utilising the capacity of HGVs returning after delivering asphalt. While that may well be plausible in relation to the larger scale operations entailing the planing of material from carriageways and their resurfacing with asphalt (as indicated in the representations from Ringway Infrastructure Surfaces Limited), it is far from certain that the small builders and developers, the drive and pathway specialists or the 'groundwork' operators who write to support the proposal would be undertaking works involving much of such recyclable material. Moreover, although it is recognised that pressure on funding has encouraged Highway Authorities

to focus on 'road patching' rather than extensive planing and resurfacing, the potential effect of such altered processes on the availability of recyclable material is not addressed. Clearly, a dearth of recyclable material could necessitate the importation of more quarried stone and more manufactured bitumen.

22. Second, the estimated use of recycled material is based on a daily average production of 140 tonnes throughout the year (assumed to be 275 working days). However, in practice the daily production is likely to reflect variations in demand, including seasonal changes, as well as the terms and duration of specific contracts. Not unreasonably, the appellant seeks to cater for such variations by allowing for up to 11 HGV loads of asphalt to be exported from the quarry in any one day (that is up to 220 tonnes) rather than restricting the output to just 7 (140 tonnes); this is reflected in the changes suggested to the terms of a proposed condition. Whether the availability of recyclable material would accommodate such variations in production must be uncertain, not least for the reasons outlined above.
23. Third, it follows from the foregoing that the reliance on a 'back-haul' system of transportation to import the recyclable material into the quarry may not be robust. I appreciate that it is in the interests of the appellant to operate such a system, if possible. But, if the delivery of asphalt does not offer the opportunity to 'back-haul' recyclable material, then there may be a need to source, and perhaps stockpile, such material from elsewhere. That could require special trips to source either raw or recyclable material, so undermining the apparent sustainability of the transport operation.
24. Fourth, there is little to demonstrate that locating the asphalt plant at Whitewall Quarry would 'ideally serve' both north and east Yorkshire. True, the site would sit at the centre of a circle, with a radius of some 35 miles, encompassing those places. But, existing operations at Fridaythorpe, Hull, Selby, Harrogate and Middlesbrough seem to me to be rather better located in relation to the main centres of population and the main configurations of the road network. Although the closure of the tarmac operation in Spaunton Quarry may appear to leave an area towards Scarborough without a source of manufactured roadstone, much of this consists of the North York Moors. Moreover, many of the supporting representations do not indicate a lack of supply, but rather a desire to deal with a local indigenous operator located a little closer to their main places of work. And, for those the proposal would only be a little closer, for the installation at Fridaythorpe is not much more than a dozen miles or so further to the south and just as easy to reach from Scarborough as Whitewall Quarry (25 and 23 miles distant respectively, both journeys entailing roughly a 45 minute journey without traffic). In my view, such a relatively modest saving to some local businesses would not warrant siting a new asphalt plant at this quarry in the countryside, contrary to the operative planning policies that apply here. And, the absence of an unmet need (or clear demand) seems to me to be confirmed by the intention to severely restrict the potential output from the plant likely to be installed; on the basis of the evidence adduced the daily production intended might be achieved in just one hour's operation.
25. Taking all those matters into account, I find that this scheme would entail unsustainable development inappropriately located in the countryside, contrary to policies 4/16 and SP6 and out of kilter with the advice in the Framework.

*Environmental impact*

26. Much effort has been expended in mitigating the potential environmental impact of this scheme. Positioning the plant on the quarry floor and beside the western quarry face would largely conceal the structure from most vantage points, while the intervening hedges and trees, together with bunds and buffer zones, would provide effective screening, even at quite close quarters. Hence, the structure itself would not noticeably impinge upon the landscape, nor would it intrude above the skyline, thereby largely complying with policy SP13 (landscape) and, for similar reasons, policy SP16 (design). Nor would the proposal damage the nearby SINCs or harm the SSSIs, as policies SP14 and 4/6a require and the consultations from Council's Ecology Officer and English Nature confirm. And, subject to the imposition of suitable conditions, there are no objections from the Environment Agency. However, concerns remain about noise and traffic as well as the effects on racehorses and the racing industry. I address each in turn.

*Noise*

27. The Guidance indicates that mineral planning authorities should aim to establish noise limits at noise-sensitive properties not exceeding the background noise levels by more than 10dB(A) during normal working hours (07.00-19.00hrs) and during the evening (19.00-22.00hrs) and, in any event an absolute limit of  $L_{Aeq, 1h}=55dB(A)$  should be met; for night-time operations  $L_{Aeq, 1h}=42dB(A)$  should be satisfied. In this way the characteristics of the prevailing acoustic environment are to be taken into account and an assessment made of whether noise might give rise to significant adverse or just adverse effects, enabling a good standard of amenity to be achieved. The Framework indicates that since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them, recognising that some noisy short-term activities (such as soil stripping and the creation of baffle mounds) which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction.
28. Those noise limits largely reflect the advice last set out in the superseded *MPS2; Controlling and Mitigating the Environmental Effects of Minerals Extraction in England: Annex 2, Noise*. That annex explicitly relates to 'both surface mineral extraction and surface operations associated with underground mineral extraction, including waste disposal and recycling operations that form an integral part of a mineral working operation'. The current Guidance is not quite so clear because, although it relates to 'mineral development proposals', it includes schemes 'for related similar processes such as aggregates recycling and disposal of construction waste' without explicitly indicating whether they should be an integral part of the mineral working operation. However, it seems to me that any sensible interpretation of the Guidance must impute an integral connection between the mineral working and the waste disposal or recycling operation, for to do otherwise would imply that processes involving resources that are neither finite nor require to be worked where they are found would benefit from the noise limits designed to cater for processes subject to just such constraints.
29. In this case, I consider that the proposed asphalt plant would not be integral to the mineral working operation here, for the reasons set out previously. On the contrary, it would be more akin to a new industrial process within the quarry and, as such, it would more naturally be subject to a noise assessment designed to measure the effects of industrial processes and fixed installations, namely BS4142:1997. A simple comparison between a 'rated' noise level (corrected for hisses and hums or clicks and clatters)



emanating from the asphalt plant and the background level is used to indicate the likelihood of complaints. The measurements undertaken here demonstrate that if the predicted noise from the asphalt plant is corrected by an addition of 5dB(A) to reflect the rattles and thumps inherent in the production of asphalt, then the noise from the operation would be sufficiently above the background level to make complaints likely at 3 of the 4 noise sensitive properties surveyed at night (in this case before 7.00hrs) and to be of 'marginal significance' at the same 3 properties during the evening and at the fourth property at night; a rating of 'marginal significance' does not mean that the noise would be unnoticeable or unobtrusive. During the day the rating level would equate roughly to the measured background level.

30. The Environmental Health Officer indicates that some of those results should be treated with caution. First, the method is not suitable for predicting the likelihood of complaints when the background level is at or below about 30dB(A) and the rating level below about 35dB(A). This is the case for the 'corrected' night-time assessment at Welham Wold Farm (where the impact of noise is assessed to be of marginal significance at night), but not elsewhere. Second, it is pointed out that 3 of the background noise measurements were made only in the small hours of the morning when noise levels are likely to be particularly low and not reflective of the early operating period of the plant (6.00-7.00hrs). That might be so. However, I note that the report explicitly describes the assessment periods chosen as being 'typical' of the daytime, evening and night-time conditions. Moreover, it seems to me that the noise levels predicted, although described as 'worst case' scenarios, have not encompassed all the noisy activities entailed in the operation of the asphalt plant. I do not see any estimate of the noise emanating from the rotary drum, the screens and conveyors, the bucket elevator feeding into the batch tower or the loading of the aggregate bins. Hence, on the basis of the evidence actually before me, I consider that complaints would be likely at 3 of the 4 noise sensitive properties assessed during the very early morning, just when such disturbances might be particularly intrusive, and noticeable during the evening. And, although it would be possible to avoid such an impact by curtailing the hours of operation, that would alter the nature of the proposal envisaged. I consider, therefore, that the scheme would impinge on the amenities local residents might reasonably expect to enjoy.

#### *Traffic*

31. It is estimated that the manufacture of asphalt at Whitewall Quarry would generate an average of 22 additional HGV movements daily, allowing for seasonal and other variations; this would increase the total daily HGV movements at the Quarry to 110. On the basis that existing daily flows along Welham Road and Commercial Street amount to some 3,300 and 4,300 vehicles, the Highway Authority consider that the traffic generated would represent insignificant increases; less than 1% along Welham Road, barely 0.15% at the Butcher's Corner junction and just 0.51% along Commercial Street.
32. Unfortunately that conclusion rests on an estimate which assumes that nearly all the loads associated with the asphalt plant would be of at least 20 tonnes and that the traffic generated would be spread throughout the working day. Neither assumption is entirely realistic. First, although the larger contractors would be likely to take deliveries in 20 tonne loads, the small builders and developers, the drive and pathway specialists or the 'groundwork' operators likely to form an element in the market for the asphalt produced here, may well require smaller amounts. And, deliveries or collections may

entail the use of all manner of types and sizes of vehicle, including those below 3.5 tonnes. It follows that the traffic generated by this project could be substantially different from what has been assumed. Hence, the scheme could entail several additional trips by smaller vehicles, including non-HGVs, which do not figure in the traffic analysis and over which no control is proposed.

33. Moreover, there could be tensions between the limitations envisaged on the number of HGVs and the ability to meet the expressed demand for the asphalt produced. If the control exercised were to incorporate the flexibility desired, then the daily output might increase by almost 60% from the 140 tonnes suggested as a daily average over a month, with a commensurate increase in HGV trips. It would not be possible to ascertain whether limits had been adhered to without the analysis of monthly data, rendering control largely retrospective and engendering the possibility of disputes, including those about the relevant period over which to conduct the analysis. And, if the effective demand from small builders or drive and pathway specialists were to entail the use of HGVs for loads below 20 tonnes, then there could be pressure for more HGV traffic than the proposed limitations currently countenance. Quite apart from the difficulty of distinguishing between HGVs associated with the production of asphalt and all other 'quarry traffic', it would also be far from straightforward to control the daily number of HGVs delivering materials to, or the product from, this asphalt plant, given the level of the legitimate variations envisaged and the retrospective nature of the control possible. In any event, the traffic generated by this project could be substantially different from what has been assumed.
34. Second, the rationale for the early start of the operation is to allow for the export of asphalt, starting at 6.30hrs, in order to cater for the usual early start of road improvements and the like; up to 11 HGVs could be involved on occasions and an unknown number of trucks of 3.5 tonnes or below. Much of that traffic may well enter the road network early in the morning and result in an increase in flows in the order of 10% at that time of day. I do not doubt that the road network ought to be able to safely accommodate such an increase. But, it seems to me that the nature and possible scale of the additional traffic that might well occur would perceptibly diminish the environmental conditions residents currently enjoy. The assertion that a 25% increase in traffic would only increase traffic noise (in this case measured as  $L_{A10, 1h}$ ) by 1dB(A) requires all other factors to remain constant. That would not be the case here for the additional traffic would consist largely of various HGVs and smaller trucks. Allowing for various reasonable proportions of HGVs, speed limits and the gradient at Welham Road, I estimate that road traffic noise might increase by 2-3dB(A). Given the time of day that such an increase would occur and the fact that it would largely emanate from HGVs, I consider that residents, particularly those beside Welham Road, would experience a noticeable denudation in their living conditions.
35. The draft section 106 Agreement sets out mechanisms to control the routing of HGVs associated with the production of asphalt avoiding, as far as possible, the centre of Malton and the AQMA. Although the scope of Obligations are generally limited to the land, the terms envisaged here require lorry drivers to use the routes specified and make provision for the operator to issue warnings and prohibitions in the event of any breach. The appellant would have control over the 5 vehicles directly owned by the company (which can also be tracked) and HGV routing arrangements would form part of the contracts for the 10-15 lorries operating on a contract demand basis. Control of independent parties would not be so direct, but the registration of number plates, the maintenance of records, instructions to drivers, random checks and any necessary



disciplinary action could be effective. Similar arrangements have been utilised elsewhere by the County Council.

36. However, in this case there would be a particular practical difficulty to ensuring compliance with lorry routing arrangements. The proffered Agreement would relate only to the HGV movements associated with the production of asphalt. There would be no routing arrangement relating to the other activities undertaken here, which generate some 70-80% of the HGV traffic. Nor would there always be any obvious way to distinguish between the vehicles used in connection with the asphalt operation and those engaged on existing tasks. Of course, those laden with asphalt might be recognised, but returning vehicles, either empty or loaded, could be more difficult to identify and it would not be obvious for what purpose the importation of stone or recyclable material might be used. I accept that the records to be kept by the operator could well provide the necessary detail, albeit mainly retrospectively. But, in the circumstances of this case, the routing arrangements are highly likely to attract the scrutiny of local people and, in the absence of some clear identification, elicit complaints that would require numerous investigations by the County Council. I consider that such a potential burden on the limited resources available to be unwarranted.
37. Moreover, even if the lorry routing arrangements were to operate successfully, much of the additional HGV traffic would be routed via Welham Road and Commercial Street, the latter being the centre of Norton. Although the evidence demonstrates that such traffic could be physically accommodated, it would add to the traffic already traversing these streets and increase the incidence of HGVs there, so further denuding the quality of Norton's commercial centre. This would not contribute to the vitality, viability and attractiveness of Norton, or enhance public areas or reflect the aim of instigating traffic management measures to improve the pedestrian experience in the town. On the contrary, this would exacerbate the presence of HGVs, so undermining an aim of the Plan to create an inviting appearance in Commercial Street to attract and retain custom and to counteract those signs that the place risks falling into decline. As such, the routing arrangements proposed would undermine the aims of policy SP7.

*Effects on racehorses*

38. There is concern (expressed by racehorse trainers, local veterinary surgeons and the British Horseracing Authority) that the particulate emissions from this asphalt plant could adversely affect the respiratory health of racehorses in the surrounding training stables and on the gallops. It seems to be agreed, and it is well documented, that the air quality inside stables can seriously affect performance, the incidence of Inflammatory Airway Disease being associated with exposure to particulate and mainly organic material (such as pollens, moulds, bacterial endotoxins and mites) which itself can vary with the type of feeding, bedding and mucking out regimes in operation. I heard that some stables had invested in equipment and operating regimes to minimise the occurrence of particulate organic matter. Nevertheless, although some exposure to particulates may be inevitable in stables, exposure to particulates on the gallops and training grounds is not. Indeed, an important element in the perceived attraction of Norton as a centre for training racehorses is the proximity of the training grounds on the open landscape of the Wolds and the uncontaminated air that blows over them.
39. Emissions from the plant would be subject to controls under the Local Authority Pollution Prevention and Control regime. The operation of the asphalt plant would

require a new Environmental Permit from Ryedale District Council which would only be granted if it could be demonstrated that a high level of protection could be achieved by using the 'best available techniques' to prevent or minimise emissions of prescribed substances (including particulates and odours). Calculations for the stack height of the plant have been undertaken to achieve the objective for the UK Air Quality 24-hour mean of  $PM_{10}=50\mu g m^{-3}$ . The calculations show that a stack height of 14.23m would be required, though the current proposal would be slightly higher (15m) and thus achieve slightly better levels of dispersion. The plant itself is designed to emit a limit of  $PM_{10}=20mg m^{-3}$ , although the relevant table indicates that 8-11 $mg m^{-3}$  could often realistically be achieved. Given the stack height, together with various directions and average speed of the wind, it is estimated that the 'designed level of emissions' would result in  $PM_{10}=0.2\mu g m^{-3}$  at the quarry boundary and, of course, much less at the nearest training establishment or at the gallops some 400m to over 1km distant; the 'realistic emissions' would result in even lower concentrations. Although it is impossible to be completely certain, and there is no study explicitly assessing the influence of particulates at training grounds, it seems to me that such levels of concentration would be so low (below the levels identified in stables by a factor of  $10^{-3}$ ) that the emissions from this asphalt plant would be unlikely to affect the respiratory health of racehorses. The evidence adduced does not provide a cogent basis for a different conclusion.

*Effects on the racing industry*

40. Norton is an important centre for the training of racehorses and it has been associated with the industry for at least 3 centuries. Evidence indicates that this and related activities contribute some £21m to the local economy, involve about 200 skilled people employed by trainers at the Malton and Norton yards and give employment to a host of ancillary occupations and businesses, such as work riders, farriers, vets, saddlers, feed and bedding merchants, physiotherapists, equine dentists, transporters and the like. This is a competitive business and it depends on the owners of high value racehorses choosing to stable their horses in Norton, rather than at Newmarket or, indeed, anywhere else. The concern is that if owners were to perceive that their horses might be exposed to contaminated grazing or poor quality air, due to the proximity of the proposed asphalt plant, then they might choose to stable their horses elsewhere rather than at the training yards in Norton, so jeopardising the continuation of a long-established traditional, skilled and valuable industry.
41. Although I consider that the evidence does not demonstrate an unequivocal link between the likely emissions from this asphalt plant and the respiratory health of racehorses, it seems to me that the evident presence of the plant could well influence owners about where to stable their racehorses. True, the plant itself would almost certainly not be visible from the training yards or from nearby vantage points. However, the emissions from the stack would be evident on occasions and it is entirely understandable that owners would perceive the proximity of such emissions as having the potential to be detrimental to the well-being and performance of their horses. The nearest stables would be only some 430m from the position of the stack and several would be down-wind from a prevailing south westerly.
42. Moreover, although the quarry and the racehorse training businesses have operated side-by-side in Norton for half a century and the recycling operation for a decade or so, I think that the installation of this asphalt plant would alter the basis of that relationship. First, it would result in visible emissions from the quarry site close to the town. Second, it would entail roughly a 30% increase in HGV traffic (maybe more)

where the permissions for the concrete batching plant and for the manufacture and storage of concrete products have already engendered a significant additional quantum of HGV movements. I consider that the cumulative effect of such additional HGV traffic would be sufficient, on occasions, to noticeably alter the character of the traffic on Welham Road. Since that road forms part of the route from some of the training yards to the gallops on Langton Road, the juxtaposition of HGVs and racehorses would be emphasised. This too would be evident to racehorse owners and might well further discourage them from entering into training contracts with some of the trainers in Norton.

43. For those reasons, it is hard to see how the economic benefits of the scheme, or the limited additional employment likely to arise, would outweigh the adverse economic effects of the proposal that could emanate from the harmful perception it would be likely to convey to racehorse owners in choosing to stable their horses at Norton. Of course, such an effect is difficult to quantify. But that does not mean that it could not be real; much business and many economic effects depend on perceptions. And, it seems to me that just such factors would be particularly important in an industry where results and reputations influence decisions. In those circumstances the risks to the horse training industry represented by this scheme, and to the businesses linked to it, constitute a real economic threat to the local economy. The proposal would thus fail to comply with policy SP6.

*Other matters*

44. I have considered all the other matters raised. I realise that the racing heritage of Norton is a special feature of the area and that the industry contributes to the tourist attractions of the town and to tourism businesses with such events as the annual stables open day. However, little evidence is adduced to assess the overall impact of the scheme on tourism. Similarly, although additional HGVs would affect the character of the sections of the National Cycle Network nearby, the Highway Authority indicate that no safety concerns should arise and I consider that the changes to the short sections involved would not spoil the overall experience of using those cycle-ways.
45. I read that no complaints were received in connection with operations at Whitewall Quarry between February 2010 and September 2011. However, during the processing of this planning application, the Authority has received numerous complaints from local residents in relation to the existing permitted operations at the site; the complaints relate to noise, blasting, vibration, dust, traffic, operating hours, the timing of HGV movements, the sheeting of vehicles, debris on the highway and off-site tipping of waste material and they were received on a monthly basis between June and October 2014. It is evident from the reports prepared by the Authority's Monitoring and Compliance Officer that nearly all the complaints relate to conditions that have largely been complied with. Indeed, the very few exceptions appear to relate to a muddle about some preparatory works for off-site tree planting. This indicates to me that the appellant would be likely to make every effort to comply with controls suggested in relation to the current proposal. But it also indicates that the plethora of permissions and conditions that govern even the existing operations at this quarry are sufficiently complicated to cause confusion to local residents and businesses. In my view, and for the reasons outlined above, the installation of the proposed asphalt plant would exacerbate those complications and render the practical control of the site that much more difficult.

### *Conclusion*

46. I have found that the proposal would entail unsustainable development inappropriately located in the countryside, contrary to policies 4/16 and SP6 or, if it were not a 'major industrial process', policy SP9. It would also be out of kilter with the advice in the Framework and, for the reasons given, I doubt the achievability of all the sustainable credentials claimed for this operation.
47. I also find that, in spite of the careful siting of the plant and the limited operation intended, that the overall effect of the scheme would be damaging. Complaints would be likely at 3 of the 4 noise sensitive properties assessed during the very early morning and noise from the operation would be noticeable during the evening. And, because the traffic generated by this project could be substantially different from that which has been assumed, there could be occasions when residents beside Welham Road would experience a noticeable denudation in their living conditions. Although I think that the appellant would make every effort to adhere to the suggested routing arrangements, the complicated nature of the control measures put forward and the inevitable scrutiny from local people would be likely to elicit complaints that would require numerous investigations by the County Council, thereby entailing an unwarranted burden on the resources available. Moreover, even if successful, the routing arrangements would exacerbate the presence of HGVs in Norton's town centre, so undermining the aims of policy SP7.
48. Although I consider that emissions from this asphalt plant would be unlikely to affect the respiratory health of racehorses, my view is that the evident proximity of those emissions, together with the presence of additional HGVs, could well be perceived by racehorse owners as reasons to seek alternative training establishments to those in Norton. Hence, the economic benefits and limited employment generated by the scheme would be very unlikely to outweigh the adverse effects engendered by the harmful perception it would convey, contrary to policy SP6.
49. It follows that the scheme would contravene the requirements of the Development Plan and fail to reflect the relevant guidance in the Framework. And, having found nothing else sufficiently compelling to alter my conclusion, I consider that this appeal should be dismissed.

*David Cullingford*  
INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Leslie Heasman	MJCA, Technical Advisors on Environmental Issues
Stewart Haines	W Clifford Watts Limited
Dr David Marlin	Scientific Consultant, Principal, David Marlin Consulting Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Michael Convery	Consultant, North Yorkshire County Council
Amy Taylor	Monitoring and Compliance Officer, North Yorkshire County Council

### INTERESTED PERSONS:

Rupert Arnold	Chief Executive, National Trainers Federation
Mark Campion	Elected representative, Local Racehorse Trainers
Fiona Campion	Local resident
George Gibbard	Malton and Norton Golf Club
Gary Housden	Head of Planning and Housing, Ryedale District Council
Ross Hamilton	Officer, British Horseracing Authority Limited
Jenny Hall	Chief Veterinary Officer, British Horseracing Authority Limited
Camilla Knock	Veterinary Surgeon, Baker, McVeigh and Abbott, International Equine Veterinary Practice
Cllr Luke Ives	Norton West Ward, Norton Action Group
Liz Johnson	Norton Action Group
Robert Bigg	Local Resident
Cllr Elizabeth Shields	Norton East Ward
John Howard	Norton Action Group

## DOCUMENTS

Document	1	List of persons present at the Hearing
Document	2	Statement of Common Ground
Document	3	Draft section 106 Agreement with 'tracked' changes
Document	4	Draft list of conditions with 'tracked' changes
Document	5	Notes and submissions ~ Dr David Marlin
Document	6	Submissions ~ Rupert Arnold
Document	7	Letters, photos and newspaper extract ~ Robert Bigg
Document	8	Submissions ~ Fiona Campion
Document	9	Submissions ~ Mark Campion
Document	10	Submissions ~ George Gibbard
Document	11	Submissions ~ Jennifer Hall and Nick Rust (British Horseracing Association)
Document	12	Site Monitoring Report; Whitewall Quarry – March 2014
Document	13	Site Monitoring Report; Whitewall Quarry – June 2014
Document	14	Site Monitoring Report; Whitewall Quarry – November 2014
Document	15	Petition

*All other statements, appendices, submissions and communications are on the file*

## PLANS

Plans	A	Application plans
	1	Location plan
	2	Site layout
Plan	B	Diagram of asphalt batch plant
Plan	C	Location of asphalt plants in North Yorkshire
Plan	D	Location of racehorse training stables in Norton
Plan	E	The site and surroundings

## PHOTOS

Photos	1	Additional photos ~ Mr Bigg
Photo	2	Aerial photo and noise monitoring locations

## APPENDIX 16





Ministry of Housing,  
Communities &  
Local Government

Our ref: APP/E0535/W/23/3331431  
Your ref: CCC/21/088/FUL

Miss Butler  
21 Soho Square  
London  
W1D 3QP  
[Sophie.Butler@quod.com](mailto:Sophie.Butler@quod.com)

29 July 2024

*Sent by email only*

Dear Miss Butler,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY ENVAR COMPOSTING LTD IN RELATION TO ENVAR  
COMPOSTING LTD, ST IVES ROAD, SOMERSHAM, PE28 3BS  
APPLICATION REF: CCC/21/088/FUL**

*This decision was made by the Minister of State, Matthew Pennycook MP, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of M Shrigley BSc MPlan MRTPI who held a public local inquiry between 20 February and 1 March 2024 into your client's appeal against the decision of Cambridgeshire County Council (CCC) to refuse planning permission for the construction of a Dry Anaerobic Digestion (AD) facility, Pellet Fertiliser Facility, Healthcare Waste Recovery Facility, Waste Transfer Station, Vehicle Re-Fuelling Station, and a Biomass Fuel Storage Building, including surface water storage lagoons, extension to concrete pad, demolition of IVC buildings/tunnels and ancillary development in accordance with application Ref. CCC/21/088/FUL, dated 29 June 2021.
2. On 1 February 2024, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

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

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. She has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing Communities & Local Government      Email: [PCC@communities.gov.uk](mailto:PCC@communities.gov.uk)  
Laura Webster, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR1.10-IR1.11, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposal.

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

6. One representation which has been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect her decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A copy of this letters may be obtained on request to the email address at the foot of the first page of this letter.
7. An application for costs was made by the Appellant against CCC (IR1.12). This application is the subject of a separate decision letter.

## **Policy and statutory considerations**

8. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the Cambridgeshire and Peterborough Minerals and Waste Local Plan (adopted July 2021) (MWLP) and the Huntingdonshire Local Plan (adopted May 2019) (HLP). The Secretary of State considers that relevant development plan policies include those set out at IR3.12 and IR3.13.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) and associated planning guidance (the Guidance), the matters set out at IR3.1-IR3.7, and the matters set out at IR3.14-IR3.22.
11. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

## ***Emerging plan***

12. On 24 January 2023, the Huntingdonshire District Council's Cabinet agreed to the preparation of a full update to the adopted Local Plan. This is at a very early stage with town and parish council information sessions held on 24 May and 5 June 2024 to inform council of the Local Plan update. Given the very early stage, the Secretary of State considers that the emerging update to the Local Plan carries no weight.

## **Main issues**

### *Landscape and visual effects*

13. For the reasons given at IR12.3-12.37 and IR13.3, the Secretary of State agrees with the Inspector at IR12.26 that while the proposed chimney would introduce an industrial looking built feature to the locality, it would not totally change the character of the local landscape and countryside surrounding it. She acknowledges that the healthcare waste Energy Recovery Facility chimney would be more than twice the height of any other structure on the site, but agrees with the Inspector that the chimney would appear as a slender feature in all views and its slenderness would therefore temper resultant landscape and visual impacts to a large extent (IR12.29). She further agrees that the chimney would not be overbearing in scale from residential receptors, nor local businesses given its central position on the appeal site (IR12.30). She agrees with the Inspector's conclusion at IR12.35 that the locality does have the capacity to absorb the visual and landscape effects of the chimney of the appeal scheme, owing to its slimness and controllable colour, and because of other existing built and natural landscape features which would draw attention away from it (IR12.35). She agrees that the landscaping provision goes as far as it reasonably can do in enhancing the appearance of the area as well as providing mitigation, but even with the proposed landscape screening at full maturity, the proposed chimney would remain a prominent feature in the wider rural landscape with a 3km radius (IR12.37). Overall, she agrees that the proposed chimney would result in a moderate level of overall harm to the character, appearance and visual amenity of the area (IR13.3).
14. For the reasons given at IR12.38-12.43, the Secretary of State agrees with the Inspector that this harm would conflict with Policies LP2 and LP10(b) and (c) of the HLP as well as Policy 17(f) and (h) of the MWLP (having regard to Appendix 3 in relation to the location of waste management facilities); and there would also be conflict with paragraphs 135(c) and 180 of the Framework. Like the Inspector, she attributes significant weight to this harm (IR12.43 and IR13.4).

### *Perceived health and wellbeing and related business impact harms*

15. The Secretary of State has carefully considered the perception of harm to health and wellbeing of residents and local business activity. For the reasons given at IR12.44-IR12.69, like the Inspector she agrees with the findings at IR12.56 that the proposed development, subject to the design and mitigation that would be required by the Environmental Permit, would be unlikely to result in adverse impacts on air quality, or any associated impacts on human health or the environment. She agrees with the Inspector's conclusions at IR12.58-12.65 on the specific concerns raised by interested parties, and further agrees that although health and safety risks to local businesses and their associated customer base are a clear concern of local people, the information put forward confirms there is no compelling supporting scientific basis to find the level of those risks to be unacceptable (IR12.66). The Secretary of State agrees with the conclusions at IR12.68 that the scientific assessment information and related evidence produced by the appellant as well as statutory consultee responses, does not suggest the scheme would result in significant harm from a health and wellbeing perspective. Nonetheless, like the Inspector the Secretary of State recognises that even with the appellant's robust evidence the local community including business owners still have serious doubts over the likely health and safety effects of the scheme (IR12.69), and acknowledges that perception matters are material (IR12.67). She agrees that the perceived health and wellbeing and related business impact harms arising from the proposed development should carry limited weight (IR12.69).

## ***Benefits***

16. The Secretary of State has considered the benefits set out at IR12.70-12.87. She agrees that carbon saving benefits would arise from the reduction in global greenhouse gas emissions (IR12.83). She further agrees that co-locating the different waste management processes would lead to benefits in terms of greenhouse gases. These include the heat, power, and bio-gasses generated by processes on the site providing the energy to operate other onsite processes, fuel vehicles and contribute to grid capacity, and the benefits resulting from the reduction in traffic flows overall through co-location (IR12.84-12.85). She agrees with the Inspector that these carbon saving benefits carry substantial weight (IR12.84).
17. For the reasons given by the Inspector at IR12.72-12.82, the Secretary of State agrees that there is a compelling need case for the facilities proposed (IR12.79) and that the proposal would assist net waste self-sufficiency (IR12.81). Taking this into account, she further agrees that providing processes that move waste up the waste hierarchy attracts substantial weight and is consistent with the local plan and national policies and strategies including MWLP Policies 3 and 4 (IR12.82).
18. The Secretary of State agrees with the Inspector that there are efficiency and sustainability benefits arising from co-locating waste processes and optimising the use of previously developed land (IR12.81, IR12.85). She considers that these benefits collectively carry moderate weight. She further agrees that the benefits of local job creation attracts significant weight (IR12.86), and that the anticipated Biodiversity Net Gain (BNG) of 12% attracts limited weight (IR12.87).
19. The Inspector considers that the shift from composting to a dedicated housed dry AD process is likely to reduce odours from the atmosphere compared to the existing situation of outdoors windrows (IR12.100). The Secretary of State considers this a benefit which attracts very limited weight.

## **Other matters**

20. The Secretary of State agrees with the Inspector's conclusions on heritage impacts (IR12.88-12.89), consultation issues (IR12.90-12.91), fire safety and security (IR12.92-12.93), highway capacity and safety impacts (IR12.94-12.96), noise, light and wildlife impacts (IR12.96), (IR12.96), impact on ecology (IR12.97), EA regulation (IR12.98-99) and other potential impacts and objections raised (IR12.101).
21. The Secretary of State notes that the majority of the site is allocated as a Waste Management Area (IR7.5) designated by the MWLP Policy 10, and considers that the site is in principle suitable for the use proposed.

## **Planning conditions**

22. The Secretary of State has had regard to the Inspector's analysis at IR14.1-14.18, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of her decision.

## **Planning balance and overall conclusion**

23. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policy 17 (f) and (h) of the MWLP and Policies LP2, LP10(b) and LP10(c) of the HLP. She considers that the scheme is not in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
24. Weighing in favour of the proposal are the carbon saving benefits which carry substantial weight; provision of processes that move waste up the waste hierarchy which carries substantial weight; efficiency and sustainability benefits arising from co-locating waste processes and optimising the use of previously developed land which collectively carry moderate weight; local job creation which carries significant weight; BNG which carries limited weight; and the reduction of odour which carries very limited weight.
25. Weighing against the proposal are the harm to landscape and visual effects which carries significant weight, and the perceived health and wellbeing and related business impact harms which carries limited weight.
26. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.
27. The Secretary of State therefore concludes that the appeal should be allowed, and planning permission granted.

## **Formal decision**

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's appeal and grants planning permission for a Dry AD facility, Pellet Fertiliser Facility, Healthcare Waste Recovery Facility, Waste Transfer Station, Vehicle Re-Fuelling Station, and a Biomass Fuel Storage Building, including surface water storage lagoons, extension to concrete pad, demolition of IVC buildings/tunnels and ancillary development in accordance with application Ref. CCC/21/088/FUL, dated 29 June 2021.

## **Right to challenge the decision**

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

Yours faithfully

*Laura Webster*

Decision officer

*This decision was made by Minister for State, Matthew Pennycook MP, on behalf of the Secretary of State, and signed on his behalf*

**Annex A Schedule of representations**

**SCHEDULE OF REPRESENTATIONS**

<b>Party</b>	<b>Date</b>
Sheila Rayner	22 May 2024

## **Annex B List of Conditions**

### **Time Limit**

1. The development hereby permitted shall be commenced no later than 3 years from the dated of this permission. Within 7 days of the commencement the developer shall notify the waste planning authority in writing of the date on which the development commenced.

### **Commencement of phases of development**

2. The developer shall notify the waste planning authority in writing of the date of the material start of the following phases of development within 7 days of each phase commencing:
  - i) construction of the surface water storage lagoons shown as 25 on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21;
  - ii) bringing into use the surface water storage lagoons shown as 25 on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21;
  - iii) decommissioning of any of the surface water storage lagoons shown on drawing no. GPP/E/CWH/20/02 Existing Site Layout Plan dated 27 Jul 2020;
  - iv) demolition of buildings shown as S1a and S1b on Appendix Three: Building Plan with Target Notes (Ecological Appraisal – Buildings Inspection – Greenwillows Associates Ltd, July 2021);
  - v) bringing into use the waste transfer station building, the biomass storage building and the pellet production facility building shown as 28, 49 and 47 respectively on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21;
  - vi) the first acceptance of waste to the dry anaerobic digestion (AD) plant; and
  - vii) the first acceptance of waste to the healthcare waste energy recovery facility (ERF).

### **Surface water storage lagoons**

3. The surface water storage lagoons shown on drawing no. GPP/E/CWH/20/02 Existing Site Layout Plan dated 27 Jul 2020 shall not be decommissioned until equivalent capacity has been created in accordance with drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21.

### **Site Area**

4. This permission relates only to the land shown outlined in red on drawing no. GPP/E/CWH/21/01 Rev 03 dated 26/04/21 (received 12 July 2021) and is referred to in these conditions as 'the Site'. The land shown outlined in blue on drawing no. GPP/E/CWH/21/01 Rev 03 Site Location Plan dated 26/04/21 is referred to in these conditions as 'the Envar Site'.

### **Approved Plans and Documents**

5. The development hereby permitted shall be carried out in accordance with the following drawings:

GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21 (received 1 March 2022); GPP/E/CWH/21/04 Rev 01 Elevation of Healthcare Waste ERF dated 26/04/21 (received 22 June 2021); GPP/E/CWH/21/05 Rev 03 Elevation of Waste Transfer Building



dated 26/04/21 (received 22 June 2021); GPP/E/CWH/21/06 Rev 03 Elevation of Biomass Storage Building dated 26/04/21 (received 22 June 2021); GPP/E/CWH/21/07 Rev 01 Elevation of Pellet Fertiliser Production Facility Building dated 26/04/21 (received 22 June 2021); and GPP/E/CWH/21/08 Rev 01 Cross Sections dated 01.04.2021 (received 22 June 2021).

### **Waste throughput**

6. No more than 200,000 tonnes of waste shall be accepted at the Envar Site in any 12-month period. No more than 12,000 tonnes of waste shall be processed at the healthcare waste ERF facility in any 12-month period.

### **Waste catchment area**

7. With the exception of wastes accepted for treatment in the healthcare waste ERF not less than 40% by weight of wastes accepted at the Envar Site in any 12- month period shall be sourced from the East of England Region. The East of England means the counties of Norfolk, Suffolk, Cambridgeshire, Essex, Report APP/E0535/W/23/3331431 <https://www.gov.uk/planning-inspectorate> Page 81 Hertfordshire, Bedfordshire, and Northamptonshire together with the unitary authorities of Peterborough, Southend on Sea, Milton Keynes, and Luton. Waste from a waste transfer station within the East of England shall be regarded as arising from within the East of England.

### **Records of waste inputs**

8. A record of the quantity and source of wastes delivered to the site, including separately the quantity of healthcare waste, to evidence the requirements of Conditions 6 and 7 above shall be maintained by the operator. This shall be made available to the waste planning authority on request within 10 working days of receipt of a written request. All records shall be kept for at least 48 months.

### **Construction environmental management plan**

9. No development shall commence until a detailed Construction Environmental Management Plan has been submitted to and approved in writing by the waste planning authority. This shall include but not be limited to:
  - i) measures to protect trees that are to be retained;
  - ii) measures to minimise noise and vibration;
  - iii) measures to minimise dust;
  - iv) measures to minimise the impact of lighting on humans and wildlife especially bats;
  - v) measures to protect nesting birds and other wildlife;
  - vi) measures to minimise the risk of pollution of ground and surface water;
  - vii) measures to manage construction traffic including routeing;
  - viii) parking for construction workers; and
  - ix) management of demolition waste.

The development shall be carried out in accordance with the approved Construction Environmental Management Plan.

### **Bat Survey**

10. No works to the supporting wall between the buildings shown as S1a and S1b on Appendix Three: Building Plan with Target Notes (Ecological Appraisal – Buildings Inspection – Greenwillows Associates Ltd, July 2021) including demolition or illumination of the building shall take place until a bat survey has been undertaken by a licensed ecologist and confirmed that no bats are present.

If no bats are found to be present demolition works shall commence within 24 hours of the completion of the bat survey, under the supervision of the licenced ecologist. A copy of the survey report shall be submitted to the waste planning authority within 7 days of the completion of the survey along with confirmation that demolition works have been completed. If bats are present no works to the supporting wall between the buildings shown as S1a and S1b on Appendix Three: Building Plan with Target Notes (Ecological Appraisal – Buildings Inspection – Greenwillows Associates Ltd, July 2021) Report APP/E0535/W/23/3331431 <https://www.gov.uk/planning-inspectorate> Page 82 including demolition or illumination of the building shall take place until a mitigation licence has been obtained from Natural England.

### **Construction hours**

11. No construction or demolition shall take place outside 07:00–18:00 Mondays to Saturdays (except bank and public holidays). No construction or demolition shall take place on Sundays or on bank and public holidays.

### **Construction drainage**

12. No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the Site will be avoided during the construction works have been submitted to and approved in writing by the waste planning authority. The developer will be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

### **Materials**

13. No buildings, plant, or infrastructure over 9 metres in height shall be erected until details of the external construction materials, finishes and colours have been submitted to and approved in writing by the waste planning authority. The development shall be carried out in accordance with the approved details.

### **Hours of operation**

14. (i) No vehicle shall enter or leave the Envar Site except between 05:00 and 22:00 hours daily (including public and bank holidays).  
  
(ii) No plant or machinery shall operate outside buildings except between 05:00 and 22:00 hours daily (including public and bank holidays).  
  
(iii) No waste shall be shredded outside the buildings except between 07:00 and 18:00 hours daily (including Public and Bank Holidays).

### **Reversing vehicles**

15. All mobile plant at the Envar Site using reversing alarms shall be fitted with and use white noise reversing alarms.

### **Silencing of plant and machinery**

16. No vehicle, plant, equipment, or machinery shall be operated at the Envar Site unless it has been fitted with and uses an effective silencer. All vehicles, plant and machinery shall be maintained in accordance with the manufacturers' specification at all times.

### Noise mitigation

17. No development of the healthcare waste ERF or the dry AD plant shall take place until a scheme of noise mitigation measures and noise monitoring has been submitted to and approved in writing by the waste planning authority. The scheme shall include details of the plant, a further assessment of noise levels and actions to be taken if the limits set out in Condition 18 are exceeded. The approved mitigation measures shall be implemented in full prior to the first Report APP/E0535/W/23/3331431 <https://www.gov.uk/planning-inspectorate> Page 83 acceptance of waste to the healthcare waste ERF and / or the dry AD plant and retained for the duration of the operation of the healthcare waste ERF and/ or the dry AD plant.

### Noise limits

18. The rating level of the noise emitted from the Envar site shall not exceed the following levels as measured in free field conditions at the noise sensitive premises specified set out in the table below. The meaning of 'rated' is as defined in BS: 4142: 2014+A1:2019. The measurement and assessment shall be made in accordance with BS 4142:2014+A1:2019.

	<b>Time period</b>	<b>05:00 – 07:00</b>	<b>07:00 – 18:00</b>	<b>18:00 – 22:00</b>	<b>22:00 – 05:00</b>
<b>Location</b>		<b>Noise limit dB L<sub>Aeq,T</sub></b>			
Rectory Farm		40	41	40	32
Travellers' site		37	41	37	33
Bridge Farm		36	39	36	30
Heathfields		39	40	39	31
Raptor Foundation		40	42	40	31

### Noise monitoring

19. Noise levels shall be monitored by the operating company in accordance with the scheme approved under Condition 17 to ensure the noise levels set in Condition 18 are achieved. Monitoring survey results shall be kept by the operating company during the lifetime of the permitted operations and a monitoring report supplied to the waste planning authority within 10 working days of receipt of written request.

### New concrete hardstanding

20. No waste or other materials shall be stored on the land within the Site to the southeast of 'Dirty Lagoon 1' and to the southeast of the mushroom farm shown as Catchment Proposed Hardstanding and coloured salmon pink on EPG drawing no.0001 Rev P01 dated 26.11.2.

### Access

21. No heavy goods vehicle (HGV) associated with the development hereby permitted shall enter or leave the Site except at Entrance E1 shown on drawing no.GPP/E/CWH/21/03 Rev 015

Proposed Site Layout Plan dated 08/12/21 (received 1 March 2022). All HGVs shall turn right into Entrance E1 and shall turn left out of Entrance E1 unless in compliance with the Traffic Management Plan referred to in Condition 25.

### **Prevention of mud and debris on the highway**

22. No HGV shall leave the Envar Site unless the wheels and the underside chassis are clean to prevent materials, including mud and debris, being deposited on the public highway.

### **Vehicle movements**

23. There shall be no more than 190 HGV movements at the Envar Site per day (95 in and 95 out). For the avoidance of doubt an HGV shall have a gross vehicle weight of 3.5 tonnes or more and the arrival at the Envar Site and departure from it count as separate movements.

### **Record of HGV movements**

24. The operator shall maintain a record of all HGV movements into and out of the Envar Site to evidence the requirements of Condition 23 above. Such record shall contain the vehicles' weight, registration number and the time and date of the movement and shall be available for inspection within 10 working days of any written request of the waste planning authority.

### **HGV routing**

25. The development hereby permitted shall not be carried out except in accordance with the Regeneration Woodhurst Traffic Management Plan (undated) received 12 July 2021.

### **Cycle parking**

26. Within 3 months of the commencement of development as notified to the waste planning authority in accordance with Condition 1, secure covered cycle parking shall be provided in the car park shown as 51 on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21 (received 1 March 2022) in accordance with details that have been submitted to and approved in writing by the waste planning authority.

The car parking spaces shown within area 52 on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21 (received 1 March 2022) shall not be brought into use until secure covered cycle parking has been installed in accordance with details that have been submitted to and approved in writing by the waste planning authority. Following such approval, the use of the car parking spaces shall be fully implemented.

### **Electric vehicle charging point**

27. The car parking spaces show within area 52 on drawing no. GPP/E/CWH/21/03 Rev 015 Proposed Site Layout Plan dated 08/12/21 (received 1 March 2022) shall not be brought into use until an electric vehicle charging point has been installed and is operational.

### **Lighting**

28. No external lights shall be installed within the Site except in accordance with a strategy that has been submitted to and approved in writing by the waste planning authority. The strategy shall include:

i) identification of those areas /features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and Report APP/E0535/W/23/3331431 <https://www.gov.uk/planning-inspectorate> Page 85 resting places or along important routes used to access key areas of their territory, for example, for foraging;

ii) showing how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and

iii) demonstrating (through the provision of appropriate lighting contour plans and technical specifications) that light spill outside the Site will be minimised. All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy and these shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed without prior consent from the waste planning authority.

### **Surface water Drainage**

29. No laying of services, creation of hard surfaces or erection of a building shall commence until a detailed design of the surface water drainage of the Site has been submitted to and approved in writing by the waste planning authority. The scheme shall be based upon the principles within the agreed Drainage Strategy for Surface Water at Envar prepared by EPG (ref: EPG-9651-DS-01) dated 26 November 2021 and shall also include:

i) Full calculations detailing the existing surface water runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;

ii) Full results of the proposed drainage system modelling in the abovereferenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance;

iii) Detailed drawings of the entire proposed surface water drainage system, attenuation and flow control measures, including levels, gradients, dimensions and pipe reference numbers, designed to accord with the CIRIA C753 SuDS Manual (or any equivalent guidance that may supersede or replace it);

iv) Full detail on SuDS proposals (including location, type, size, depths, side slopes and cross sections);

v) Site Investigation and test results to confirm infiltration rates;

vi) Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants;

vii) Demonstration that the surface water drainage of the site is in accordance with DEFRA non-statutory technical standards for sustainable drainage systems;

viii) Full details of the maintenance/adoption of the surface water drainage system; Report APP/E0535/W/23/3331431 <https://www.gov.uk/planning-inspectorate> Page 86

ix) Permissions to connect to a receiving watercourse or sewer; and

x) Measures taken to prevent pollution of the receiving groundwater and/or surface water.

Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

### **Storage of oils, fuels, and chemicals**

30. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume

for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer or watercourse or discharging onto the ground. Associated pipework shall be located above ground where possible and protected from accidental damage.

### **Landscape planting**

31. No development shall commence until a detailed phased landscape planting scheme of the on-site and off-site works based on drawings nos. KB- Sti006d Landscape and Ecological Management Plan dated Nov 2022 (received 30 November 2022) and KBSti052 Area 52 Car Park Proposed Landscaping dated July 2022 (received 17 August 2022) has been submitted to and approved in writing by the waste planning authority.

i) Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants with species, plant sizes and proposed numbers and densities where appropriate.

ii) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

iii) All new tree plantings shall be positioned in accordance with the requirements of Table 3 of British Standard BS5837: 2005, Trees in relation to construction – Recommendations.

The development shall be carried out in accordance with the approved scheme.

### **Maintenance of Soft Landscaping**

32. Any trees, hedging or scrub planted within the Site and off-site (within the Applicant's landownership) in accordance with the scheme approved under condition 31 above that dies, becomes diseased or is removed within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and species as those originally planted.

### **Biodiversity Net Gain**

33. No development shall commence until a Biodiversity Net Gain (BNG) Plan has been submitted to and approved in writing by the waste planning authority. The BNG Plan shall target how a net gain in biodiversity will be achieved through a combination of on-site and / or off-site mitigation. The BNG Plan shall include:

i) A hierarchical approach to BNG focussing first on maximising on-site BNG, second delivering off-site BNG at a site(s) of strategic biodiversity importance, and third delivering off-site BNG locally to the application site;

ii) Full details of the respective on and off-site BNG requirements and proposals resulting from the loss of habitats on the development site utilising the latest appropriate DEFRA metric;

iii) Identification of the existing habitats and their condition on-site and within receptor site(s);

iv) Habitat enhancement and creation proposals on the application site and /or receptor site(s) utilising the latest appropriate DEFRA metric;



v) An implementation, management, and monitoring plan (including identified responsible bodies) for a period of 30 years for on and off-site proposals as appropriate. The BNG Plan shall be implemented in full and subsequently managed and monitored in accordance with the approved details. Monitoring data as appropriate to criterion

v) shall be submitted to the waste planning authority in accordance with the latest DEFRA guidance applicable to BNG delivery and the approved monitoring period / intervals.

The BNG Plan shall be implemented in full and subsequently managed and monitored in accordance with the approved details. Monitoring data as appropriate to criterion v) shall be submitted to the waste planning authority in accordance with the latest DEFRA guidance applicable to BNG delivery and the approved monitoring period / intervals.



---

# Report to the Secretary of State

by M Shrigley BSc MPlan MRTPI

an Inspector appointed by the Secretary of State

Date 21 May 2024

---

**TOWN AND COUNTRY PLANNING ACT  
CAMBRIDGE COUNTY COUNCIL  
APPEAL BY  
ENVAR COMPOSTING LTD**

Inquiry Held on 20 to 23 and 27 February to 1 March 2024

Envar Composting Ltd, St Ives Road, Somersham PE28 3BS

File Ref: APP/E0535/W/23/3331431

**Contents Table**

Section	Contents	Page
1	<b>Preliminary Matters</b>	2-3
2	<b>The Site and Surroundings</b>	3-4
3	<b>Planning Policy</b>	4-9
4	<b>Planning History</b>	9-11
5	<b>The Proposals</b>	11-15
6	<b>Other Agreed Facts</b>	15-17
7	<b>The Case for the Appellant</b>	17-22
8	<b>The Case for the Council</b>	22-31
9	<b>The Case for Other Parties Who Gave Evidence at the Inquiry</b>	31-35
10	<b>Written Representations</b>	35-41
11	<b>Condition Matters</b>	41
12	<b>Inspector's Conclusions</b>	41-56
13	<b>Overall Planning Balance</b>	56-58
14	<b>Inspector's Recommended Planning Conditions</b>	58-60
15	<b>Inspector's Recommendation</b>	60
Annex A	<b>Appearances</b>	60-61

Annex B	<b>Inquiry Documents</b>	61- 62
Annex C	<b>Core Documents</b>	62- 79
Annex D	<b>Recommended Conditions</b>	79- 87

## List of abbreviations used in the Report

AD	Anaerobic digestion
AQC	Air Quality Consultants
BUG	Biogas Up-Grade facility
CCC	Cambridge County Council
CHP	Combined Heat and Power
CO <sub>2</sub>	Carbon dioxide
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EIA	Environmental Impact Assessment
EiC	Evidence in Chief
EfW	Energy from waste
Envar	Envar Composting Limited
ERF	Energy Recovery Facility (also referred to as Healthcare waste Energy Recovery Facility or HERF)
ES	Environmental Statement
HCV	Heavy Commercial Vehicle
HERF	Healthcare waste Energy Recovery Facility
HGV	Heavy Goods Vehicle
HLP	Huntingdonshire Local Plan (May 2019)
IBA	Incinerator Bottom Ash
IED	Industrial Emissions Directive
km	Kilometres
m	Metres
MWLP	Cambridgeshire and Peterborough Minerals and Waste Local Plan (July 2021)
NO <sub>x</sub>	Oxides of Nitrogen
NO <sub>2</sub>	Nitrogen Dioxide
OR	Officer Report
PCBs	Poly-Chlorinated Biphenyls
POWI	People Opposing Woodhurst Incinerator
ReX	Re-examination
SoS	Secretary of State
tCO <sub>2</sub> e	Tonnes of carbon dioxide equivalent
tpa	Tonnes per annum
WMA	Waste Management Area
XX	Cross Examination

**File Ref: APP/E0535/W/23/3331431**

**Envar Composting Ltd, St Ives Road, Somersham PE28 3BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Envar Composting Ltd against the decision of Cambridgeshire County Council.
- The application Ref CCC/21/088/FUL, dated 29 June 2021, was refused by notice dated 24 April 2023.
- The development proposed is for the construction of a Dry Anaerobic Digestion (AD) facility, Pellet Fertiliser Facility, Healthcare Waste Recovery Facility, Waste Transfer Station, Vehicle Re-Fuelling Station, and a Biomass Fuel Storage Building, including surface water storage lagoons, extension to concrete pad, demolition of IVC buildings/tunnels and ancillary development.

**Summary of Recommendation:**

That the appeal be allowed, and planning permission granted subject to conditions.

---

**1.0 Preliminary Matters**

- 1.1 The Inquiry opened on 20 February 2024 and sat for 8 days. I carried out an unaccompanied site visit on 28 and 29 February in the local area.
- 1.2 In compliance with the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, the appeal was originally to have been decided by an Inspector. However, the appeal was subsequently recovered by the Secretary of State (SoS), in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990. This was explained in the direction issued during the appeal process, dated 1 February which was served on me, the Council, and the Appellant.
- 1.3 The specific reasons for the direction are that the appeal involves proposals for development of major importance having more than local significance, proposals giving rise to substantial regional or national controversy, proposals which raise important or novel issues of development control, and/or legal difficulties and proposals of major significance for the delivery of the Government's climate change programme and energy policies.
- 1.4 In the lead up to the Inquiry I held a Case Management Conference (CMC) on 12 December 2023 with the main parties to the appeal. At the CMC the procedure for the Inquiry; the likely main issues; and the Inquiry programme were discussed.
- 1.5 There were originally 2 reasons for refusal. A copy of the Decision Notice can be found at CD1.4.1.
- 1.6 Following the submission of a Statement of Common Ground (SoCG) (CD2.4.1) in the lead up period to the CMC, Cambridgeshire County Council (CCC) agreed to only contend the first reason for refusal (RfR) specified on the Decision Notice, concerning the landscape impacts disputed. The second stated reason for refusal being related to the 'perceived' health and well-being risks to local businesses and residents, was not pursued by the Council.



- 1.7 It was highlighted during the CMC itself and in post CMC correspondence, that a planning balance would still need to inform any decision irrespective of the RfR 2 being contended.
- 1.8 Therefore, whether there are any benefits associated with the scheme and if so, would they outweigh any potential harm(s), should any benefits or harm arise was a further aspect expected to be engaged in by the main parties. This would include consideration of 'perceptions' to health and wellbeing risks. Therefore, I have factored those circumstances into my overall recommendation.
- 1.9 The Environmental Statement (ES) has been reviewed by the Planning Inspectorate in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations). The Planning Inspectorate on behalf of the SoS agrees that Proposed Development falls within Schedule 1 (9) and as such is considered EIA development.
- 1.10 The Appellant submitted an Environmental Statement (ES) to the CCC. The Planning Application was submitted to CCC as the waste planning authority on 22 June 2021 and validated on 19 July 2021 under reference CCC/21/088/FUL. Two Regulation 25 requests for further information were subsequently issued by CCC on 21 October 2021 and 08 June 2022. These requests have been submitted with the ES addenda as Appendix 1 Core Document (CD) CD1.1.3A. The requested further information resulted in an addendum to the ES and a subsequent second addendum. This is found in CD1.1.2 to CD1.1.4.
- 1.11 I am satisfied that the ES was produced in accordance with the 2017 EIA Regulations, and the information produced has been taken into account in preparing this Report. All other environmental information submitted in connection with the appeal, including that arising from questioning at the Inquiry has also been considered.
- 1.12 In addition, during the Inquiry an application for costs was made by Envar Composting Ltd against CCC. This application is the subject of a separate Report recommendation.

## **2.0 The Appeal Site and Surroundings**

- 2.1 The appeal site is approximately 8.91 hectares in size and is located towards the southwestern most part of the Parish of Somersham.
- 2.2 The wider Envar site (the appellant's land holding as a whole) covers approximately 18.5 hectares. The majority of the site is in use, with planning permission, and under an environmental permit for in-vessel and open windrow composting, waste transfer and waste drying.
- 2.3 Close to the northwestern boundary of the appeal site is the B1086 (St Ives Road). There is a further road, 'The Heath', which runs between Woodhurst and Bluntisham located to the southwest.
- 2.4 A range of uses nearby are set out in Section 6 of this report.

- 2.5 In terms of surrounding settlements, the appeal site lies around 3 kilometres (km) southwest of Somersham village. Bluntisham is approximately 2.5km away, with Woodhurst village in the order of 1.5km to the northwest and Pidley-cum-Fenton settlement roughly 2.5km to the north, and St Ives a similar distance roughly southwards.

### 3.0 Planning Policy

#### *National policy*

- 3.1 The 2023 revised National Planning Policy Statements (NPSs) came into force on 17 January 2024. Whilst the NPSs are for the delivery of Nationally Significant Infrastructure Projects, their policy content is a material consideration.
- 3.2 The Government's Overarching NPS for Energy (NPS EN-1) incorporates national policy for delivering energy infrastructure:
- At Paragraph 3.3.37 EN-1 states that *Energy from Waste (EfW) plants operate at over 90 per cent availability but also produce residual carbon emissions, due to the presence of fossil-based carbon which exists alongside the biodegradable materials in the waste.*
  - Paragraph 3.3.38 identifies that: *The principal purpose of the combustion of waste, or similar processes (for example Advanced Conversion Technologies (ACTs) such as pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy<sup>1</sup> and to recover energy from that waste as electricity, heat or fuel. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. This is to ensure that environmental impacts are minimised, and that the resource value extracted is maximised.<sup>2</sup>*
  - Paragraph 3.3.19 goes on to say *Given the changing nature of the energy landscape, we need a diverse mix of electricity infrastructure to come forward, so that we can deliver a secure, reliable, affordable, and net zero consistent system during the transition to 2050 for a wide range of demand, decarbonisation, and technology scenarios.*
  - Paragraph 3.3.41 *Energy recovery from residual waste has a lower Green House Gas (GHG) impact than landfill with the possibility for reducing emissions if plants are equipped with CCS. The amount of electricity that can be generated from EfW is constrained by the availability of its feedstock, which is set to reduce further by 2035 because of government policy.*
  - Paragraph 3.3.42 *EfW is only partially renewable due to the presence of fossil-based carbon in the waste. Only the energy contribution from the*

---

<sup>1</sup> Waste Hierarchy as set out in regulation 12 of the Waste (England and Wales) Regulations 2011

<sup>2</sup> 52 Our waste, our resources: a strategy for England. See [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/765914/resources-waste-strategy-dec-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf)

*biogenic portion is eligible for renewable financial incentives. If the waste is pre-treated to separate out the biogenic fraction, then this can be considered wholly renewable.*

3.3 The NPS for Renewable Energy Infrastructure (EN-3), Section 2.7 refers to biomass and waste combustion in detail:

- Paragraph 2.7.2 states that *In accordance with the waste hierarchy<sup>3</sup> Energy from Waste (EfW) also plays an important role in meeting the UK's energy needs. Furthermore, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.*
- Paragraph's 2.7.6 and 2.7.7 note *As the primary function of EfW plants is to treat waste, Applicants must demonstrate that proposed EfW plants are in line with Defra's policy position on the management of residual waste<sup>4</sup>. The proposed plant must not compete with greater waste prevention, re-use, or recycling, or result in over-capacity of residual waste treatment at a national or local level.*
- Paragraph 2.7.42 identifies *EfW plants need not disadvantage reuse or recycling initiatives where the proposed development accords with the waste hierarchy.*
- Paragraph 2.7.43 then specifies that *Applicants should undertake an assessment of the proposed waste combustion generating station, examining the conformity of the scheme with the waste hierarchy and the effect of the scheme on the relevant Waste Local Plans, or plans where a proposal is likely to involve more than one local authority.*
- Paragraph 2.7.44 sets out that *Applicants should set out the extent to which the generating station and capacity proposed is compatible with, and supports long-term recycling targets, taking into account existing residual waste treatment capacity and that already in development.*
- Paragraph 2.7.46 goes on to state that *The results of the assessment of the conformity with the waste hierarchy and the effect on relevant waste plans should be included in the application to the Secretary of State.*

*Waste Management Plan for England*

3.4 The Waste Management Plan for England (2021) and its associated documents, together with local authorities' waste local plans seek to ensure that waste management plans are in place for the whole of the UK. The Plan focuses on waste arisings and their management. It provides analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of Waste (England and Wales) Regulations 2011. It also sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management.

---

<sup>3</sup> Waste hierarchy as set out in Regulation 12 of the Waste (England and Wales) Regulations 2011, and also see Section 5.15 of EN-1

<sup>4</sup> 2021 Waste Management Plan for England p.45:

<https://www.gov.uk/government/publications/waste-management-plan-for-england-2021>

*Defra Energy from Waste Guide*

- 3.5 Defra's Energy from Waste Guide (2014) sets out more guidance on the delivery of energy from waste facilities. It highlights key environmental, technical, and economic issues concerning energy from waste. The guide provides support for the further expansion of energy from waste to manage waste which cannot be recycled.

*National Planning Policy for Waste (NPPW)*

- 3.6 Paragraph 1 of the NPPW includes the following as playing a role in delivering the country's waste ambitions through: 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; ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities; 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; helping to secure the re-use, recovery, or disposal of waste without endangering human health and without harming the environment; and ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste.
- 3.7 Paragraph 7 states that "When determining 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 should consider the extent to which the capacity of existing operational facilities would satisfy any identified need; recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy; consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies; 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; concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

*The National Planning Policy Framework (The Framework)*

- 3.8 The Framework confirms the presumption in favour of sustainable development. Sustainable development has three overarching objectives (economic, social, and environmental), which are interdependent and need to be pursued in mutually supportive ways.
- 3.9 Paragraph 11 of the Framework states that: *Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means: c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

*National Planning Practice Guidance (NPPG)*

- 3.10 NPPG is also a material consideration and the content most relevant to the consideration of this planning application are the sections on Air quality, Climate change, Natural environment, Renewable and low carbon energy, and Waste.

*The Development Plan*

- 3.11 The development plan comprises the Cambridgeshire and Peterborough Minerals and Waste Local Plan (adopted July 2021) (MWLP) and the Huntingdonshire Local Plan (adopted May 2019) (HLP).
- 3.12 The most relevant MWLP policies in relation to this appeal are:
- Policy 1: Sustainable Development and Climate Change
  - Policy 3: Waste Management Needs
  - Policy 4: Providing for Waste Management Needs
  - Policy 10: Waste Management Areas (WMAs)
  - Policy 17: Design
  - Policy 18: Amenity Considerations
  - Policy 20: Biodiversity and Geodiversity
  - Policy 21: The Historic Environment
  - Policy 22: Flood and Water Management
  - Policy 23: Traffic, Highways and Rights of Way Policy 24: Sustainable Use of Soils
  - Policy 25: Aerodrome Safeguarding
  - Appendix 3: The Location and Design of Waste Management Facilities
- 3.13 The most relevant HLP policies in relation to this appeal are:

- LP2 Strategy for Development
- LP5 Flood risk
- LP10 The Countryside
- LP11 Design Context
- LP12 Design Implementation
- LP14 Amenity
- LP15 Surface Water
- LP16 Sustainable Travel
- LP17 Parking Provision and Vehicle Movement
- LP19 Rural Economy
- LP29 Health Impact Assessment
- LP30 Biodiversity and Geodiversity
- LP31 Trees, Woodland, Hedges and Hedgerows
- LP34 Heritage Assets and their Settings
- LP35 Renewable and Low Carbon Energy
- LP36 Air Quality
- LP37 Ground contamination and groundwater pollution

*Other relevant legislation and guidance*

- 3.14 Relevant legislation applicable includes the Industrial Emissions Directive 2010/75/EU and revised Waste Framework Directive 2008/98/EC which have been transposed into English legislation through the Waste (England and Wales) Regulations 2011, as well as national policy on waste as set out within the Waste Management Plan for England (2021). The EU Withdrawal Act 2018 maintains established environmental principles and ensures that existing EU environmental law will continue to have effect in UK law, including the Industrial Emissions Directive (IED) and BAT Conclusion Implementing Decision made under it.
- 3.15 The principle of self-sufficiency and proximity is set out in paragraph 4 of Part 1 of Schedule 1 of the Waste (England and Wales) Regulations 2011. This is within the context of the requirement to establish an integrated and adequate network of waste disposal installations for recovery of mixed municipal waste collected from private households including where such collection also covers waste from other producers.
- 3.16 The network must enable waste to be disposed of, and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies. This is to ensure a high level of protection for the environment and public health. The network must also be designed to enable the UK to move towards self-sufficiency in waste disposal and the recovery of mixed municipal waste from households considering geographical circumstances or the need for specialised installations for certain types of waste.
- 3.17 Additionally, the 'waste hierarchy' is a legal requirement in England, as set out in the Waste (England and Wales) Regulations 2011. The waste hierarchy ranks the options for waste management. Priority goes to preventing the creation of waste in the first instance, followed by preparing waste for reuse, to recycling, and then recovery including by incineration where there is energy



recovery. Disposal via landfill for example, or incineration without energy recovery, are regarded as the worst options within the hierarchy.

- 3.18 The 2011 Regulations require all parties involved in waste management and waste producers to, on the transfer of waste, take all reasonable measures to apply the priority order in the waste hierarchy except where for specific waste streams departing from the priority order is justified by lifecycle thinking on the overall effects of generating and managing the waste.
- 3.19 Regulators under the Environmental Permitting (England and Wales) Regulations 2016 must exercise their relevant functions (such as granting environmental permits) for the purpose of ensuring that the waste hierarchy is applied to the generation of waste by a waste operation. To assist people implementing the waste hierarchy duty, Defra produced separate guidance.
- 3.20 Defra have also published guidance on applying the waste hierarchy to hazardous waste but although the waste hierarchy applies to healthcare waste this is discussed elsewhere in the Department of Health's Health Technical Memorandum 07-01: Safe management of healthcare waste. The document refers to focus on the waste hierarchy through procurement practices, and the elimination, minimisation, recycling, and recovery of waste. Defra have produced statutory guidance specific to food waste: Food and drink waste hierarchy: deal with surplus and waste (updated, 1 April 2021).
- 3.21 Furthermore, the Environment Act 2021 includes the requirement for a long-term target to be set in the following priority areas: air quality, water, biodiversity and resource efficiency and waste reduction. Most of Part 3: Waste and resource efficiency is in force. As of 12 February 2024, Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Nonetheless, if a planning application for a development was made before day one of mandatory BNG on 12 February 2024, the development is exempt from BNG.

#### *Other Planning Documents*

- 3.22 Huntingdonshire Landscape and Townscape Supplementary Planning Document (SPD) (March 2022).

## **4.0 Planning History**

- 4.1 The following planning application reference number history has been detailed by CCC and is accepted by the main parties as relevant context to inform the appeal:
- H/1011/92/CW - Composting to produce a peat substitute from organic vegetable waste (Granted 08/12/1993 – not implemented);
  - H/0739/94/CW - Extension to composting building (Granted 11/10/1994);
  - H/5023/02/CW - Concrete apron for the preparation of green waste (Granted 07/11/2002 – not implemented);
  - H/5005/04/CW - Extension of an existing building to enclose 8 existing composting tunnels; composting of organic feedstocks to produce compost for



- agriculture, horticulture, and landscaping; establishment of ADAS Composting Research Project (Granted 15/07/2004 subject to S106 agreement dated 14/07/2004 restricting the catchment area from which waste may be drawn);
- H/5021/05/CW - Change of use of Heath Tops from residential to part residential and part educational facility and offices (Granted 12/12/2005);
  - H/5003/06/CW - Replacement building to contain four enclosed composting tunnels (Granted 22/05/2006);
  - H/5000/07/CW - Erection of semi-permanent office building (Granted 12/06/2006; temporary permission expired 30/04/2012);
  - H/5001/07/CW - Plant to treat wastewater from composting site (Granted 26/03/2007);
  - H/5002/07/CW - Cladding of open barn to provide enclosed composting building (Granted 26/03/2007);
  - H/5005/07/CW - Extension of concrete pad for maturation of compost (Granted 11/04/2007 – not implemented);
  - H/5015/09/CW - Erection of three composting tunnels and waste reception building (Granted 14/09/2009 – not implemented);
  - H/5037/09/CW - Variation of condition 7 of H/05005/04/CW to state "No vehicle shall enter or leave the site except between the hours of 0700 and 1800 Mondays to Fridays except Public Holidays and 0700 and 1330 on Saturdays. Working on site shall take place between the hours of 0700 and 1800 on any day of the week" (Granted 04/01/2010);
  - H/5021/11/CW - Demolition of old composting tunnels and ancillary structures; extension to waste reception building; new building to house new composting tunnels, bio-filters & manoeuvring area; covered link to connect buildings; relocation of weighbridge & office; alteration of access to B1086 (Granted 19/04/2012);
  - H/5003/12/CW - Extension of concrete pad for maturation of compost with drainage balancing lagoons, reed bed; perimeter earth bunds screening (Granted 07/06/2012);
  - H/5000/14/CW - Erection of four-metre-high litter-net fencing (Granted 16/05/2014);
  - H/5001/14/CW - Construction of a wastewater lagoon, additional discharge tank to waste-water treatment plant and buffer tank for rainwater harvesting (part retrospective) (Granted 11/09/2014);
  - H/5004/17/CW - Section 73 planning application to develop land without complying with condition 7 of planning permission H/05037/09/CW (Variation of Condition 7 of planning permission H/5005/04/CW: Extension of an existing building to enclose 8 existing composting tunnels; composting of organic feedstocks to produce compost for agriculture, horticulture and landscaping; establishment of ADAS Composting Research Project) to extend the hours of operation including vehicle movements to 0500 to 2200 hours daily (Granted 08/11/2017);
  - H/5005/17CW - Change of use of existing building (no. 16 on Existing Site Layout Plan) and adjacent land from composting and maturation of compost to recovery of waste in biomass boilers, drying waste, storage of biomass and drying material and bulking up and shredding waste wood (part retrospective). Erection of two external flue stacks and two biomass feed hoppers (retrospective). Extension of concrete hardstanding (retrospective). Erection of storage bays and two drying material hoppers. Change of use of existing building (no. 11 on Existing Site Layout Plan) from composting to composting and waste transfer. Change of use of part of existing building (no. 10 on

Existing Site Layout Plan) from composting to food waste transfer. Extension of perimeter earth bund. Installation of an internal roadway. Installation of two weighbridges and a weighbridge office (Granted 08/11/2017);

- H/5006/17/CW - Section 73 planning application to develop land without complying with condition 2 of planning permission H/05003/12/CW (Extension of concrete pad for maturation of compost with drainage balancing lagoons, reed bed; perimeter earth bunds [for] screening) to extend concrete pad into area of balancing lagoon office (Granted 08/11/2017);
- H/5007/17/CW - Section 73 planning application to develop land without complying with conditions 2 and 5 of planning permission H/05021/11/CW (Demolition of old composting tunnels and ancillary structures; extension to waste reception building; new building to house new composting tunnels, biofilters & manoeuvring area; covered link to connect buildings; relocation of weighbridge & office; alteration of access to B1086) to allow alternative access arrangements office (Granted 08/11/2017); and
- H/5005/17/CW/N1 – Non-material amendment to the site layout plan to allow changes to the position of the internal access road, earth bund, weighbridges, and weighbridge office (Granted 04/05/2018).

- 4.2 The appellant has also submitted a planning application to the Council under reference CCC/23/093/FUL for the construction of a waste transfer station and a biomass building, four fire water holding tanks, wastewater treatment plant and new surface water attenuation lagoon. The application was validated by CCC on 25 August 2023 and has not yet been determined.

## **5.0 The Proposals**

- 5.1 The main elements of the appeal development proposed are shown on the proposed Site Layout Plan (CD1.2.7 - Proposed Site Layout Plan /drawing reference GPP-E-CWH-21-03 Rev 15), and are the following:-

- a) Dry anaerobic digestion (AD) facility;
- b) Waste transfer station;
- c) Healthcare waste energy recovery facility (ERF);
- d) Pellet fertilizer production facility (PFPP);
- e) Woodchip biomass fuel storage building;
- f) Vehicle refuelling station;
- g) Four replacement surface water storage lagoons;
- h) Extension to concrete pad; and a
- i) Car park extension.

- 5.2 As part of the appeal scheme the submitted Landscape and Ecological Enhancement Plan (CD1.2.8) shows that: the existing bunds on the east, southeast, north and northwest boundaries of the site would be improved with planting of 1073 linear metres of native trees; 121 metres of hedge with native hedgerow trees planted around the proposed clean water storage lagoon; 160 linear metres of native privet hedge on the St Ives Road boundary; 150 native trees in a belt between the proposed surface water storage lagoons and the proposed waste transfer and PFPP buildings; 133 linear metres of native privet hedge and trees at Heath Tops car park; as well as Wildflower planting around the clean water storage lagoon.

*a) Dry AD facility*

- 5.3 This would be developed on the site of some of the existing in vessel composting infrastructure roughly at the centre of the site. Four existing buildings would be retained, the existing tunnels would be demolished and replaced by digesters and a biofilter.
- 5.4 The proposed digesters (combined) would measure in the order of 37m by 24.5m metres and 11m in height. Dry AD uses minimal mechanical sorting, and the digestion process takes place from waste in its solid form whereas in wet AD the waste is first turned into a pulp prior to being processed.
- 5.5 The proposed AD plant is expected to process approximately 70,000 tonnes per annum (tpa) of co-mingled food and green waste through the introduction of anaerobic bacteria. Heat from the proposed ERF would power the biological processes. Electricity would be provided by two 1MW combined heat and power units. The outputs would be bio-methane and digestate. The bio-methane would be pressurised, cleaned, and fed into the gas grid via an underground pipeline or used on site as a fuel for road-going vehicles.
- 5.6 Approximately 50,000tpa of nutrient-rich 'digestate' would be dried using heat from the proposed ERF to create a product for use as a fertilizer and soil improver.
- 5.7 The green and food waste would be delivered daily between 5:00am and 22:00pm and deposited in the reception building. The dewatering, drying and storage would be within a sealed and enclosed building. Other infrastructure would be a biomethane storage tank, three liquid waste tanks, two emergency flares, a biogas upgrade unit, and a grid entry unit. The process and plant would operate 24 hours per day, 7 days per week.

*b) Waste transfer station*

- 5.8 Existing waste transfer operations would be moved to a new building in the northwest sector of the site. The steel portal framed building would be 70m by 40m in footprint, and 10m in roof ridge height. The roof would be covered in solar panels.
- 5.9 Waste would be offloaded in the reception bay then moved to separate storage bays within the building. Cardboard, paper, and packaging would be baled. When sufficient material has been accumulated it would be loaded into HGVs in a covered bay at the side of the building for export off site for processing. Suitable wood would be used in the biomass boilers and green and food waste in the proposed dry AD plant.
- 5.10 The throughput would be 20–25,000tpa of commercial and industrial waste (including cardboard, plastics, metal, paper, and wood) as well as construction and demolition waste (including rubble, hardcore and general municipal waste streams). It is proposed that waste would be drawn from the catchment area specified in 'Condition 5' of planning permission H/5005/17/CW, specifying not less than 40% by weight from the East of England region. The hours of operation would be 5:00am to 22:00pm daily.

*c) Healthcare waste energy recovery facility (ERF)*

- 5.11 This entails a steel frame building measuring 53m by 39m and 10m s in roof ridge height. It would have dark green box cladding for the walls and the roof dark grey in colour.
- 5.12 A chimney stack also part of the proposal would be approximately 26m in height and 1.07m diameter and coloured light grey. It would be located to the north of the proposed dry AD facility, partially on the site of an existing surface water lagoon.
- 5.13 The design capacity of the plant would be able to deal with waste at 2 tonnes per hour. Inputs would be up to 12,000 tpa comprising of the following waste typologies as confirmed in the appellant's Planning Statement (June 2021) (CD1.1.2):
- Health care waste– produced by organisations providing health and social care or in a person's own home where health and social care is provided.
  - Hazardous waste – includes waste matter that can cause harm to the environment or human health e.g., medicines, needles, dressings.
  - Hygiene waste – non-clinical but contains body fluids such as outer dressings and gowns; medicines that can no longer be used or items contaminated with medicines.
  - Law enforcement confiscated material waste – such as tobacco, alcohol, firearms, and prohibited drugs.
- 5.14 The appellant makes the case that the waste would be sourced within Cambridgeshire and Peterborough, as far as possible and around 40% from the East of England region.
- 5.15 The waste would be delivered predominantly in light goods vehicles and vans at a rate of around 1 to 2 vehicles per hour. Bulk loads in articulated lorries would be unlikely to exceed 2 per day.
- 5.16 The waste would be in sealed bags or containers which would be manually loaded into the container management system within the building using a forklift or grab. It would then be emptied into the feed hopper then mechanically fed into the primary combustion chamber. The containers would be transferred to the container wash for disinfection. Liquid waste would be injected into the treatment process. Within the primary combustion chamber the waste would pass over two hydraulically driven hearths. Approximately 2 tonnes per day of 'incinerator bottom ash' (IBA) would be collected, quenched, and stored in a sealed skip for export off site for disposal or recycling if the relevant criteria are met.
- 5.17 As well as IBA, air pollution control residues would be collected (approximately 28 tonnes per month). Like the IBA it would be placed in a sealed skip for export off site for disposal.
- 5.18 Hot gases produced from the primary combustion chamber would be transferred to a secondary combustion chamber for oxidisation at the

necessary temperature and residence time. The hot gases would then be transferred to the waste heat boiler. The steam from the waste heat boiler would be used to generate electricity for use on site and export. Heat would be used in the proposed dry AD plant and in the proposed pellet fertilizer production facility.

- 5.19 The combustion process involved would be 24 hours per day, 7 days per week. Deliveries of waste would occur between 5:00am and 22:00pm.

*d) Pellet fertilizer production facility (PFPF)*

- 5.20 The PFPF entails a steel portal framed building measuring 70m by 40m in footprint and 11m in roof ridge height. The roof would be fitted with solar panels. The box profiled cladding forming its walls would be dark green in colour and the roof would be light grey in colour.
- 5.21 The PFPF would be located between the proposed healthcare ERF building and the existing biomass boiler and dry product storage building, on the footprint of two surface water lagoons in the centre of the site.
- 5.22 Some of the organic output of the dry AD plant would be transferred to the PFPF where it would be combined with ammonia and CO<sub>2</sub> to produce a fertilizer product which would be in granular form.
- 5.23 The process described would capture CO<sub>2</sub> from sources such as combustion flue gases and biogas separation. The CO<sub>2</sub> would then be used to stabilise the ammonia. The heat that would be used would be sourced from other on-site processes.

*e) Woodchip biomass fuel storage building*

- 5.24 The woodchip biomass storage building proposed would be to the north of the proposed PFPF. It would be a steel portal framed building measuring 70m by 40m in footprint and 10 metres in roof ridge height. The roof would also have solar panels. The walls would entail box profiled cladding in dark green and the roof would be light grey.
- 5.25 Delivery of wood chip would take place between 5:00am and 22:00pm daily. Shredding activity would take place between 07:00am and 18:00pm daily. The building is stated as being required as because the 20–25,000 tpa biomass (wood chip) that is used to fuel the existing biomass boilers is currently stored outside where its quality can deteriorate.

*f) Vehicle refuelling station*

- 5.26 The appeal development includes the installation of a compressed natural gas (CNG) refuelling station to the northeast of 'Entrance 1'. The biogas produced by the proposed dry AD plant would be capable of being used as an alternative to diesel in the applicant's fleet of commercial vehicles. It would be stored in a vessel situated close to the dry AD facility. A small-scale compressor would be located close to the proposed refuelling station.

*g) Four replacement surface water storage lagoons*

- 5.27 In order to build the appeal scheme, the sites of three existing surface water lagoons would be built over (this is to construct the proposed healthcare waste ERF and the proposed PFPF).
- 5.28 Four new lagoons would be constructed at the north of the site, parallel with the boundary with the former mushroom farm. One lagoon would be for 'clean' water collected from the roofs and roads and the remaining three would be for 'dirty' water from waste treatment areas for subsequent treatment for reuse on site or discharge off site under a licence. A replacement water treatment plant would also be installed between two of the new lagoons.

*h) Extension to concrete pad*

- 5.29 The extension to an existing concrete pad is shown on drawing no. 0001 Rev P01 dated 26.11.21 presented as Appendix D of Drainage Strategy for Surface Water at Envar (referred to in Planning Statement Addendum Appendix 5, 1 March 2022) and has been considered in the appellant's Flood Risk Assessment.
- 5.30 The proposed new hardstanding would be on the land immediately to the southeast of the proposed surface water storage lagoons and the adjoining north-easterly offshoot of the Envar land holding. The pad would allow increased hardstanding space for existing site operations.

## **6.0 Matters agreed between the main parties**

*Surrounding area*

- 6.1 The immediate context of the appeal site is mostly rural in nature, but with some non-agricultural enterprises as well as traditional agricultural businesses and some isolated dwellings.
- 6.2 The following uses are located at the approximate distances from the Planning Appeal boundary (the nearest point from the red line site boundary):
- Mr Anderson's new warehouse building (former mushroom farm) approximately 25m from the northern appeal site boundary
  - A Travellers' Site, approximately 50m from closest northwest boundary of the appeal site;
  - The Raptor Foundation (with a mix of uses/sui generis uses) is approximately 90m to the northwest, the associated residential property approximately 55m to the northwest. There are also three dwellings to the northwest;
  - M R J Joinery is located approximately 2250m to the southwest on Somersham Road;
  - A & S Fenner Ltd (a bathroom supply shop) is located approximately 570 metres to the southwest on Somersham Road;
  - Apex Brick Slips is located approximately 705m to the southwest on Somersham Road;



- The boundary of Colne Heath Farm is located 310m to the east of the appeal site boundary with the chicken shed 550m to the east of the appeal site boundary;
- Bridge Farm is located 670m from the site;
- Silks Farm Nursery and Pre-School is located approximately 505m to the north of the appeal site boundary;
- Cuckoo Bridge Nursery and Farm Shop is located approximately 1.05km to the north of the appeal site boundary on the B1086 St Ives Road;
- The orchards of Heath Fruit Farm are approximately 1.8km to the east;
- Bluntisham Recycling Centre is located on Bluntisham Heath Road at a distance of 750m to the southeast. The Bluntisham Recycling Centre is a household waste recycling centre and operates under environmental permit number BB3700MM);
- The Grey Recycling facility is located on Bluntisham Heath Road approximately 1,200m to the southeast. The Grey Recycling facility is a copper granulation plant and operates under standard rules site permit 'SR2008 No 3: 75kte household, commercial and industrial waste transfer station' with treatment.
- Other activities operating under environmental permits in the vicinity include intensive poultry farms, and restoration activities including Mick George Ltd's inert restoration of the old railway cutting to the north of the Envar Site.

6.3 Additional points of agreement about the site and surrounding area include:

- The landscape around the Envar Site has no particular designation.
- There are no SSSIs within 3km (and no European protected sites).
- With the exception of two milestones, there are no designated heritage assets until over 1km from the Envar site.
- The Appeal Site is located in Flood Zone 1 which represents the lowest probability of flooding at a 1:1000 annual probability.
- No Public Rights of Way (PRoW) are physically affected by the Appeal Site.

*Current operations on the Envar site and employment*

- 6.4 The principal element of the current waste management operations is the composting of green waste and food waste. The first stage of the composting process is in-vessel, in tunnels, with the air released treated by biofilter. Once treated 'in-vessel' the compost is matured in open windrows on the hardstanding areas, with regular turning.
- 6.5 The Envar site also operates as a waste transfer station where small loads of various waste streams are bulked up for transfer to specialist waste management facilities for treatment or disposal.
- 6.6 There are also two small-scale biomass boilers with a thermal capacity of 999kW and which use wood as a feedstock. Surface water from the waste processing and compost maturation areas is collected in a series of attenuation lagoons. A wastewater treatment plant processes the surface water to enable it to be discharged to the local watercourse in accordance with a discharge consent issued by the Environment Agency.



- 6.7 The current planning permissions limit the quantity of waste that may be accepted at the site to 200,000 tonnes per annum (tpa) by condition. The number of vehicle movements is not directly controlled by the planning conditions. However, the throughput limit does in effect limit the amount of traffic that would be generated. The permitted hours of operation are:
- Vehicle access 05:00am to 22:00pm daily;
  - Plant and machinery outside buildings 05:00am to 22:00pm daily;
  - Shredding outside buildings 07:00am to 18:00pm daily.
- 6.8 The Envar Site currently employs over 40 personnel on site (some employees are transient across different sites). The proposal is expected to generate 22 full time new employment positions. During the determination of the application by CCC some 30 employees were stated as being in full time employment. Since that time the Appellant has taken on additional staff with 50 employees employed at the Envar site, as confirmed during the appeal.

## **7.0 The Case for Envar Composting Limited (the appellant)**

- 7.1 This summary contains all material points in relation to Envar Composting Limited's case and is substantially based upon the closing submissions made. It is also taken from the evidence given on behalf of the appellant from other documents submitted to the Inquiry.
- 7.2 Given the planning balance arguments posed it is necessary in the appellant's view to firstly acknowledge the appellant's case made in relation to the principle of the development in the location proposed.
- 7.3 Relevant local and national policy, guidance, and legislation combined seek sustainable waste management development as part of the effort to tackle climate change interests and broader environmental goals facing England. This begins with legislation,<sup>5</sup> and continues down through national and then local policy. In particular at a local level via, Minerals and Waste Local Plan (MWLP) Policy 1 'Sustainable development and climate change' (CD4.1.2), and through Policies 3 and 4 (reflecting the principles of net waste self-sufficiency, proximity, and the waste hierarchy)<sup>6</sup>.
- 7.4 Such context is recognised in the Officer Report (OR) to CCC Planning Committee (CD1.4.2). At Paragraph 8.2 it states that, at national level '*There is a raft of legislation, policy and targets which seek to deliver more sustainable waste management and protect the environment.*' The OR then refers to the local level policies that reflect this underlying position.
- 7.5 The Envar Site, of which the appeal site is part of, is argued to be a sustainable waste management location for overarching reasons including:

---

<sup>5</sup> Such as the Waste (England and Wales) Regulations 2011, transposing the revised Waste Framework Directive (2008/98/EC), which at Schedule 1 enshrine the waste hierarchy and the principles of net waste self-sufficiency and proximity, or the Climate Change Act 2008 which, as amended, requires the UK to achieve Net Zero by 2050.

<sup>6</sup> As per Mr Whitehouse XX

- The site is almost all a Waste Management Area (WMA) designated by the MWLP Policy 10. The whole Envar Site falls within the WMA consultation area (CCC raises no issue regarding the only part of the proposal outside the WMA, namely the proposed lagoon area);
- It is nearly all previously developed land (PDL);
- It has a long history of waste management, including of the cutting-edge variety, which has led to the present built form and operational position, in accordance with various planning permissions over the years;
- It sits on the B1040 St Ives Road, which it is common ground is a busy main road (by reference to nature as well as volume of traffic);
- It is one of the few designated waste management sites in the waste planning area of sufficient size that it is possible to achieve the benefits of co-location, as CCC officers recognised OR in Paragraph 9.35 *'It is one of a few existing permanent waste management (non-landfill) sites within Cambridgeshire and Peterborough that is large enough to accommodate a range of waste management processes.'* and as CCC has itself acknowledged at the Inquiry<sup>7</sup>;
- It sits in an undesignated landscape, which is not a "valued" landscape for the purposes of NPPF 180(a). Nor, pertinently, does CCC point to any of the "potential indicators of landscape value" set out by the Landscape Institute in the long Table 1 within the Institute's technical note 02/21 (CD5.1.8) as applying to this landscape<sup>8</sup>; and
- It is not in the setting of any designated heritage assets<sup>9</sup>, nor does it harm any designated heritage assets.

7.6 MWLP is the waste-specific part of the development plan, and also the most recent (adopted 2021), whereas the Huntingdonshire Local Plan ("the HLP"), is concerned primarily with housing and employment, and is a 2019 document, the MWLP therefore has a particular status and relevance to the appeal.

#### *Landscape and visual effects*

- 7.7 It is accepted by the appellant that there will be some harm to landscape and visual amenity. The Landscape Visual Impact Assessment (LVIA) (CD1.1.3G) and the evidence of Catherine Bean (CB) (CD2.6.2, plus appendices) and Sean Bashforth (SB) (CD2.6.1, CD2.6.1 A & B) detail the nature of this harm. It is the degree of harm, which is the subject of dispute with CCC, and the significance of such harm in policy terms.
- 7.8 CCC raises no issue regarding the proposals landscape and visual impact except for the HERF chimney (the chimney). And whilst some members of the public had objected on the basis of the landscape/visual impact of the Proposals as a whole, the comments made to the Inquiry were focused on the effect of the chimney.

---

<sup>7</sup> Mr Whitehouse XX

<sup>8</sup> Mr Reynolds XX

<sup>9</sup> Mr Reynolds Proof 2.1.4 and Mr Whitehouse XX

- 7.9 In gauging the landscape and visual effects of the chimney, there is no challenge to CB's 4km study area (albeit Mr Paul Reynolds' (PR) additional 4 "viewpoints" he refers to are well within it). CB characterises the landscape of the 4km study area as semi-rural, due to its numerous, sizeable, and visible non-rural elements. Whereas for PR the landscape is simply rural/agricultural.
- 7.10 PR denies the relevance to characterisation of the 4km study area landscape of Wyton airfield and the St Ives urban extension, which are specifically identified as 'key characteristics' of the wider 'LCA3 Central Claylands' character area in the HDC Landscape and Townscape SPD 2022 ("the SPD")<sup>10</sup>, which fall within the specific 4km study area (which study area represents some 20% of LCA3), and of which there is clear visibility.
- 7.11 This makes PR's the claim that the chimney would change to the entire character of the 4km study area unreasonable. This is because the vast and visible areas of non-rural/agricultural development at Wyton airfield and St Ives northern urban extension are maintained to be irrelevant to the character of the study area, yet a 1m wide 26m tall chimney, in accordance with Mr Reynolds evidence, would change its entire character. In the appellant's view this is simply implausible.
- 7.12 By contrast, CB on behalf of the appellant gives appropriate regard to the key characteristics identified by the SPD and to both the rural/agricultural and non-rural elements of the landscape, the latter including, of importance, the semi-industrial/industrial Envar Site itself and its immediate surroundings.
- 7.13 These sit within the wider semi-rural landscape of the 4km study area, marked by numerous other visible non-rural elements. But if the landscape becomes more rural as one moves from, for example, the B1040, equally the visibility of the Envar Site and the Proposals reduce.
- 7.14 Whilst land use in the 4km study area is predominantly rural/agricultural, the character is not simply rural/agricultural, due to the visible, sizeable, non-rural elements it contains. Thus, sometimes appearing industrial or semi-industrial.
- 7.15 The appellant highlights there is a lack of appreciation by CCC and Mr Reynolds of how far the chimney would be seen in the area based on the ZTV produced by CB.
- 7.16 CB has considered the sensitivity of the landscape to in accordance with Guidelines for Landscape and Visual Impact Assessment 3 (GLVIA3). The chimney will not change the character across the entire 4km study area landscape. Its landscape impact will be, as per CB's evidence, a moderate-minor one<sup>11</sup>.
- 7.17 The chimney, viewed objectively, without consideration of its functional purpose or perceived harm to health implications, would be slender barely 1m

---

<sup>10</sup> CD4.2.2, page 73

<sup>11</sup> Mrs Bean Proof 4.2.22, affirmed EiC and ReX

wide and 26m high, and would be coloured unobtrusive grey (as per the cross-section for HERF, CD 1.1.9).

- 7.18 The chimney would appear as a thin and unobtrusive line, in an immediate context that already has non-rural, semi-industrial elements, and is not purely rural/agricultural in character. It would make little impression. Furthermore, the widely held view amongst interested parties that it would be accompanied by a regularly visible plume has no foundation. This is common ground with CCC.
- 7.19 Moreover, the landscaping that forms part of the appeal scheme, which includes sizeable belts of trees, would be a positive addition, meeting the aspirations of the SPD's 'looking forward' section, which PR misses from his assessment. Contrastingly, SB addresses this alignment with the SPD in his Proof<sup>12</sup>, and rejected attempts in XX to derive some policy test based on harm from the SPD.
- 7.20 Although the appellant agrees there would be harm to landscape and visual amenity from the chimney, they argue it is an unavoidable part of the design of the appeal scheme allowing its overall benefits. The following associated points being underscored under that broad rationale:
- (1) It is needed to address the local capacity need for some 15,500-24,000 tpa of healthcare waste and move healthcare waste up the waste hierarchy consistent with the principles of net waste self-sufficiency and proximity. Thus, the HERF has a compelling need.
  - (2) Equally, the HERF is integral to the benefits, including for example, the c.40,000 tpa of CO<sub>2</sub> equivalent climate change benefits, and to most usefully use the heat from the HERF, it is needed here on the Envar Site, situated by the dry AD and PFPF and the other site processes they draw on.
  - (3) The HERF requires a chimney of this height for the reasons explained by Dr Owen and Mr Othen which are not disputed by CCC.
  - (4) The chimney is a slender item and cannot be of a colour or materiality that is less obtrusive than is proposed, which would be secured by condition.
  - (5) The chimney has been sited centrally, in accordance with the pre-application advice to that effect.
  - (6) The landscaping scheme is doing all that it can, and Mr Reynolds does not depart from CCC officers' view that it is as good as can practicably be achieved (as per CCC OR, paragraph 13.43).
  - (7) The upper parts of the chimney cannot be screened by the landscaping, even once mature.

---

<sup>12</sup> Mr Bashforth Proof Paragraphs 5.25-5.26, (CD2.6.1)

### *Other alleged harms*

- 7.21 As for the other alleged harms raised by interested parties the appellant makes the case that there is no evidential foundation to them, not least the allegations of harm to human health/well-being. The appellant also points to the fact that it is common ground between them and CCC there would be no such harm.

### *Benefits*

- 7.22 There is no suggestion from CCC that the appellant could, or should, be doing something different to what it has proposed. The proposals would result in the following benefits:
- Put the 'wet' food and green waste presently processed by in-vessel composting ("IVC") and windrows to markedly better use, through dry anaerobic digestion ("dry AD"), producing significant amounts of biogas and a digestate that, combined with other elements, including from the dry AD and from the waste transfer station and the in-vessel/windrow composting still on site, will be made into a naturally derived pellet fertiliser in the pellet fertiliser production facility ("PFPF"). The biogas would replace fossil fuels and the pellet fertiliser will replace traditional fossil fuel produced (nitrogen, phosphorus, potassium) fertiliser, and offer additional environmental benefits (as Mr Cooper's evidence has explained<sup>13</sup>). Thus, moving waste up the waste hierarchy;
  - Make the dry AD and PFPF processes, including the digestate drying process, work by providing heat from, the healthcare waste energy recovery facility ("the ERF" or "HERF"). The HERF would combust healthcare waste that cannot be recycled (owing to its nature), and which is presently either going out of area, or being treated without full energy recovery, or both;
  - Through the HERF, this will see the healthcare waste kept 'in-area'. Supporting net waste self-sufficiency and the proximity principle, and addressing an identified present local capacity need of approximately 15,500-24,000 tonnes per annum (such figure is not disputed by CCC but, its planning witness Mr Whitehouse disputed that there is a present need);
  - Further, by the HERF recovering its energy, the healthcare waste will be put to notably more productive use than the "baseline" position, thus also moving waste up the hierarchy and aligning with national support for recovery of energy from waste that cannot be recycled;
  - Through the above co-located processes, plus a modest contribution from installation of rooftop solar PV, the Proposals will reduce greenhouse gas emissions by what Mr Othen in his evidence calculates as equating to in the order of 40,000 tonnes of CO<sub>2</sub> per annum;
  - The biogas produced can be used to fuel the Appellant's fleet, displacing diesel, which Mr Cooper has explained, but which Mr Othen (conservative throughout in his assessment) has not allowed for;

---

<sup>13</sup> Mr Cooper's Proof, Rebuttal and EiC

- Make the existing biomass and waste transfer processes more efficient by placing them under cover in modern buildings, reducing (biogenic) energy spent on drying woodchip and allowing for mechanisation of waste transfer so reducing the use of (diesel powered) mobile plant, bringing further greenhouse gas reduction benefits (albeit unquantified by Mr Othen in his evidence, underscoring the conservatism in his calculations), as well as broader environmental benefits (e.g. noise, dust, odour impact).
- Reduce call on the potable water grid, bringing further (again unquantified) greenhouse gas reduction benefits;
- Allow for machinery, both fixed (such as the reception building shredder, or the screener at the end of the IVC/windrow process) and mobile (such as the windrow turner) to be powered by electricity or biogas, rather than diesel, bringing further (again unquantified) greenhouse gas reduction benefits;
- Create permanent jobs (as well as construction jobs and the inevitable increase in indirect jobs, assisted by the Appellant's "local first" policy).
- Improve biodiversity through landscape improvements, in particular through new tree belts);
- By reducing the quantity of waste going through the IVC/windrow process, not only reduce greenhouse gas emissions (noted above), but also reduce broader environmental impacts such as odour, noise, airborne dust/detritus, and steam plumes.

*Overall planning balance conclusions of the appellant*

- 7.23 In conclusion, the balance of harm from the chimney versus the benefits of the appeal scheme assessed against the development plan is argued as falling in favour of the appellant.

## **8.0 The Case for Cambridge County Council (CCC)**

- 8.1 This summary contains all material points in relation to CCC's case and it is substantially based upon the closing submissions made. It is also taken from the evidence given on behalf of CCC and from other documents submitted to the Inquiry.
- 8.2 The landscape and visual effects on the locality, and the associated planning balance triggered are agreed by CCC to be the main issues.

*Landscape and visual effects*

- 8.3 It is the Council's case that the proposed chimney, as an industrial feature, would cause harm the landscape and visual amenity of the locality. As narrow as the chimney may be (1.07m wide), it will rise to 26m tall. Which is the equivalent in height of a 9-storey tower, sitting on high ground in a generally flat area.
- 8.4 In terms of the detailed assessment of landscape and visual effects identified by the Appellant, Catherine Bean (CB) confirmed in XX, the importance of GLVIA (Guidelines for Landscape and Visual Impact Assessment). Based on GLVIA guidance 'landscape' matters because it provides:



- A shared resource which is important in its own right as a public good;
  - An environment for flora and fauna;
  - The setting for day to day lives – for living, working and recreation;
  - Opportunities for aesthetic enjoyment;
  - A sense of place and a sense of history;
  - Continuity with the past through its relative permanence and its role in acting as a cultural record of the past;
  - A source of memories and associations, which in turn may contribute to wellbeing;
  - Inspiration for learning, as well as for art and other forms of creativity.
- 8.5 The above themes identified were also broadly referred to in the representations made by members of the public before the inquiry. Moreover, CB agreed that it is important to start by establishing the landscape and visual baseline of the area.
- 8.6 There is little difficulty in CCC's view that a 26m high chimney/incinerator is an industrial feature. So, the question which then arises is what is the character of the existing area into which such a feature would be introduced.
- 8.7 CB agreed in XX, as per her methodology, that the baseline is an essential part of the exercise to establish (i) sensitivity (ii) magnitude of change (iii) and, therefore, the significance of effects. Thus, in the LVIA she identified compatibility as relevant to the sensitivity of the resource<sup>14</sup> and the degree of change (whether noticeable, or a change to character and appearance, etc.) as a key ingredient of magnitude of change.
- 8.8 Paul Reynolds (PR) (the CCC's Landscape Witness) maintains in his judgment this is a rural landscape; CB confirmed in her view that it should be regarded as semi-industrial, although she also mentioned semi-rural.
- 8.9 But either way, her disagreement with PR relied principally on identifying a series of features which, putting it neutrally for the purposes of submissions, she treated as non-rural.
- 8.10 CB agreed in XX that there is a nexus between rurality and the issue of tranquillity/remoteness. Turning to these features, many of them were first considered by her, in any detail, only in her Rebuttal evidence. The Council notes that this did not really qualify as 'rebuttal' evidence at all and ought to have featured in her main proof since industrialisation of the landscape had clearly and explicitly been identified as an issue in the Council's Statement of Case and she had already touched on the issue in her main proof.
- 8.11 CB regarded the size of buildings as indicative of whether they are a rural/agricultural or industrial feature. A building can be very large indeed but still read as a rural agricultural building. CB agreed that the design/materials of the building are also relevant. She also appeared to agree, that the nature of the activity matters too. This is clear, because although she seemed to want to make the point that what goes on inside a building is not relevant, CB

---

<sup>14</sup> LVIA para 3.2.19 (CD1.1.3G)



acknowledged that local people were more sensitive receptors than passing motorists and that one would expect local people to know what goes on at a local site.

- 8.12 Applying the rationale that the design/materials of buildings is a relevant factor as well as the nature of the activity, PR's approach is argued to be more persuasive: the glasshouses of Cuckoo Bridge Nursery and a poultry farm are clearly not "non-rural" features; the design and material used at existing buildings at the Envar site and the Woodhurst Farm site are rural/agricultural in appearance ; a caravan site is not out of kilter with a rural landscape ; a rugby club (including goal posts) is not out-of-place in a rural landscape; the brick merchants building and consideration of whether it is non-rural in appearance is also a factor.
- 8.13 CB in her evidence relies on the water towers (at a distance away) as supportive of tall structures being a feature of the existing landscape, but as PR explained water towers do not read as an industrial rather than rural feature.
- 8.14 As for the presence of a local airfield and local roads, consideration should be given as to whether these are indicative of a non-rural landscape. In respect of the airfield, PR made the point in XX that the airfield is on the outskirts of the study area and behind any views towards the Envar site. The landscape does not need to be a green wilderness in order to be considered rural. PR making the point that even if a landscape contains some non-rural features that does not mean that overall, it is not a rural landscape.
- 8.15 CB agreed in XX that in assessing a landscape baseline one goes first to the relevant national character assessment (in this case, NCA88) which covers a huge area, then to a district area assessment. In this case that comprises the Huntingdonshire Landscape and Townscape SPD. However, as CB confirmed in XX the 'study area' in her LVIA comprises only 20% of the Central Claylands Area, and most of the identified 'key characteristics' of the much broader Central Claylands area are plainly not material.
- 8.16 CB's criticisms of PR's approach to which of the key characteristics are relevant, are suggested to be unfair on the basis of what credible basis could PR be criticised for not identifying "Extensive cover of ancient woodland in the north-west" as a relevant characteristic when the site is not in the north-west.
- 8.17 CB agreed that it is necessary, as both she and PR had done, to drill down into establishing the character of the 'local' area, identified in the LVIA as a 4km radius from the appeal site, since the SPD is only a starting point.
- 8.18 With respect to CB's assessment of the residual landscape impacts she: i) did not set out anywhere (in spite of a failed attempt in re-examination to suggest that she did) her assessment of magnitude of change in landscape, which is one of the two inputs (sensitivity and magnitude of change) necessary under her matrix (Table 8 LVIA) to conclude on the overall impact; and ii) concluded that the residual impact was 'low', but this was not a term that bears any correlation to the terms referenced in her Table 8 matrix.

- 8.19 CB in XX was taken to her Table 8 matrix in order for her position to be understood. She had set out that she treated the sensitivity of the surroundings as "moderate". Since she had not set out her assessment of magnitude of change, she was taken to her categories of magnitude of change at 3.3.5 of the LVIA.
- 8.20 CB accepted what was obvious namely that on her own assessment the chimney would be a noticeable change and that it would affect several receptors, on which basis the magnitude of change would be moderate - the Council say higher.
- 8.21 Therefore, applying CB Table 8 matrix the impact would not be "low" whatever that equates to in her matrix but "moderate". And as per Table 9 in the LVIA this equates to: "Intermediate change in environmental or socio-economic conditions. Effects that are likely to be important considerations at a local level".
- 8.22 In terms of the conclusions on landscape visual impacts made by CB in Table 13. Of the 11 representative viewpoints selected for the LVIA, she concluded that, in her judgment, at completion the impact significance should be considered moderate from 6 viewpoints and major/moderate from a further 3 viewpoints (viewpoints 2, 3 and 5). This is striking, because in relation to 9 of the 11 representative viewpoints she considered the impact to be moderate or higher. PR having identified during the appeal process further viewpoints A, C, and D, CB also considered the impact from D to be major-moderate.
- 8.23 It should be noted that the representative viewpoints 2, 3, 5 and D which CB categorises as major/moderate adverse represent views are not clustered together but are views from all sides.
- 8.24 Through the explanation at Table 9 of the LVIA. The meaning of "moderate" is defined as "likely to be important considerations at a local level". However, CB has four representative viewpoints straddling "major", which she defines at Table 9 as: *Very large or large change in environmental or socio-economic conditions. Effects both adverse and beneficial which are likely to be important considerations at a regional or district level because they contribute to achieving national, regional or local objectives, or, could result in exceeding of statutory objectives and/or breaches of legislation.*
- 8.25 In the impact magnitude matrix at Table 8, CB recognises 6 categories of significance (major, major/moderate, moderate, moderate/minor, minor, not significant). In respect of four representative viewpoints (including D), CB assesses the adverse impact to be in Tier 2 out of 6 i.e., just below the greatest impact possible.
- 8.26 This raises the question as to whether the appellant has fairly represented the views of their own landscape and visual impact expert. This is because in opening the appellant suggests these impacts as only being described as 'modest' and including having regard to the proof by Sean Bashforth (SB).

- 8.27 On CB's analysis, the extent of harm is clear and is not fairly represented in the appellant's planning evidence. SB in his Proof<sup>15</sup> states that the chimney would have "little if any, landscape or visual impact".
- 8.28 The appellant has agreed with PR that the chimney would be visible from Viewpoints A, C and D, and has agreed with PR that from D the adverse impact would be major/moderate.
- 8.29 Had the appellant conducted a Zone of Theoretical Visibility (ZTV) at the application stage, Viewpoints A, C and D would have been in front of both officers and members. The appellant did not do one. But for PR, viewpoints A, C and D would have been missed and these demonstrated views from the south.
- 8.30 CCC make the argument that PR's baseline assessment is more persuasive and realistic. That overall, the character of the relevant area is rural and thus the introduction of the chimney is an out of character industrial feature.
- 8.31 The incinerator chimney would introduce an industrial feature into a rural landscape. As agreed by CB and set out earlier in these submissions, that issue affects the issues of sensitivity, magnitude of change, and consequently level of impact.
- 8.32 PR concluded (based on post-mitigation effects):
- The sensitivity of the wider landscape was moderate to high<sup>16</sup> (CB says Moderate);
  - The magnitude of change resulting from the industrialisation of the rural landscape would be high<sup>17</sup>. This means, as per the LVIA at 3.3.5, that the proposal would completely change the character and/or appearance of landscape (for a long time or permanently), and would affect many receptors;
  - Combining sensitivity with magnitude of change as per LVIA Table 8, the adverse impact would be major/moderate<sup>18</sup> (as defined at Table 9);
  - As to visual impacts, he regarded the level of sensitivity to be high in Viewpoints 2, 6, 9, and D. (It is notable that PR regarded fewer viewpoints than CB to fall into the highly sensitive bracket. He took the view that the sensitivity of a further seven viewpoints is moderate);
  - He regarded the adverse impact to be major/moderate in seven viewpoints, comprising 5 from the original 11 viewpoints (1,2,4,8, and 10) and viewpoints C and D;
  - Of those 5 from the original viewpoints, he and CB were agreed on the level of sensitivity for all but View Point 10. And disagreed on the magnitude of change for all but View Point 2.

---

<sup>15</sup> At para 5.10

<sup>16</sup> PR Proof 4.1.12

<sup>17</sup> PR Proof 4.2.5

<sup>18</sup> PR Proof 4.2.5

8.33 Whilst CB and PR differ in their landscape individual judgments, they align on two key planning areas:

- Firstly, the extent of adverse landscape impact would not be lower than moderate, meaning that the changes are likely to be important considerations at local level; and
- Secondly, in the majority of representative viewpoints, the adverse impact would be moderate or higher. The extent of adverse visual impact would comprise a number of representative viewpoints from which the effect would be major/moderate, and others from which the effect would be moderate and thus of local importance.

8.34 Thus, the appellant cannot escape the fact that even on its own expert evidence the chimney would cause harm to the landscape and to visual amenity. The site sits in the countryside, and the countryside, in the Council's opinion, would be significantly harmed.

*Perception of harm to health and well being*

8.35 Perception of harm to health and wellbeing considerations (originally the subject of RfR 2) were agreed not to be advanced as a reason for refusal prior to, or during the Inquiry, nor do CCC through their planning witness Mr Chris Witehouse's (CW) evidence suggest that the proposal should be refused on this basis. But instead CCC raise the matter as a material consideration in the overall planning balance expected for the case.

8.36 In the weighing exercise, CW in his evidence attributes the matter 'limited weight' which is the lowest band in his scale above nil. It became apparent during the evidence of SB that the appellant accepts that this matter is a material consideration, having refused to agree this through the SoCG.

8.37 Dr Owen was wrong to suggest that in raising this matter in the way that they do, the Council was "waiving its findings"<sup>19</sup> in respect of the technical scientific evidence. It is the fact that CCC did and do accept that the risks are within acceptable tolerances which explains why the point is identified as a "perception".

8.38 The perception does exist as per the representations made in writing and by members of the public at the Inquiry. CW's Proof at paragraphs 5.5 to 5.11, seeks to group the various concerns in the following categories:-

- Perceived impact of consumptions of dioxins through food grown in the local area;
- Perceived impact of the development on children attending Silks Farm Nursery School;
- Perceived waste processing effects on health; and
- Perceived impact of traffic movement on noise and air quality.

---

<sup>19</sup> Dr Owen proof at para 4.2 (CD2.6.3)

- 8.39 Many oral representations were made during the Inquiry with evocative examples of local concerns to the appeal scheme. Including from Mr Bluff a local egg producer on Day 1 and from Natasha Marco on Day 6 on behalf of the local nursery.
- 8.40 The case of *Smith* (CD 5.1.13) has also been referred to bearing in mind the overall approach (a) there must be “some reasonable basis” (b) that is widely drawn, as SB accepted in XX (c) that falls short of evidence demonstrating that the risks stray beyond acceptable tolerances on the technical scientific evidence.
- 8.41 Although the Council accept that the risks are within acceptable tolerances, members of the public would have seen or are able to see the response at the application stage by the UK Health Security Agency that “it is not possible to rule out adverse health effects from these incinerators completely”<sup>20</sup> and Dr Owen’s own evidence cannot eliminate the risks altogether however small they are. The issues being highly complex in nature as a further point.
- 8.42 Therefore, as to weighting triggered there is not a vast difference applied by CW and SB. CW’s weighting of limited was consistent with the approach taken by Inspectors (as per the appendices to his proof) at the Northacre Energy Inquiry (decision letter dated 21st February 2023) and the Merchant Park Inquiry (decision letter 5th December 2022).
- 8.43 In the former, notwithstanding the Inspector finding there to be no objective justification he nonetheless gave the perception of harm to public health limited weight. SB oscillated on weight from “very little” in his Proof to “less than limited” in his Rebuttal to “slight” in oral evidence –but he appeared to accept in XX that since the band above Nil in his scale was “limited” that as he did not give the matter nil weight it had to fall within the limited band.

*Conflict with the Development Plan and the Framework*

- 8.44 The argument made by CCC is that the proposal breaches Policies LP2, LP10 and Policy 17 of the Development Plan. These policies include a reflection of paragraphs 135c and 180b of the Framework.
- 8.45 Specifically, 135c is mirrored by Policy 17(f) – save that 17(f) says “must” and 135c says “should” but it does not appear to be suggested by either party that there is a material difference in that; and 180b is mirrored by LP10b (with the same must/should observation) and in the strategic policy at LP2.
- 8.46 It is CCC’s case that these breaches render the proposal in conflict with the plan overall, and the appellant accepts through SB that it is not a “numbers game” (i.e., how many policies are breached and how many are not). In relation to local policy interpretation issues raised by the main parties:
- a) Policy 17(f) includes the words “while not preventing or discouraging appropriate innovation or change”. If the proposal amounted to appropriate

---

<sup>20</sup> Dr Owen Proof at para 3.22 (CD2.6.3)

innovation or change, that does not mean that the policy should be read as if the requirement to be sympathetic to local character including landscape setting is removed, and SB in XX accepted that “part two” of 17(f) and equally 135c does not trump “part one”;

- b) Policy 17(h) relates to the requirement for a landscape enhancement scheme to demonstrate that the development can be assimilated into its surroundings and local landscape character. In this case it is common ground that the landscape enhancement scheme cannot screen the chimney (its upper parts) and it is obviously an issue between the parties based on the landscape and visual impact evidence whether or not the development (and in particular the chimney) would be assimilated – it is difficult to see how a development which both parties agree would result in adverse effects (i.e., harm) to the surroundings and landscape character can at the same time be said to assimilate with it;
- c) If the scheme harms its surroundings in terms of landscape and visual impact, it is difficult to see how it can sensibly be argued that the proposal is at the same time sympathetic to local character including landscape setting;
- d) The appellant appeared to suggest through XX of the Council, though their position was less clear through the evidence of SB, that LP10b (and the equivalent wording in LP2) should be read on the basis that a scheme should recognise the intrinsic character and beauty of the countryside only as far as possible. Such an approach provides a gloss to the policy which is simply not what the policy says. The hypothetical scenario was put to SB in XX of a scheme which by its nature could not recognise the character and beauty of the countryside and caused substantial damage to it, and whether such a scheme would not fall foul of 180b. SB did not seem to wish to engage with the question. The issue is whether a proposal does or does not recognise the intrinsic character and beauty of the countryside, not the extent to which it is able to do so;
- e) 180b of the Framework and the corresponding local policies should not be read as if the fact that countryside is undesignated removes its protection<sup>21</sup>;
- f) LP10c can plainly include visual impacts within the meaning of “other impacts” if these would adversely affect the use and enjoyment of the countryside. It is clear that the adverse visual impacts identified by the landscape impacts sit hand-in-hand with use and enjoyment of the countryside for example where these impacts affect public rights of way. The appellant through SB takes a contrived approach to the interpretation of the policy based on his interpretation of the supporting text at 4.113 (and in any event supporting text should not be read as if it is policy<sup>22</sup>). The supporting text confirms “a proposal should not adversely affect the character and tranquillity of the countryside and should ensure that it will

---

<sup>21</sup> Cawrey at [49], CD 8.1.1

<sup>22</sup> R (on the application of Cherkley Campaign Ltd) v Mole Valley DC [2014] EWCA Civ 567



not give rise to impacts that would reduce the opportunities for others to use and enjoy the countryside, including for wildlife". This does not exclude visual harm which affects opportunities for local walkers to enjoy the countryside. The policy should be read based on what it states.

- 8.47 MWLP Policy 4 is not included within RfR 1 and the Council have not relied upon it as a breach. It is noted that the policy is a "not support" policy as distinct from a "breach of" policy. CCC have not sought to introduce Policy 4 into its objection against the scheme.
- 8.48 CCC's case is that the proposal specifically breaches Policies LP2, LP10b, LP10c, 17(f) and 17(h), as the breach of the development plan when considered overall. This engages the statutory s38(6) presumption in favour of the development plan.

#### *Benefits*

- 8.49 The appellant's Statement of Case (CD2.3.1) sets out the benefits in paragraphs 5.3 to 5.26, which are defined as:
1. Optimising the use of previously developed land and assisting net waste self-sufficiency. Analysis of this benefit within the Statement of Case is included in the consideration of need (at paragraph 5.6).
  2. Providing processes that move waste up the waste hierarchy.
  3. Supporting the transition to a low carbon future.
  4. Delivering efficiencies and sustainability benefits from co-locating waste facilities together.
  5. Job creation.
- 8.50 All of the above have been treated as benefits by CCC. CCC subsequently reject the appellant's claims that these benefits have not been taken into account as baseless.
- 8.51 On the issue of need, CW as expert witness has considered: Addenbrookes Hospital incineration capacity. Including, that it is operating at around 85% of its overall capacity; that other Cambridge and Peterborough Hospital Trusts send their waste further afield; plus, the existing contractual arrangements in place and the unknown end date for renewal; and that clinical waste volume is expected to rise.
- 8.52 In respect to moving waste up the hierarchy; carbon savings; and co-location benefits the NHS Clinical Strategy 2023 sets out management practices and provision to reduce incineration requirements by 35%<sup>23</sup>. The Climate Change Committee Report (CD 5.1.6) highlights that growth of EfW plant is undermining efforts to reduce emissions. In other words, there is a balance between reducing waste volume and increasing incineration capacity.
- 8.53 Further balance factors are also noted by CCC in that: although there is a small proportion of total carbon savings from the appeal scheme it needs to be

---

<sup>23</sup> NHS Clinical Strategy 2023 Page 9



considered against a scheme which does not involve a 26m high incinerator chimney; a significant part of the green and food waste processed at the Envar site would still be reliant on fossil fuels (estimated by the appellant to be in the order of 40-50%); the total volume of waste which would be processed at the site would not increase; and the proposal would involve a higher amount of greenhouse gas emissions from the site, albeit it is recognised savings would be achieved on a wider scale.

*Overall planning balance conclusion of CCC*

- 8.54 Given chimneys impact, the Council argues the appeal scheme would lead to landscape and visual impact harm, also harm to the wider countryside, which amounts to significant harm. This effect would conflict with the development plan overall. Although the Council recognise the benefits which would flow from the proposal, those benefits are not of sufficient weight to displace the statutory presumption in favour of the development plan.
- 8.55 The view of CCC is that the assessed benefits do not outweigh the harm arising to the landscape and visual appearance of the area from the chimney and the conflict with the development plan that arises.

**9.0 Interested Parties (who spoke at the Inquiry)**

- 9.1 There were several interested parties who attended and spoke during the Inquiry, including persons speaking on behalf of the local community and businesses through organised groups. In tandem with the written representations, they raised issues related to (but not limited in extent to) the following matters:

*Rt Honourable Mr Shailesh Vara Member of Parliament (MP) for North West Cambridgeshire*

- 9.2 He referred to the magnitude and strength of the large-scale community protest to the appeal scheme in the decision-making process. Mr Vara also spoke about the visual impact of the chimney which would not be a moderate impact within a flat landscape. It would be harmful to the rural setting.
- 9.3 Dioxins and other pollutants that have the potential to harm human health are further important issues. The proximity of the development to surrounding uses such as: residents' homes, including the traveller site, businesses, farms, a local nursery, the Raptor Foundation (for rare birds and conservation as well as supporting people with special needs) are therefore important considerations.
- 9.4 The Local Plan for the area was referred to which sets policies for protecting the area against harms from visual impact, odour, and forms of pollution. In recognition of the aspirations, aims, objectives and policies of the Local Plan there needs to be the right outcomes for residents. The consultation process has been deficient in planning the scheme. The proposal subject to this appeal was alleged to be a step too far.

*Steve Criswell – County Councillor (Cllr)*

- 9.5 He raised amongst other things concern regarding the unlimited expansion of the existing use of the site. The sustainability of the scheme is questionable relative to local waste and notional energy generation on site; as well as adverse waste import implication from wider areas and the greening of NHS hospital waste incineration, being competing considerations.
- 9.6 Additionally, the site is already an 'eyesore' and does not assimilate into the landscape. It is an unwanted feature in the local landscape which the appeal scheme would unduly exacerbate. The chimney height, in particular, is unsympathetic to the area and contrary to the development plan policies.
- 9.7 The perception of harm to the wellbeing of residents is also a very important issue. It relies on the competence of the operator and regulator. No guarantee can be given the scheme is 100% safe to the public.

*Andy Notman (Cllr) Chairman of Woodhurst Parish Council*

- 9.8 Raised several concerns including about Conservation Area impacts and landscape issues in reference to local water towers and public viewpoints in the appellant's evidence.

*Natasha Marko – spoke on behalf of the community action group People Opposing Woodhurst Incinerator (POWI) (who refer to ~3.4k objectors)*

- 9.9 She identified a range of harms arising from the intensification of the use; the dominant visual impact of the changes; lack of need; co-location arguments; CO<sub>2</sub> emission implications per annum; and local plan interface; plus, that the site is already subject to flies, odour, and complaints regarding existing operations.
- 9.10 Silks Farm provides care to around 136 children including early years (and children and under 18 months old); the outdoor forest school provision was also referred to, teaching children 0.6km away; health and educational needs are vital alongside meeting Ofsted standards and the school helps to support the community with childcare and working parents' commitments.
- 9.11 Nitrogen and particulate matter have the potential to result in harm and lifelong disabilities; there are related traffic implications and health and safety risks from those relative to the service provision. There are overarching objections to the development on health and safety grounds alongside all other concerns raised by the community as a whole.

*Jean Fairburn (local resident)*

- 9.12 She referred in part to the perceived health effects and history of the site, including an alleged fire; the issues of toxins, air quality and human health; as well as the problems associated with monitoring measures, and monitoring being absent.

*Colin Hammond (local resident)*

- 9.13 Attendee of the Raptor Foundation. The Raptor Foundation provides a 'safe place' with quality-of-life benefits for the people who visit it, including mental health benefits. It also offers the chance for: weekly groups to meet; Duke of Edinburgh students; and work experience activities as social and educational benefits. He raised concerns in relation to birds and associated activities being curtailed by the development.
- 9.14 *Helen Thatcher (local resident)*
- 9.15 She referred to the concept of a successful place to live, work and visit which the scheme would be at odds with. The development would be visually prominent bearing in mind the high ground setting and topography, and that it would be out of balance with its surroundings. She referenced an alleged historic fire as a hazard and litter issues. Educational trips to the Raptor Foundation would be adversely impacted and the Foundation could close because of the proposed development of the Envar Site. She also referred to other shared residents' concerns such as the lack of road capacity, and air quality implications.
- 9.16 Local people identify the area as 'agricultural' with fields and orchards. The chimney would be alien in the skyline, it is not a natural feature whereas trees clearly are; residents regard the landscape and area as 'precious'; views of the appeal proposal would be a permanent blight on the landscape; landscape and on features that have been present for 100's of years and no-one would expect to see a 26m high chimney in such a location. Harm to Raptor Foundation birds was also referred to.

*John Marsh (local resident)*

- 9.17 He spoke about the development causing harm from increased air and environmental pollution levels, particularly bearing in mind the relative proximity of schools, the traveller's site, the settlements of Woodhurst and St Ives and surrounding farms. He also referred to perceived harm to health. Furthermore, although the chimney stack is said to be 26m in height such calculation is not based on 'firm' analysis, and it may need to be taller.

*Kym Moussi (local resident)*

- 9.18 The environmental permit regime and what is enjoyed currently was referred to, as well as the Environment Agency as regulator. In doing so matters concerning an asthma fatality case; World Health Organisation (WHO) objectives and particulates in the environment; pollution and air quality were mentioned. These issues being related to formal Health Impact Assessment and dealing with notions of health risk. The point was being made that even if relevant thresholds are adhered to, the scheme still has the potential to result in health and safety harm.

*Phil Speaight (local resident)*

- 9.19 Mr Speight referred to living around half a mile away from the Envar Site and the amenity impacts, noise, and disruption from ongoing site activities. He also referred to issues concerning vehicles and traffic, noting the baseline

movements mentioned by the appellant were recorded during national COVID lockdown periods; and highlighted a series of pollutants from waste management processes and the potential cancerous effects they can cause.

- 9.20 In addition, he made the overarching point that it is a human right/need to be able to breathe good quality clean air. He also referred to other shared residents' concerns about a historic fire at the Envar site as well as protecting nature and conservation interests of the area.

*Alysoun Hodges (local resident)*

- 9.21 Referenced Policy 18 of the MWLP and alleged conflict with that. Also, that the Raptor Foundation has a positive impact on people which should be considered and more should be done to support young peoples' lives and wellbeing.

*Simon Bluff (business owner/resident)*

- 9.22 Simon Bluff spoke about objections to the scheme as the owner of a local egg farm business. The concerns being the perceived effects of the development are a threat to local business in the area, including the egg production business. He referred to supermarkets not having confidence to buy produce from the area, and also mentioned local farming efforts and good work already done to restore the local landscape which would be eroded by the appeal scheme.

*Elizabeth Blows (Raptor Foundation/resident)*

- 9.23 Elizabeth Blows spoke on behalf of the Raptor Foundation raising wide ranging health and wellbeing implications. These included the impacts of pollutants on birds of prey and Raptor Foundation birds will be more vulnerable than wild birds and that dioxins and other pollutants in the environment were a major concern where scientific papers are pointing to harmful effects.
- 9.24 She made the point that birds have a more sensitive respiratory systems than humans and therefore the pollutants are likely to cause physiological harm to a greater extent, a point that she stated was endorsed by current scientific knowledge. Ultimately the appeal proposal would lead to increased pressure to close the Raptor Foundation, owing to the environmental changes and the presence of the proposed chimney.

*Philippa Hope (local resident)*

- 9.25 She spoke about the negative impacts on existing local businesses and that rural enterprise in the area would be harmed. The appeal proposal would have significant negative effects on the local community. Other more sustainable sites and options should be considered first given the proposals would lead to the loss of livelihoods and the strong objections of the community were considered to be appropriate reasons to reject the scheme.

*Lorna Watkins (local resident)*

- 9.26 She made points including: there being no targets for the healthcare waste disposed in reference to NHS Strategy 2023; there is contradiction in proximity and co-location arguments; the jobs created may not be accurate and there may be job losses in the local community; the waste management infrastructure proposed are normally on industrial sites rather than a rural location; the import and amount of healthcare waste (some 9000 tonnes in the first 5 years) is a concern; the close to source arguments should be questioned in real term waste miles; based on 60km figures the carbon assessment is questionable as further afield locations are referred to.

*Charlotte Holiday (local resident)*

- 9.27 She referred to wide ranging family and children health concerns for those people living nearby, noise and disruption during unsociable hours including from vehicle reversing beepers. It was alleged that out of hours work has taken place on the Envar site and that the site is subject to Environment Agency complaints as well as Police involvement following disputes about operational activity; light pollution; general neighbourly activity harmful to amenity; harm to agricultural businesses from the waste management activities were also mentioned.

## **10.0 Written Representations**

- 10.1 Written representations were made during the appeal period. These included interested party objections relating to the following issues:

*Need/alternatives/site selection*

- There is no local or national need for an incinerator. Capacity exists for the disposal of clinical waste already within an 80 Km radius. The nearest medical waste incinerator, at Addenbrookes Hospital in Cambridge is currently operating at below its permitted capacity of 4,500 tonnes/year. It has surplus capacity even with an increase in healthcare waste due to the COVID pandemic.
- Envar state there is an increased need because of the pandemic not based on fact. Nationally, the UK has more incineration capacity existing than genuinely residual waste to burn to process 12,000 tonnes per year where there is no local or national need. This is at odds with local and national policy.
- The 'NHS Clinical Waste Strategy 2023' will do away with the need for Incinerating Clinical waste in the volumes that it has in the past. Therefore, the proposal is not viable and defeats the objective of the UK being environmentally friendly. This is a change since Envar made their original proposal.
- The NHS has aspirations to deal with clinical waste in-house and if incineration is to continue, the smaller localised facilities would be more appropriate.
- Comparison has been made with hospital incinerators. These are utilising on-site material and operate at a more modest scale as in the case of Addenbrookes Hospital.
- The principle of incineration is contrary to looking after the environment and current commitments to Net Zero (i.e., reducing carbon emissions).

- The development would be better located somewhere else, for example in existing industrial locations.
- Alternative technologies/management are available to incineration.
- Recycling would be a better option.
- The Envar proposal is a strategic facility and requires much greater consideration when identifying a suitable location. If considered alongside suitability of the road network, geographical source of waste, plus prevailing wind direction and human habitation, it is hard to justify this as a suitable location.
- The waste material will be imported from far and wide. It is hoped that 25% will be sourced within 40km. If that target is reached, that still leaves 75% being transported from anywhere in the country. The environmental impact of transporting health-care related waste over long distances must be weighed against the benefits of co-location.
- Emissions will also be concentrated within a smaller area.
- The English countryside should be protected and not used and monetised by industry in this way.
- There is much to be commended in the appellant's plans to improve waste processes, produce energy, and increase on-site sustainability but this is not enough to outweigh all the harms the scheme would result in.
- It will be detrimental to local businesses that are already established in the area causing job losses.
- The appellant has not provided data or evidence of the claimed CO<sub>2</sub> reducing benefits of the proposal to prove that benefits outweigh the harms from the carbon footprint of producing pellets from waste incineration heat/energy.

### *Consultation*

- Lack of consultation with residents. 24 properties within a 1 Km radius is inadequate.
- Strength of public opinion/opposition should be paid regard to. Parish/Town Councils responsible for around 50,000 residents have all objected to the proposal. Community concerns and objections against is detailed by the Parish Councils, Councillor Steve Criswell, independent speakers, groups, charities, residents, local businesses, and a petition with around 4,000 signatures against the development.

### *Visual impact*

- Degradation of the local landscape due to the scheme, and in particular the chimney –would be a constant visual reminder of the waste incineration processes occurring in the locality.
- The site is in a very prominent and raised rural location, within a circle of 7 towns or villages, all within 2 miles. As a result of around 20 planning applications over the last 30 years, the site has grown from the conversion of manure into mushroom compost, through recycling of green waste to a more intensive form of waste management.
- The proposal is industrial and would be out of keeping with the rural location.
- The chimney plume would be visible for many miles in a very flat Fenland character area.



- The Envar development is already too large for a rural setting.
- The reputation of the scenic beauty of St Ives will be destroyed.
- The Envar site is on top of a hill and will be highly visible from all directions.
- It will be a blight on the rural landscape (including the setting of expanding rural villages) and will look like a prominent industrial site.
- The visual impacts of the appeal scheme are contrary to the Local Plan for the area.
- The image of the area would be seriously/unacceptably eroded.

#### *Highway safety/traffic*

- Increased traffic and heavy vehicles in an already busy area would be detrimental to amenity and highway safety.
- The surrounding road network is not suitable for the increased volume of traffic and the size of vehicles anticipated.
- The access is perilously close to an accident black spot, the crossroads with the road leading to Bluntisham.
- The scheme will lead to an increased risk of accidents.
- Increased deterioration of the road network. The roads around the Envar site are in a bad state of repair due to frequent waste lorries going into the site, especially towards St Ives and using the A14. Fenland roads are already liable to subsidence.
- The B1040 to the site is already seriously damaged and not suitable for lorries that already use it.
- Most of the increased traffic would, presumably, arrive at site using the A14, A141, A1307, much of it travelling through St Ives which is already congested. The likelihood is that, to avoid queuing at busy times, vehicles will attempt to rat run through surrounding villages whose road infrastructure is unsuitable for such heavy traffic movements.
- There would be a large increase in traffic through already busy local junctions – the road infrastructure is not adequate to cope.
- The proposed route for traffic is prone to flooding and will be difficult for lorries to get through.
- New housing developments in the area built since the original proposal exacerbate traffic and road infrastructure concerns.
- Travel to the site will be through St Ives a Market Town already a pinch point for traffic congestion.

#### *Air quality/perceived health and well-being risks to local businesses residents*

- No one can ever guarantee the incinerator is safe. Members of the community have no guarantees nor security as to what waste is processed and running for 365 days of the year.
- Decreased air quality for residents due to incinerator processes would ensue. Causing overarching detrimental effects bearing in mind peoples' homes, agricultural businesses, other businesses, including a bird sanctuary, and a nursery.
- Irreparable damage to the environment and the health of the people.
- There would be air pollution, additional dioxins within the soil and light pollution.
- In terms of calculation of nitrogen dioxide background levels. The data that Envar uses is out of date.



- Data to inform impact assessments (health impacts, etc) is incomplete/inaccurate.
- The Health Impact Assessment is inadequate owing to missed properties.
- The development is too close to homes and surrounding villages including Somersham, Bluntisham, Woodhurst, and St Ives.
- Health should not just be viewed through the lens of harmful emissions that sit outside the planning arena. The mental health impact of anxiety caused by the imposition of such a facility and the constant reminder of the 'finger in the sky' should not be underestimated and must be a material planning consideration. Fear of health problems is a genuine concern of the community.
- People who live in Bluntisham and other villages are worried by the potential for emissions to cause health issues over the long term. Something that can only be detected when the damage to health has already been done.
- The pollutants emitted from the chimney would seriously damage food production/food security in a rural area.
- Many other countries have banned the practices planned by Envar on health and environmental grounds. Allowing this would flout scientific opinion.
- Local businesses, including farmers and other food producers would be impacted owing to risk of contamination on the air and soil from the incinerator, which would impact on their customer base.
- A lack of customer confidence would risk the viability of nearby businesses (farms, nursery, and bird sanctuary as examples). This would be a breach of MWLP Policy 18 (unacceptable adverse impact on the amenity of nearby occupiers of any land or property).
- The proposed incinerator would be burning 3.5 times more waste p.a. (12,000 tonnes p.a.) than Addenbrookes' incinerator (3,500 tonnes p.a.). Moreover, the Addenbrookes' Hospital incinerator chimney is 67 m tall dispersing at a much higher level and so further away from people on the ground, compared to the far smaller stack height proposed by Envar.

#### *Heath Fruit Farm*

- Heath Fruit Farm (located 1.8km to the East of Envar's site) has unique positive qualities to the area (operating for 100 years or more) and supplies local produce to the farmers markets and should not in any way be endangered by the emissions from the proposed burning of hospital waste. The farm is due west of the proposed plant - so would be in direct line of the prevailing winds.
- Heath Fruit Farm is also recognised as a County Wildlife Site (CWS) for being a habitat for wildlife including: Brown Hares, Woodcock, Kestrels, Owls, Woodpeckers, Roe Deer, and many species of bee and butterfly. As well as hundreds of migratory thrushes such as Fieldfares and Redwings, which may be adversely impacted on.

#### *Raptor Foundation*

- The Raptor Foundation is close to the site and would be adversely affected from the continual noise of the machinery used daily, the dust and odours from the knocking down of buildings and the additional lorries on the road.

- There would be a significant impact on other small local businesses as well, that rely on bringing customers from outside the area not only to visit the Raptor Foundation, but also to visit other attractions, restaurants, hotels etc, within the area. There is onsite accommodation and a camping site. Visitors would be put off knowing that there is an incinerator nearby.
- Members of staff could potentially lose their jobs at the Foundation, and some 130 animals could be affected.
- Harm to birds. Birds of prey have a specialised respiratory system and even small amounts of contaminants such as dust and dioxins breathed in can cause health issues. Whilst the birds are flying free it would be impossible to stop them going over the site. In addition, the main hospital and rehabilitation aviaries are on the roadside of the centre closest to the incinerator, and it is not possible to relocate them without massive cost to the charity.
- It would be hard to detect ill/sick birds until it is too late. Birds cared for include those which are critically endangered out in the wild or threatened in the wild.
- The site has been listed on 'I Naturalist' owing to endangered native species of insects and moths, including the Goat moth that is only found in 3 places in Cambridgeshire. By planting over 800 native species of tree on what was barren land, the Foundation now attracts a range of native birds, insects, and dragon flies that during the breeding season make this their chosen site for nesting and those like the Robin and wren that stay all year. Such positive work will be undone as ecology and biodiversity would be negatively impacted.
- During Raptor Foundation flying displays, birds fly free with no control over where they fly. In particular, falcons may range out and fly in the area of the incinerators and through any emissions.

#### *Egg farm business*

- The proposal still will impact a nearby egg farm business (28,000 free range laying farm) a field away, as especially the health care waste energy recovery facility will detract visually and leave the egg farm customers in doubt of the safety of the eggs.
- It is what is perceived by the public looking at the egg farm which has importance to business viability. The scale of the development and the height will also affect wider farming diversification especially opportunities in leisure.

#### *Wildlife*

- The wildlife of the area will be negatively affected by the pollution from the development.
- There are various Nature Reserves in the area and the area has protected native species of birds, mammals, and insects as well.

#### *Amenity/quality of life*

- Noise (including at night), pests (such as flies), odour and smoke issues and possible exacerbation of those.

- Harm to people's health and wellbeing. Including harm to the mental and physical health of individuals who attend the Raptor Foundation.
- Alleged that Envar do not have a good record in management of the existing site so community confidence in compliance with any necessary requirements is low.
- The rugby club train across the road as do hundreds of other children.
- Unacceptable overbearing impact. The overbearing qualities can be psychological as well as physical.

*Other representations during the planning application period*

10.2 A total of 1091 representations were noted as being received during the planning application determination period administered by CCC, and copies of those have been provided to inform the Inquiry. All but 4 of the representations objected to the application in whole or in part. Three supported the scheme and one had no objections. The objections to the scheme include the following:-

- Endorsement of Bluntisham Parish Council's objections/comments;
- Traffic, transport, and highway safety harm through increased risk of traffic accidents;
- Increased congestion on roads and damage to infrastructure and buildings;
- Inadequate access to site;
- Inadequate parking provision;
- Inadequate public transport provision;
- Contribution to improve traffic lights at crossroads;
- The adverse implication of waste dropped from lorries;
- Adverse air pollution and impact on health;
- The tall chimney will spread toxic particles;
- The development will cause anxiety / mental health problems;
- The development is too close to adjoining properties;
- Negative effect on NHS / Magpas air ambulance;
- There are no UK standards to evaluate risks;
- Harmful effects on local businesses / economy;
- In gauging health effects and other harmful effects, the proposal is close to: farms (poultry, orchards, etc), a residential travellers' site, Silks Farm Nursery School, and the Raptor Foundation;
- Water environment - flood risk, pollution of ground/surface water;
- Visual impact and landscape
- Heritage harm to listed buildings / conservation area / archaeology;
- Negative impact on recreation sites and the right to enjoy outdoors;
- More open space needed rather than its erosion;
- Harm to on wildlife, biodiversity, and ecology;
- Harmful impact on Fen Drayton Lakes and Ouse Fen;
- Odour;
- Noise;
- Hours of operation;
- Light pollution / loss of light;
- Loss of privacy;
- Fire risk;
- Hazardous waste storage / risk of spillage;
- Use of emergency flares;

- There is no need for the development;
- There would be acceptance of waste from other regions;
- Climate change and sustainability goal detriment;
- The proposal relies on outdated technology where there are other alternatives;
- The principle of the scheme would deter recycling;
- The impact on TV/phone/internet services in the area is not measured;
- Conflict with the local authority plans;
- There is not enough information/submission inadequate to make an informed assessment;
- There is missing / purposefully omitted information;
- Strain on existing community facilities would be worsened;
- No independent report to inform decisions;
- There has been a lack of consultation;
- No adequate facilities are provided by Envar and the applicant's track record is material;
- Envar's employees don't respect local residents;
- Negative effects to property values;
- The project doesn't come up in searches;
- CCC lacks adequate resources to monitor the Envar site and there is disrespect towards planning and regulatory authority;
- Retrospective request for planning permission being problematic.

## **11.0 Planning Conditions**

- 11.1 On a without prejudice basis, draft conditions have been agreed between the appellant and the Council and discussed further on Day 8 of the Inquiry. Thus, for the purposes of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the appellant records its agreement to the imposition of the pre-commencement conditions set out (or to any variations of them imposed by the Inspector which are to substantially similar effect).
- 11.2 The focus of the discussions was to ensure that all matters of control and mitigation were properly addressed, and all conditions were necessary, relevant to planning and to the development, enforceable, precise, and reasonable in all other respects.
- 11.3 Were the SoS to consider that this proposal should be allowed, and permission granted, I have considered in my assessment below, possible conditions that I recommend should be applied. These can be found in Annex D.

## **12.0 Inspector's conclusions**

- 12.1 Taking into account the evidence in this case, including the submissions and representations on which I have reported above, I have reached the following conclusions. The numbers in square brackets [ ], refer to preceding sections of this Report from which some of my conclusions are drawn.
- 12.2 Having regard to the reasons for refusal pursued by the Council, together with the development plan context, statutory obligations, and the contributions of interested parties on other matters, I find that the main considerations which need to be addressed relate to:

- The landscape and visual effects on the locality, and whether any harm(s) arising are outweighed by any benefits in the associated overall planning balance.

*Landscape and visual effects*

- 12.3 At my site visit I saw that the appeal site lies within a countryside location near to a crossroad junction. A mixture of bunding, walls, fences, and hedgerows run around the site's periphery which has a commercial character. The immediate locality otherwise entails agricultural fields, trees, hedgerows, and related traditional rural businesses interspersed with non-agricultural uses such as Bluntisham Recycling Centre and Grey Recycling in close vicinity along Bluntisham Heath Road. From vantages nearby, a traveller's site, infrequent isolated dwellings and businesses are noticeable.
- 12.4 The character of the wider area includes modest settlements (Bluntisham, St Ives, Woodhurst, Pidley-cum-Fenton and Somersham) which roughly encircle the appeal site, in addition to two large dominant water towers nearby as further conspicuous characteristics of the area. Elsewhere further afield Wyton airfield is a visible part of the landscape. The general flatness of the wider landscape, which incorporates open fields, and tree belts, with some raised landform crests are striking components of the locality's varied character and appearance.
- 12.5 The main argument made by CCC during proceedings was that landscape and visual harm arising from the presence of the HERF chimney stack conflicts with Policies LP2 and LP10 limbs (b) and (c) of the Huntingdonshire Local Plan (May 2019) (HLP) and Policy 17 limbs (f) and (h) of the Cambridgeshire and Peterborough Minerals and Waste Local Plan (July 2021) (MWLP). In line with CCC's arguments I accept that the application of these policies requires reflection of paragraphs 135c and 180b of the Framework.
- 12.6 The content of HLP Policy LP2<sup>24</sup> confirms the development strategy for Huntingdonshire is to recognise the intrinsic character and beauty of the surrounding countryside; HLP Policy LP10<sup>25</sup> states that all development in the countryside must recognise the intrinsic character and beauty of the countryside and that all development in the countryside must not give rise to impacts that would adversely affect the use and enjoyment of the countryside by others.
- 12.7 Additionally, MWLP Policy 17<sup>26</sup> refers that new mineral and waste management development must be sympathetic to local character including landscape setting; and that new mineral and waste management development must provide a landscape enhancement scheme which takes account of any relevant landscape character assessments and which demonstrates that the

---

<sup>24</sup> CD4.1.1

<sup>25</sup> CD4.1.1

<sup>26</sup> CD4.1.2

development can be assimilated into its surroundings and local landscape character.

- 12.8 I acknowledge that the focus of MWLP Policy 17 and HLP Policies LP2 and LP10 is on the protection of the character and appearance of the countryside, by encouraging sympathetic and respectful forms of development.
- 12.9 From a wider plan perspective, I also accept that other parts of the HLP such as policy LP19 (h) is only relevant if the proposal constitutes the expansion of an existing business outside its existing operational area and assessed under the second limb of policy LP19 (h). This is discussed in paragraph 9.30 and elsewhere of the OR, and the main parties do not give me cause to deviate from the findings of the OR in that regard.
- 12.10 In tandem with the local policy context forming the dispute, Paragraph 180 of the updated Framework is relevant (acknowledging the Framework has been subject to paragraph numbering alteration since CCC's Decision Notice and its reference to Paragraph 174b) as it advises me that planning decisions should contribute and enhance the natural and local environment by amongst other things at 180 b) recognising the intrinsic character and beauty of the countryside. The thrust of Paragraph 135 c) is for planning policies and decisions to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 12.11 In gauging the strength of the arguments made, the content of the submitted Landscape and Visual Impact Assessment (LVIA) is important as it examines the sensitivity of the local landscape visual resource within a 4km area. It characterises the magnitude of change in terms of impact on rural landscape character and visual resource, using significance criteria when bringing sensitivity and order of magnitude considerations together. In doing so, the site is identified as falling within National Character Area 88 Bedfordshire and Cambridgeshire Claylands.
- 12.12 Broadly speaking, the content of the LVIA finds that the appeal scheme including the proposed chimney (or HERF stack) would not cause unacceptable landscape and visual impacts within the wider landscape based on a 4km study area. Chiefly, because any landscape and visual impacts would be localised to within 3km of the Envar site. As per the conclusions found in Section 9.1.7 of the LVIA.
- 12.13 Any effects beyond 3km extent are identified by the LVIA as being low or negligible. This is due to both the distance of view and the positioning of the appeal site as it sits within what is described as an existing small developed 'semi-industrialised area', with several other buildings, large sheds, moving machinery and fencing that are characteristic of the proposed development, found within a wider area outside of the appeal sites boundary.
- 12.14 I note that the areas of agreement between the respective landscape and visual impact witnesses of the main parties <sup>[8.33]</sup> is also important in that they agree: i) the extent of adverse landscape impact would not be lower than moderate, meaning that the changes arising from the chimney are likely to be



important considerations at a local level; and ii) in the majority of representative viewpoints assessed, the adverse impact would be moderate or higher. The extent of adverse visual impact would comprise a number of representative viewpoints from which the effect would be major/moderate, and others from which the effect would be moderate and thus of local importance.

- 12.15 I also acknowledge the additional viewpoints referenced by CCC, post the LVIA being undertaken are useful to all parties. Even with those added viewpoints, in the main the appellant accepted that although the chimney would be a noticeable change and that it would affect several receptors, the magnitude of change and impact would still be 'moderate'. The Council argued a higher level of impact <sup>[8.32]</sup>.
- 12.16 I appreciate that part of the arguments for the difference involves the respective baseline positions of the main parties as well as professional judgment.
- 12.17 Based on the evidence submitted, to imply that the study area considered as a whole is partly industrial or is semi-industrial in character would be an inaccurate description, in my view. Its prevailing character and appearance contains both semi-rural and rural expanse components within the 4km study area, as partly expressed by the LVIA.
- 12.18 Nonetheless despite the significant agricultural land expanses forming the study area, the landscape does have some noticeable large, built engineered structures associated to it. This includes reference to the existing operational character of the Envar site, which contains large sheds, as well as large sheds at Woodhurst Farm and the Raptor Foundation.
- 12.19 I recognise the local surroundings forming the landscape are clearly valued by residents and individuals using local visitor attractions. Some of whom spoke passionately at the Inquiry about these matters. However, the main parties do not argue it should be treated as a 'valued landscape' when applying the context of the Framework. I have no reason to conclude differently when applying the Framework provisions, but also factoring the absence of specific local plan designations to suggest otherwise, together with the information within the submitted LVIA.
- 12.20 I agree that the character and appearance of the locality around the appeal site and within the 4km area is not reflective of deep rural countryside and tranquillity levels remote from all forms of human influence and development. Instead, the area is noticeably subject to such influences.
- 12.21 For example, there are a range of existing businesses and other types of uses in the area which the main parties have referred me to. These include: various concerns on the Somersham Road proceeding towards St Ives; on the B1086 (running north of the B1040 towards Somersham) a nursery/pre-school and then a plant nursery; and on Bluntisham Heath Road two enterprises which operate machinery and equipment for the purposes of recycling (Bluntisham Recycling Centre and Grey Recycling).



- 12.22 There is new warehousing to the northeast (on the site of what was a mushroom farm installation), with a travellers' site beyond that, surrounded by agricultural fields either side of the B1040 (also known as St Ives Road).
- 12.23 The land to the east and to the southeast of Envar is agricultural, but to the south, on Somersham Road (the southerly continuation of the B1040 beyond its junction with Wheatsheaf Road/Bluntisham Heath Road), is a joinery workshop. Following the road there is a bathroom supply shop and dwellings, with a builder's merchant immediately beyond, all surrounded by agricultural fields. On the other side of the B1040, is the Raptor Foundation, and there are also sporadic dwellings, again with agricultural fields beyond. Furthermore, the presence of the nearby settlements inclusive of the extension to St Ives and the airfield are further notable visual and landscape components.
- 12.24 Importantly, in addition to these local developments also forming the character and appearance of the area are large shed-type buildings as well as the elevated water towers (close to Heath Fruit Farm) which can already be viewed at a distance.
- 12.25 The presence of the water towers are existing dominant engineered structures in the locality's skyline. Although not uncommon in rural locations they are large scale physical manmade features that do not fit neatly into the category of rural character development. They do have some industrial looking visual qualities associated with them by virtue of their scale and construction materials.
- 12.26 I also recognise it is not unusual to have some aspects of more industrial looking built features or degrees of prominent non-rural looking developments (such as an airfield) conspicuous within rural or semi-rural environments. In that context, the proposed chimney would no doubt introduce an industrial looking built feature to the locality. But it would not totally change the character of the local landscape and countryside surrounding it.
- 12.27 That is chiefly because the existing noticeable engineered structures within the locality which already break the skyline in nearby locations are relevant. Some of the structures are of a greater mass than the proposed chimney. I am also mindful that from longer range distances the material use they comprise of becomes far less clear and the scale, colour and outline of the structures becomes the dominant visual and landscape factor.
- 12.28 Additionally, I appreciate that the proposed development would increase the prominence of the Envar site from some viewpoints in the landscape. The presence of the chimney is likely to draw attention to the overall scheme changes which may otherwise not be noticed when assessing the magnitude of change.
- 12.29 The HERF chimney at 26m would be more than twice the height of any other structure on the site and it would be impossible to screen its upper section. Nevertheless, I also recognise that the chimney would appear as a slender feature in all views, and its slenderness would therefore temper resultant landscape and visual impacts to a large extent.

- 12.30 The chimney would not be overbearing in scale from residential receptors, nor local businesses given its central position on the appeal site. Plus, the Envar site already contains a number of large buildings which owing to the site's relatively elevated location can be seen from a number of public viewpoints and from some of these viewpoints breach the skyline.
- 12.31 In tandem with those points, I acknowledge it is important to consider the appellant's design reasons for a 26m stack to the HERF, which is a point of concern for many local people. The evidence highlights 26m was settled on, through detailed atmospheric dispersion modelling in the Air Quality Assessment. This resulted in calculated contributions of pollution to the local environment that was considered against appropriate methodology in order to ensure the protection of human health and the environment. The resultant emissions were screened as either insignificant against the assessment levels, or, remained sufficiently low to be considered to be not significant.
- 12.32 In explaining the appellant's design position, their witness Dr Owen, referred to her experience and professional judgement of required stack heights. Supported by the similarity of stack heights commissioned for other, similar processes<sup>27</sup>. It is her opinion, as an air quality expert, that the proposed heights are appropriate and necessary to promote effective dispersion of pollutants as evidenced by the results of the air quality assessment. Indeed, such conclusions were supported by CCC's own independent air quality expert. Thus, I have no strong basis to disagree with the appellant's stack height figure.
- 12.33 Moreover, I appreciate any potential plume visibility from the chimney is a further factor to be borne in mind. Having regard to the supporting modelling conclusions it is not suggested by the appellant that a plume would 'never' be visible from the HERF stack.
- 12.34 However, the likelihood of a plume being visible or witnessed is identified as being small and during limited meteorological conditions. Consequently, the potential for a plume to be created and having a notable impact being assessed and concluded as negligible by Dr Owen's evidence. The Council's own assessment concurs<sup>28</sup> and I have no compelling reasons or contrary evidence to disagree with any of those conclusions.
- 12.35 All in all, owing to the range of existing built development and existing landscape features such as trees, tree belts and hedgerows present in the area, I consider that the locality does have capacity to absorb the visual and landscape effects of the chimney of the appeal scheme, owing to its slimness and controllable colour, and because of other existing built and natural landscape features which would draw attention away from it.
- 12.36 For all those reasons I find the appellant's evidence of the level of likely resultant effects or impacts to be more convincing overall. The level of overall impact from the changes would be moderate in nature.

---

<sup>27</sup> Paragraphs 3.14, 3.15, 3.19 and Appendix 1 of Dr Owens proof (CD2.6.3 & CD2.6.3A)

<sup>28</sup> Paragraph's 13.35 to 13.38 of the OR (CD1.4.2)

- 12.37 Furthermore, there was general agreement between the main parties that the landscaping provision secured goes as far as it reasonably can do in enhancing the appearance of the area as well as providing mitigation. Even with the proposed landscape screening at full maturity. The proposed chimney would not be assimilated into its surroundings and would remain a prominent feature in the wider rural landscape within a 3km radius, a point accepted by the appellant.
- 12.38 Accordingly, I cannot conclude the proposal is in accordance with the development plan policies in dispute referred to by CCC. I agree with CCC that to suggest otherwise would be downplaying the findings of the appellant's own landscape expert where character and visual harm is apparent <sup>[7.7 & 7.8]</sup>.
- 12.39 Bearing in mind the full and precise wording of HLP Policy LP10(b) I accept that the appeal scheme as a whole recognises the beauty of the countryside as far as it is practically able to. The design and form of the proposed chimney is dictated by function and would be seen as a slender profile physical feature. Nonetheless, I find the chimney component taken in isolation does conflict with limb (b) of the policy because of the character and visual amenity landscape harm the structure clearly results in, which is subsequently harmful to the beauty of the countryside.
- 12.40 As to Policy LP10(c), I also accept that the chimney's presence in the locality could spoil the enjoyment of the character and appearance of the countryside for some residents or visitors to the area, owing to its visual presence. However, I highlight this would be to varying degrees dependant on the person and specific vantage points as detailed in the appellant's LVIA and related landscape evidence.
- 12.41 In that regard, I note in the LVIA impact magnitude matrix at Table 8, CB recognises 6 categories of significance (major, major/moderate, moderate, moderate/minor, minor, not significant). In respect of four representative viewpoints (including D), CB assesses the adverse impact to be in Tier 2 out of 6 i.e., just below the greatest impact possible.
- 12.42 In relation to MWLP Policy 17 limb (f) I note although the chimney has been centrally positioned within an existing developed commercial site albeit with some agricultural looking buildings and is slender in profile, it is not 'sympathetic' to surrounding built development and the landscape setting as a whole, because of its height and industrial looking qualities. Furthermore, Limb (h) of Policy 17 is also not complied with, given it is agreed by the main parties that the landscaping scheme can do nothing to improve the relationship of the chimney with its surroundings by way of assimilation.
- 12.43 Overall, I find that the proposed chimney would lead to material adverse harm to the landscape character and appearance of the locality. Such harm would conflict with Policies LP2 and LP10(b) and (c) of the HLP as well as Policy 17 (f) and (h) of the MWLP (having regard to Appendix 3 in relation to the location of waste management facilities). There would also be conflict with 135 c) and 180 of the Framework. Combined all those policies aim to respect and protect the character and appearance of the natural and local environment including

having regard to the beauty of the countryside. I attribute significant weight to the harm identified.

*Other considerations*

12.44 The perception of harm to health and wellbeing of residents' and local business activity was a large feature of the discussions at the Inquiry raised by interested parties. Many of the interested party objections made orally and in writing focus on the HERF within the second reason for refusal of the Decision Notice.

12.45 Given the substance and seriousness of the issues raised as material considerations by parties opposing the scheme, I accept that the following policies are important to have in mind in the outcome of the appeal:

- MWLP Policy 4 which provides for a broad spatial strategy for the location of new waste management development and the promotion of co-location;
- MWLP Policy 18 which promotes effective integration; and
- HLP Policy LP19 that considers the rural economy and promotes support of new business development.

12.46 Concerns raised during the Inquiry have included, although were not limited to, those from Simon Bluff (a neighbouring chicken/egg farmer)<sup>29</sup>, and the Chief Executive Officer of the Raptor Foundation, Elizabeth Blows<sup>30</sup>.

12.47 Combined, they amongst others have extensive concerns over the welfare of birds, as well as the safety implications for people living and farming locally (including chickens, livestock, fruit produce at Heath Fruit Farm), growing other food produce or sending their young children to school at the local nursery (Silks Farm Nursery School and Pre-School). Additionally, other leisure or recreational facilities have been detailed by interested parties when raising health concerns to the appeal proposal, including reference to the use and proximity of St Ives Rugby Club by adults and children.

12.48 In relation to the interested party objections, the appellant's evidence<sup>31</sup> presents a suite of expert information on air quality; human health risk assessment; plume visibility and other related matters including underlying methodology.

12.49 I also recognise the appellant's evidence as a whole draws on:-

- 1) A traffic air quality assessment considering the emissions to atmosphere from vehicle movements associated with the site operations – 'Air Quality Impacts of Traffic Emissions; Envar Composting Limited, Issue 2; December 2021'<sup>32</sup>;

---

<sup>29</sup> CD2.5.9

<sup>30</sup> CD2.5.8

<sup>31</sup> CD2.6.3, CD2.6.3A and CD2.6.3B

<sup>32</sup> CD1.2.4F

2) An air quality assessment considering the emissions to atmosphere from the site processes – ‘Detailed Air Quality Assessment of Proposed Discharges from Envar Composting Limited, Huntingdon; Envar Composting Limited, St Ives Road, Woodhurst, Somersham, Huntingdon, Issue 2; January 2022’<sup>33</sup>;

3) An assessment of the potential impact on human health of releases of Dioxins, Furans, and Poly-Chlorinated Biphenyls (PCBs) to atmosphere from the HERF - Human Health Risk Assessment of Emissions from a Proposed Healthcare Energy Recovery Facility; Envar Composting Limited, Issue 2; January 2022<sup>34</sup>;

4) An assessment of the potential for a visible plume to occur from the HERF – ‘Consideration of Potential for a Visible Plume from The Healthcare Waste Energy Recovery Facility, Envar Composting Limited, Huntingdon (July 2022)’ and ‘Consideration of Potential for a Visible Plume from The Healthcare Waste Energy Recovery Facility – Note 2; Envar Composting Limited; Huntingdon November 2022’<sup>35</sup>.

12.50 The site processes included in the air dispersion modelling assessment referred to included: a single point source release from the HERF; emissions from the biofilter servicing the dry AD plant; a single point source release from the Biogas Up-Grade facility (BUG); a single point source release from the fertiliser pellet production plant abatement technologies (fertiliser plant); two exhaust stacks, each serving one of the two proposed Combined Heat and Power (CHP) units; and emissions from the two existing biomass boilers.

12.51 I note that in the absence of emissions monitoring data from operational plant, and allowing for regular variation in emissions during processing, modelling at the maximum permitted emission level, which would also be the least stringent manufacturer’s guarantee required by the operator for any new process, ensures confidence that the impact is predicted on a conservative basis.

12.52 In the case of the HERF, continuous emissions monitoring and process control would be required, and the Environmental Permit is identified as needing to include strict conditions for managing the process in the event of elevated emissions.

12.53 The appellant has referred me to, Article 46 (6) of the Industrial Emissions Directive (IED), upon which the Environmental Permitting (CD5.1.11) regime is based. Which states that plant shall under no circumstances continue to incinerate waste for a period of more than 4 hours uninterrupted where emission limit values are exceeded, and the cumulative duration of operation in such conditions over one year shall not exceed 60 hours. As such, any elevated emissions would be investigated and the waste feed would be stopped or the process would be shut down entirely should the maximum time

---

<sup>33</sup> CD1.2.4C

<sup>34</sup> CD1.2.4E

<sup>35</sup> CD1.2.9

limit be reached. Therefore, any period of elevated emissions would be managed in line with the requirements specified in the IED.

- 12.54 I acknowledge that the conclusions of the scientific assessments undertaken and provided as part of the Environmental Impact Assessment supporting the planning application suggest that no significant harm would result if the appeal scheme was allowed. However, environmental permitting requirements would still need to be assessed independently.
- 12.55 I also acknowledge that the assessments have been produced by an independent and experienced environmental consultant specialising in air pollution and environmental permitting. Therefore, I give the content of the findings of such assessments substantial weight.
- 12.56 Moreover, the assessments were reviewed by CCC's own independent specialists (AQC) as well as being considered by expert statutory consultees. Further to AQC's advice and with no expert statutory consultees objecting, CCC's planning officers concluded that the proposed development, subject to the design and mitigation that would be required by the Environmental Permit, would be unlikely to result in adverse impacts on air quality, or any associated effects on human health or the environment (as per the OR CD1.4.2 paragraph 21.19). I have no strong reason to disagree with those findings.
- 12.57 The technical assessments referenced include regard to Dioxin and Furan Human Health Risk Assessment and the associated Tolerable Daily Intake thresholds which are subsequently screened as being 'insignificant' to adults and children based on the numerical low level risk value. I am also aware that many assumptions used in the appellant's assessment are conservative and apply worst case scenarios in the methodology explained.
- 12.58 Turning to some of the specific concerns raised by interested parties. The appellant assessed the Raptor Foundation to be a receptor. They found<sup>36</sup> that with limited large-scale water resources in the area for direct use by humans or animals, and despite applying significantly worst-case and largely unrealistic assumptions, the contribution of Dioxin and Furan intake from water sources in the area would be negligible, equating to less than 0.1 % (or less than one-thousandth of the total intake).
- 12.59 I have heard and read contributions from Elizabeth Blows identifying that birds of prey have specialised respiratory systems which are more sensitive and susceptible to environmental pollutants in the air, which could be absorbed through respiration and activities such as preening of feathers, drinking, or feeding. Scientific opinion has been referenced supporting her case. The appellant acknowledges respiratory systems of birds in their evidence<sup>37</sup>.
- 12.60 Yet, notwithstanding the location of the Raptor Foundation, none of the statutory or expert consultees, such as the CCC Ecology Officer have raised concerns for the protection of the birds residing there. The overall suggestion

---

<sup>36</sup> CD 2.6.3 Appendix 3

<sup>37</sup> CD 2.6.3 at para 3.58



from them is that there is limited scientific concern regarding these pollutants in relation to bird health.

- 12.61 Furthermore, individual members of the public have raised specific health issues, referring to type 2 diabetes as well as other health and respiratory issues which could be exacerbated by the appeal scheme. However, contributions from the HERF and other site processes have been screened as either insignificant or not significant, with a substantial safety buffer to ensure that pollutants remain within the levels that are considered to be acceptable.
- 12.62 Whilst I note the concerns raised, the information before me does suggest that using industry recognised assessments, the level of emissions would be at insignificant or not significant levels, even when considered under worst case scenarios.
- 12.63 In relation to other interested party objections. I also note that emissions from vehicles, have been screened out as insignificant without the need for further assessment. I consider that position is reasonable and it follows a clear methodology and rationale unopposed by CCC.
- 12.64 In addition, a minority of objections raise concern regarding emissions from on-site sources other than the HERF, for example such as emergency flaring use, biogas build up or odour emissions from wastewater. Nevertheless, I have factored the appellant's assessments evidenced including responses to the Regulation 25 Notices as part of the EIA (CD1.2.4B and CD1.2.5B). They cover all relevant expected emissions from the appeal site with the proposal, and reasonably exclude the site flares on the grounds that they would create an emission for a very short period only and only during emergency conditions to cover the process of shutting the Envar plant down.
- 12.65 Furthermore, the various water storage lagoons around the site (existing and proposed) are indicated in the evidence to being aerated, as this would ensure that aerobic conditions are maintained. Therefore, accepting odour problems would be unlikely is credible.
- 12.66 Although health and safety risks to local businesses and their associated customer base are a clear concern of local people, the information before me confirms there is no compelling supporting scientific basis to find the level of those risks to be unacceptable. Furthermore, there would be further regulatory assessment and control of emissions as part of the Environmental Permitting process.
- 12.67 That said, the collective local community and business owners' views <sup>[9 to 10.2]</sup> offer very real day to day, and I believe genuine concerns on how they perceive the appeal scheme would impact on their lives and livelihoods. I acknowledge that perception matters are material.
- 12.68 Even so, the scientific assessment information and related evidence produced by the appellant as well as statutory consultee responses, does not suggest to me the scheme would result in significant harm from a health and wellbeing perspective. Nor would it prevent any existing rural business activity from directly occurring. Although I do accept that some supplier and consumer



choices may alter because of the presence of the scheme and its perceived effects.

12.69 I also recognise that even with the appellant's robust evidence the local community including business owners still have serious doubts over the likely health and safety effects of the scheme. But because of the appellant's objective scientific arguments, which I acknowledge are complex, and I appreciate scientific thought does evolve over time, I find that only limited weight can be applied to such perceived health and wellbeing and related business impact harms arising from the proposed development.

### *Benefits*

12.70 The appellant's Statement of Case (CD2.3.1) sets out the benefits argued in paragraphs 5.3 to 5.26, as well as their other evidence (CD2.6.1, CD2.6.1 A, & B) which when combined are broadly defined as:

1. Optimising the use of previously developed land and assisting net waste self-sufficiency, included in the consideration of need.
2. Providing processes that move waste up the waste hierarchy.
3. Supporting the transition to a low carbon future.
4. Delivering efficiencies and sustainability benefits from co-locating waste together.
5. Job creation.
6. Providing 12% Biodiversity Net Gain.

12.71 CCC confirmed during the Inquiry they have duly factored all benefits posed by the appellant whilst still supporting refusal of the scheme.

12.72 In tandem, the evidence contained in CD2.6.4 is important to have regard to in assessing the alleged benefits as it provides a detailed technical explanation of how the appeal proposal would be utilised. The technical information gives me an insight into operations such as composting; waste acceptance criteria; pre-processing; shredding; In Vessel Composting (IVC) tunnel use; testing, unloading, processing and maintenance activities. It highlights that Envar want to enable 'closed loop' processes for the waste materials it handles.

12.73 The appellant identifies the appeal proposal itself as: providing a more optimal solution to the waste needs of the surrounding areas than is currently available; developing gas to grid capability and local waste solutions; co-locating plants to enable current and potential process outputs which would otherwise be wastes, to be used again in the production of valuable products (in particular fertilizer pellets); to ensure the future sustainability of the site including financially and in relation to carbon performance; and to protect and enhance employment and contributions to the local economy.

12.74 I accept that most of the energy in incoming waste is presently lost as heat in the process of aerobic digestion, which could be captured and better utilised. Moreover, nitrogen available in wastewater is presently underused.

12.75 The site has been identified as one of the only waste management sites where co-location would be possible in the Cambridgeshire area. The site having the

space, materials, capacity, and available investment to realise the benefits of co-location and energy/materials sharing.

- 12.76 Related to such processes, I acknowledge that healthcare waste includes hazardous and non-hazardous material and wastes which are classed as offensive, where incineration with energy recovery is considered the preferred option. Although the NHS Clinical Waste Strategy<sup>38</sup> and other localised onsite and in-house hospital facilities (such as Addenbrookes) were referred to by interested parties during proceedings, controlled incineration in a new facility is demonstrated as being preferred and necessary based on a lack of realistic alternatives in order to meet the anticipated rising amount of clinical waste <sup>[7.4, 7.5, 7.20(1), 8.51]</sup> expected.
- 12.77 But even when adopting the position that incineration rather than landfill is preferred, the information to the case<sup>39</sup> suggests the input to the healthcare facility would still only represent 6% of the total site tonnage allowance and is the only change in waste inputs brought to the site. With the operation reducing the amounts of biomass allowed to be handled in exchange for the healthcare material. The majority of these wastes would come into the site in bulk form and would be managed in line with the requirements of the site permit.
- 12.78 The output of the HERF would be heat which would be captured and used in the DryAD and the pellet fertiliser production facility. It was also evidenced that much of Cambridgeshire's current healthcare waste materials are sent for autoclave within the County before being transported to Birmingham, Leeds, and Kent for treatment. Other materials are transported long distances for treatment in thermal facilities and incinerated. The CCC OR summarises this aspect.
- 12.79 Underpinning need arguments are addressed at length in the OR (Section 9)<sup>40</sup> and are agreed with the Council in the Main SoCG<sup>41</sup>. I have carefully reviewed all of this evidence, including the overlapping issues related to the NHS Clinical Waste Strategy, and I concur there is a compelling need case for the facilities proposed made by the appellant. <sup>[7.2, 7.3 7.4, 7.5, 7.6]</sup>
- 12.80 Furthermore, I accept that not allowing the scheme is likely to lead to some disbenefits, including: Increased waste (from waste which could otherwise be reused in other plants through co-location); continuation of energy loss from green waste where gas potential is not being realised; fuel use inefficiencies for transporting waste over longer distances; continuation of healthcare waste sent to landfill or burned in other counties; and the probable loss of multiskilled work opportunities for local people at the facility.
- 12.81 Thus overall, I recognise optimising the use of previously developed land and assisting net waste self-sufficiency is linked to wider development plan policy

---

<sup>38</sup> CD6.1.12 and CD6.1.13

<sup>39</sup> Mr James Coopers proof CD2.6.4 Paragraph's 13.14 to 13.17

<sup>40</sup> CD1.4.2

<sup>41</sup> CD2.4.1

compliance and waste management need arguments which have not been contested by way of CCC's decision leading to the appeal. I give moderate positive weight to such benefits.

- 12.82 Similarly, providing processes that move waste up the waste hierarchy attracts substantial positive weight and is consistent with the local plan and national policies and strategies including MWLP Policies 3 and 4. I also appreciate that waste activities are already taking place on the Envar Site and the greater co-location of activities proposed is strongly supported by policy.
- 12.83 Based on the appellant's evidence<sup>42</sup> I accept that the appeal scheme would have a substantial beneficial impact on UK greenhouse gas emissions. The appeal scheme would reduce global greenhouse gas emissions by around 40,000 tCO<sub>2</sub>e per year. This would be equivalent to the domestic emissions produced by around 28,000 occupants of Cambridgeshire.
- 12.84 The appellant demonstrates co-locating the different waste management processes leads to benefits in terms of greenhouse gases. This includes the heat produced by incineration of healthcare waste to be utilised, reducing the need for the use of fossil fuels. It would also lead to a reduction in traffic flows overall. Supporting the transition to a low carbon future is a crucial component of the arguments before me. In recognition of the urgency of tackling climate change at all levels of planning policy evidenced such carbon saving benefit carries compelling substantial overarching weight.
- 12.85 In terms of recognising the need for delivering efficiencies and sustainability benefits of co-locating waste facilities together. As explained in the appellant's evidence, the heat, power, and bio-gasses generated by processes on the site would provide the energy to operate other onsite processes, fuel vehicles and contribute to grid capacity. Such benefit also attracts significant positive weight. As does providing excess electricity at times back to the grid generated from the solar panels.
- 12.86 The proposals would allow in the order of 22 additional jobs at the Envar Site. I attribute significant weight to the benefits of local job creation. I have considered wider interested party commentary on notional job loss the scheme is alleged to result in elsewhere. But beyond the 'perception' points I have already had regard to there is nothing convincing which demonstrates to me rural enterprises, as a whole, would not be able to still flourish.
- 12.87 Additionally, I acknowledge that the overall biodiversity net gain anticipated to be delivered was improved from around 7% at the time of the submission to approximately 12% when the application was reported to CCC's Planning Committee. I am satisfied that this can be secured by planning condition. But the total gain on offer is small. It therefore attracts only limited positive weight.
- 12.88 The statutory duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the

---

<sup>42</sup> Mr Othen CD2.6.5, CD2.6.5A & B

desirability of preserving conservation areas and listed buildings or their setting, or any features of special architectural or historic interest which they possess.

- 12.89 Section 17 of the OR<sup>43</sup> gives a full account of the likely impacts to heritage assets. CCC have agreed that the setting of relevant surrounding heritage assets would be preserved. Following my site visit to the area I have no reason to disagree. I am satisfied there would not be any harm to surrounding designated heritage assets nor other non-designated assets referred to in the evidence, because of the distances involved as well as intervening natural landscape features.
- 12.90 I note that the appellant<sup>44</sup> gives an account of the consultation history undertaken by them including since the formation of local community groups such as People Opposing Woodhurst Incinerator (POWI). Above that, there is the consultation process administered by CCC during the planning application period. Given those elements, I do not find that the consultation issues broadly mentioned by interested parties hold any weight in counting against the scheme appealed.
- 12.91 That is largely because, I have no reason to believe relevant statutory duties have not been fulfilled, nor that any party has been disadvantaged in how the scheme has been advertised in the public domain leading to the appeal. The high degree of public interest to the outcome of a decision on the scheme indicates to me that public consultation occurring has been effective.
- 12.92 I have also had regard to comments of the historic fire recorded at the site during December 2018, running until January 2019. Since that time, I am satisfied that Envar have taken appropriate steps from a fire safety and security perspective including bolstering on site firefighting capabilities and camera surveillance for the matter not to weigh against the current proposal.
- 12.93 Plus, in the absence of any statutory consultee objecting on such grounds, all the evidence before me indicates that fire safety and risk reduction measures would be adequate. The appellant's submissions also provide me an indication of Envar's ongoing social responsibilities and commitments, above the regulatory requirements incumbent on it, which I have no strong reason to doubt they would not comply with these commitments.
- 12.94 In terms of highway safety impacts, the Highway Authority, as set out in paragraphs 12.2 to 12.13 of the OR, and based on analysis of the appellant's transport statement, its addendum, and the 2017 planning applications and traffic and accident data consider that there would be no justification for an objection to the proposed development on highway capacity or safety grounds. They considered that the proposed HGV route to the Type A Roads shown on the Cambridgeshire Advisory Freight Map, is acceptable, being itself a Type B Road with few residential properties.

---

<sup>43</sup> CD1.4.2

<sup>44</sup> Mr Coopers proof of evidence (CD2.6.4) at paragraphs 3.1 to 3.34

- 12.95 Policy 23 of the MWLP<sup>45</sup> requires impacts on the transport network to be cost effectively mitigated to an acceptable degree and any increases in traffic to not cause unacceptable harm. The appeal scheme would not increase the overall permissible amount of waste that can be handled at the site (which is 200,000 tpa). Moreover, I also accept there would be small increases in traffic which would not cause capacity or safety issues. There are no objections raised from the Highway Authority to the contrary.
- 12.96 There is nothing convincing before me to suggest that junction capability, road safety or road condition would be unduly compromised by the scheme having regard to statutory consultation responses of the Highway Authority and subject to conditions. A range of conditions would ensure appropriate vehicle routing and other appropriate associated safety requirements. I am also satisfied appropriately worded planning conditions could ensure noise, light and wildlife impacts are acceptable.
- 12.97 The appellant demonstrates there would be no harm to surrounding ecology and CCC have not sought to contest such grounds since they accepted the position defined in paragraph 21.12 of the OR<sup>46</sup>.
- 12.98 I appreciate there are further wider public concerns including those articulated by Cllr Steve Crisswell, which argue that there is a lack of confidence in the EA as regulator for monitoring matters or those linked to aspects of permitting and public health. But the Framework is clear that planning decisions should be on whether development is an acceptable use of land, rather than on the control of processes or emissions, and that decision takers must assume that the pollution control regime (notably in this case involving the EA) will operate effectively.
- 12.99 I am also mindful of the appellant's related arguments that the Office for Environmental Protection has powers to hold public authorities to account as a further appropriate check and balance if there was a suggestion of any failing by the environmental regulator at a future date in a hypothetical scenario.
- 12.100 In terms of any other odour related impacts. I agree that the proposed shift from composting to a dedicated housed dry AD process is likely to reduce odours from the atmosphere compared to the existing situation of outdoor windrows.
- 12.101 I have carefully considered the range of other potential impacts and objections referred to by interested parties in written and oral submissions <sup>[9.0 to 10.2]</sup> alongside the conclusions of CCC, as well as the other background evidence informing the appellant's case. I find that none of those other factors significantly weigh against the appeal scheme.

## **13.0 Planning Balance**

---

<sup>45</sup> CD4.1.2

<sup>46</sup> CD1.4.2

- 13.1 Section 70(2) of the Town and Country Planning Act 1990 states that in dealing with an application for planning permission the authority shall have regard to the provisions of the development plan, so far as material to the application and any other material considerations.
- 13.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if 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.
- 13.3 In this case I have found that the appellant does not demonstrate full compliance with the development plan because of the harmful impact of the chimney on the character and visual amenity of the area which contravenes local policy. I have found that the proposed chimney would result in a moderate level of overall harm to the character, appearance, and visual amenity of the area.
- 13.4 Accordingly, by virtue of such harm there would be conflict with Policies LP2 and LP10(b) and (c) of the HLP as well as Policy 17 (f) and (h) of the MWLP (having regard to Appendix 3 in relation to the location of waste management facilities). There would also be conflict to 135 c) and 180 of the Framework. Combined all those policies aim to respect and protect the character and appearance of the natural and local environment including having regard to the beauty of the countryside. I have attributed significant weight to such harm.
- 13.5 Although I do not find a particular breach of the development plan arises from health and wellbeing or business impacts of the development, further harm also arises from the 'perceived' health and wellbeing impacts of the proposal on residents and on local business activity. In light of all evidence, I have attributed limited weight to such perceived harms.
- 13.6 As the appeal proposal does not fully accord with the development plan, subsequently it does not lead me to apply paragraph 11 (c) of the Framework which would otherwise mean that planning permission for the appeal scheme should be granted without delay.
- 13.7 Instead, the outcome of a decision turns on whether any benefits of the proposed development would outweigh the harms and subsequent conflict with the development plan identified.
- 13.8 In this case, the collective benefits of: optimising the use of previously developed land; assisting net waste self-sufficiency; enabling and providing processes that move waste up the waste hierarchy; supporting the UK's transition to a low carbon future; delivering efficiencies and sustainability benefits from co-locating waste facilities together; job creation; and the small BNG uplift on offer, when all combined carry substantial overarching weight.
- 13.9 I note that the benefits of co-location and moving waste up the hierarchy together with the carbon savings the appeal scheme would result in, are particularly significant overarching benefits relative to national policy.



- 13.10 Overall, bringing all points together in the round, I find that the collective benefits argued by the appellant are of a combined weight and magnitude which would outweigh the total collective harms the scheme would result in.
- 13.11 Even if I had found CCC's conclusions on the level of landscape and visual harm to be more convincing having regard to wider baseline inputs <sup>[8.32]</sup>, the collective tangible benefits argued, and on offer, are still sufficient to outweigh such harm in this case.
- 13.12 I acknowledge that this is a balanced decision and based on relative weights of the benefits against the harms. If the Secretary of State agrees, I have set out the conditions that should be applied in Annex D.

#### **14.0 Inspector's Recommended Planning Conditions**

- 14.1 Standard time limit and approved plans planning conditions would be required in accordance with statutory provision contained within Section 51 of the Planning and Compulsory Purchase Act 2004; and to allow a formal mechanism for amendment of the plans. (Conditions 1 and 5).
- 14.2 A condition setting out the commencement of phases as well as a condition related to the surface water lagoon(s) provision would be required to allow CCC to properly monitor compliance with the conditions of any planning permission granted taken as a whole, having regard to waste processes, overall surface water lagoon capacity provision and decommissioning. (Conditions 2 and 3).
- 14.3 A site area clarification condition would be required to ensure consistency having regard to all the plan information submitted by the appellant. (Condition 4).
- 14.4 A waste throughput condition would be necessary because a higher waste throughput threshold has not been assessed in highway capacity and safety terms by the appeal scheme. Such a condition would also allow CCC to have adequate control of waste handled in accordance with adopted development plan provision. (Condition 6).
- 14.5 It would be necessary that with the exception of wastes accepted for treatment in the healthcare waste ERF not less than 40% weight of wastes accepted at the Envar Site in any 12-month period would be sourced from the East of England Region. The East of England meaning the counties of Norfolk, Suffolk, Cambridgeshire, Essex, Hertfordshire, Bedfordshire, and Northamptonshire together with the unitary authorities of Peterborough, Southend on Sea, Milton Keynes, and Luton. Waste from a waste transfer station within the East of England would need to be regarded as arising from within the East of England. Such a condition would be appropriate on the basis to ensure that a large proportion of waste handled on the appeal site is locally sourced in line with sustainability goals. (Condition 7).
- 14.6 A condition requiring the keeping of up to date and accurate records of the quantity and source of waste inputs delivered to the site, for the life of the



development, would be required in tandem with the waste throughput and waste catchment condition monitoring by CCC. (Condition 8).

- 14.7 A Construction Environmental Management Plan would need to be secured prior to commencement and then subsequently adhered to in order to allow the protection of the amenities of surrounding uses as well as the protection of wildlife during construction phases. (Condition 9).
- 14.8 A bat survey condition would ensure that protected species are not harmed by the development. (Condition 10).
- 14.9 Conditions regulating construction hours as well as the hours of operation of the development are both necessary in order to protect the amenities of neighbouring uses in the area. (Conditions 11 and 14).
- 14.10 Conditions are required to secure drainage and material use details in order to minimise the risks of flooding and in the interests of protecting local amenity. (Condition 12 and 13).
- 14.11 A suite of planning conditions for noise matters, specifically relating to: 'white noise alarms' for reversing vehicles; silencing of plant machinery; noise mitigation measures; securing set noise limits (which shall not be exceeded for locations including Rectory Farm, the Travellers Site, Bridge Farm, Heathfields and the Raptor Foundation); and a further condition to enable noise monitoring survey work and compliance are all required to ensure satisfactory noise levels take place during operation of the development relative to neighbouring uses and having regard to local people's quality of life. (Conditions 15, 16, 17, 18 and 19).
- 14.12 A specific condition preventing the storage of waste on the new concrete hardstanding to be created within the site boundary is also required because the implications of noise, odours and bioaerosols on the traveller's site from such use has not been assessed. (Condition 20).
- 14.13 A range of planning conditions regarding: access; prevention of mud and debris on the highway; vehicle movements; keeping records of HGV movements; HGV routing; cycle parking; electric vehicle charging are all considered to meet statutory tests and are needed to ensure highway safety levels are maintained as well as to encourage sustainable travel and in the interests of sustainable transport provision infrastructure. I note that the term Heavy Commercial Vehicle (HCV) and specific vehicle tonnage was referred to by the main parties. However, based on the tonnage referred to the term HGV is more suitable to apply. (Conditions 21, 22, 23, 24, 25, 26, 27).
- 14.14 A condition securing the prior approval of lighting would be needed to ensure the amenities of local people are protected as well as to ensure there is no harm to local wildlife. (Condition 28).
- 14.15 A surface water drainage detail condition would be required to enable flood risk to be managed to an acceptable level as well as allowing water quality to be protected and the wider improvement of habitats. (Condition 29).

14.16 The storage facilities for onsite oils, fuels, and chemicals would need to be controlled by a condition ensuring the storage provision is impervious to seepage and suitability located. This would be needed to prevent pollution of the water environment. (Condition 30).

14.17 Planning conditions are necessary to secure detailed phased landscaping works as well as soft landscaping works within the site and extending to other land within the appellant's ownership. With appropriate implementation and replacement provision clauses. This would need to be undertaken in the interests of protecting the character and appearance of the local area. (Conditions 31 and 32).

14.18 Additionally, a Biodiversity Net Gain condition would meet statutory tests. Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) makes it mandatory. Such provision would be necessary and appropriate in order to secure a due increase in biodiversity net gain and aligned with local and national policy. (Condition 33).

## 15.0 Inspectors Recommendation

15.1 For the reasons given above I recommend that the appeal should be allowed and that planning permission is granted.

*M Shrigley*

INSPECTOR

## Appendix A

### Appearances

#### For the Appellant

James Burton of Counsel (39 Essex Chambers) instructed by Quod Limited. Who called:

Mr James Cooper, BSc	Head of Compliance at Envar Limited
Mrs Catherine Bean, BA, PGDip, CMLI	Senior Associate Landscape Architect at Applied Landscape Design Limited
Dr Amanda Owen, BSc, PhD, MIEMA	Managing Director and Principal Environmental Consultant at Environmental Visage Limited
Mr Stephen Othen, MA, MEng, CEng, MICheM	Technical Director at Fichtner Consulting Engineers Limited
Mr Sean Bashforth, BA, MA, MRTPI	Senior Director at Quod Limited

For the Council

Ed Grant of Counsel (Cornerstone Barristers), instructed by Pathfinder Legal Services on behalf of Cambridgeshire County Council. Who called:

Paul Reynolds, BA (Hons) PGDip MA CMLI UDGRP FRSA	Tapestry (Tapestry Urbanism Ltd)
Christopher Whitehouse BSc (Hons) MRICS	NextPhase (Planning Consultancy)
Miss Emma Fitch BSc (Hons) MSc MRTPI	Service Director Planning, Growth & Environment, Cambridgeshire County Council

Interested Parties (who spoke at the Inquiry)

Rt Hon Mr Shailesh Vara Member of Parliament for North West Cambridgeshire

Cllr Steve Criswell – County Councillor

Cllr Andy Notman – Chairman of Woodhurst Parish Council

Natasha Marko - Community action group People Opposing Woodhurst Incinerator POWI (who refer to representing 3.3k+ objectors)

Colin Hammond (Resident/attendee of the Raptor Foundation)

Helen Thatcher (local resident)

John Marsh (local resident)

Kym Moussi (local resident)

Phil Speaight (local resident)

Alysoun Hodges (local resident)

Simon Bluff (local resident/egg farm business owner)

Elizabeth Blows (Raptor Foundation/local resident)

Philippa Hope (local resident)

Lorna Watkins (local resident)

Charlotte Holiday (local resident)

**Appendix B****List of Inquiry Documents**

INQ1	Appellant's Opening Statement (also CD9.1.1)
INQ2	Appellant Appearances List (also CD9.1.2)
INQ3	Council's Opening Statement (also CD9.1.3)
INQ4	Council Appearances List (also CD9.1.4)
INQ5	Transcribed section of CW evidence, agreed to be sufficiently accurate (also CD10)
INQ6	Summary of Helen Thatcher's response to Mrs Bean's oral evidence on 23.02.2024
INQ7	NHS Clinical Waste Strategy (Version 1, 31 January 2003) (published 7 March 2023) (also CD6.1.12)
INQ8	Appendices to the NHS Clinical Waste Strategy (Version 1, 31 January 2003) (published 7 March 2023) (also CD6.1.13)
INQ9	Sustainable Healthcare Recycling Waste Management flyer (also CD6.1.14)
INQ10	Revised Condition 18 for Noise Limits agreed by the main parties
INQ11	Site visit itinerary (also CD12.1) and Site visit itinerary map (also CD12.2)
INQ12	Appellant's closing (also CD13.1)
INQ13	Council's closing statement (also CD13.2)
INQ14	Appellant application for costs (also CD14.1)
INQ15	Council's response to application for costs (also CD14.2)

## Appendix C

### List of Core Documents

Core Documents can be found at:

<https://www.cambridgeshire.gov.uk/business/planning-and-development/planning-applications/envar-planning-appeal>

<b>CD1.1</b>	<b>Original Application Documents and Plans (as submitted)</b>
CD1.1.1	Application Form (29 June 2021)
CD1.1.2	Planning Statement (June 2021)
CD1.1.2A	Planning Statement Appendix 1 – Pre-Application Advice

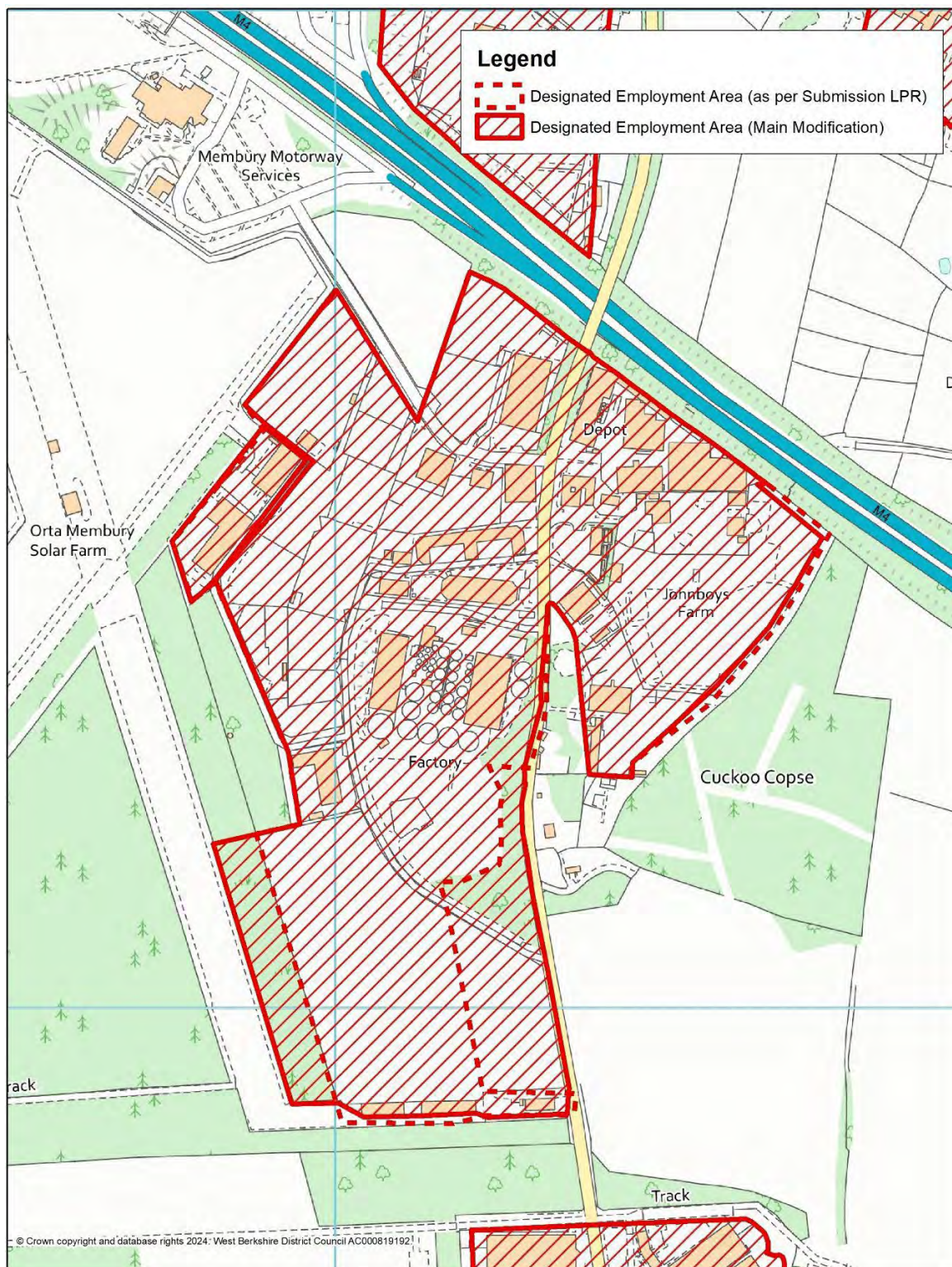
## APPENDIX 17



## Annex I

## PMC9:

## Membury Industrial Estate Designated Employment Area



## APPENDIX 18



# WEST BERKSHIRE LOCAL PLAN 2006 - 2026

## MEMBURY PROTECTED EMPLOYMENT AREA

