



Appeal Decision

Inquiry held on 28-30 June and 29 September 2022

Site visit made on 1 July 2022

by J Woolcock BNatRes (Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2022

Appeal Ref: APP/X1355/W/22/3292099

Merchant Park, Millennium Way, Aycliffe Business Park, DL5 6UG.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Fornax Environmental Solutions Ltd against the decision of Durham County Council (DCC).
 - The Application Number: DM/21/01500/WAS, dated 23 April 2021, was refused by notice dated 17 December 2021.
 - The development proposed is the construction and operation of an high temperature thermal treatment facility for clinical and hazardous wastes.
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Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of an high temperature thermal treatment facility for clinical and hazardous wastes at Merchant Park, Millennium Way, Aycliffe Business Park, DL5 6UG in accordance with the terms of the application No: DM/21/01500/WAS, dated 23 April 2021, and the plans submitted with it, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Preliminary Matters

2. The appeal form records the address of the appeal site as Land North of Hitachi Rail Europe Ltd, Aycliffe Business Park, DL5 6QQ. Documents cited in this decision are referred to as Core Documents (CD) if they were available prior to the opening of the Inquiry, and as Inquiry Documents (ID) if submitted during the Inquiry.
3. The application was accompanied by an Environmental Statement (ES). DCC requested additional information, which was taken into account in refusing the application, against the recommendation of its officers for approval. DCC gave one reason for refusal: "The proposal is contrary to the allocation of the site in Policy 2 of the County Durham Plan for employment uses and would prejudice the delivery of B uses in the future".
4. A further request pursuant to Regulation 25 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA) was made at the appeal stage. The additional information, dated June 2022, was the subject of consultation and more than 300 written submissions were lodged. I am satisfied that the Environmental Statement, with the further information submitted, reasonably complies with Schedule 4 of EIA Regulations.

5. In deciding the appeal, I have had regard to the Environmental Information.¹ I have also had regard to the written representations and petitions submitted at both the application and appeal stages.
6. The 2.02 ha appeal site lies within the Merchant Park employment estate. The estate was granted outline planning permission in 2007 for B1 (Business), B2 (General Industry) and B8 (Storage or Distribution) comprising a maximum of 131,540 m² of floorspace. The appeal site is also part of an area of land allocated as an employment site in the County Durham Plan 2020 (CDP). The development plan also includes saved policies of the County Durham Waste Local Plan 2005 (WLP) and Great Aycliffe Neighbourhood Plan 2016-2036 (GANP).
7. I have also had regard to the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG). There are designated heritage assets in the locality. I am required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building.
8. The appeal site is located to the south of Heighington Lane (B6444) and to the west of Newton Aycliffe Industrial Estate, which is one of the largest employment estates in the north-east of England. Heighington is about 1.4 km to the west, Aycliffe Village about 1.5 km to the east and Newton Aycliffe about 1.8 km to the north. There is also residential development in School Aycliffe, including The Chestnuts, some 840 m to the north-west of the appeal site.² The western boundary of the appeal site abuts a vacant plot of undeveloped land within the administrative boundary of Darlington Borough Council.³ To the south is the Hitachi Rail manufacturing facility. Durham Business Units at Station Place is under construction to the east of the appeal site. The Heighington Household Waste Recycling Centre lies further to the east at the junction of Heighington Lane and Long Tens Way. University Technical College South Durham is located to the south of the recycling centre.
9. The appeal scheme would process up to 10,500 tonnes per annum (tpa) of clinical and hazardous waste by rotary kiln combustion technology, with a 30 m high exhaust flue (stack), producing energy and heat. The building would operate a controlled air management system and a contained drainage system. The proposed facility would require an Environmental Permit (EP). No application to the Environment Agency (EA) for an EP had been made at the time of the Inquiry. The Statement of Common Ground (SoCG) records that the waste would be from the industrial and health care sectors, primarily within a two-hour drive from the site, although the main catchment area would include Newcastle, Durham, Newton Aycliffe, Sunderland and other local towns.
10. On application, The Residents' Group (TRG) was granted Rule 6(6) status pursuant to The Town and Country Planning (Inquiries Procedure) (England) Rules 2000. TRG participated fully in the Inquiry, opposing the proposed development. The adequacy of the initial consultation for the proposal was

¹ The Environmental Information means the environmental statement, including any further information (required pursuant to Regulation 25) and any other information, any representations made by any body required by the Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development.

² Statement of Common Ground (SoCG) paragraph 8.

³ The Darlington Core Strategy identifies this site as a key employment location. No comments have been received from Darlington Borough Council in respect of an impact from the appeal scheme upon the allocation.

criticised by TRG, but there has now been a full and fair opportunity for public comment on the proposed development during the appeal process. TRG submits that the proposal was initially held out to be a largely clinical waste plant with a local catchment area, and that Fornax changed their presentation of the nature of the plant by the time of the appeal to become a mostly hazardous waste (non-clinical) plant with a much larger potential catchment area. However, the description of the proposed development from the outset was for an high temperature thermal treatment facility for clinical and hazardous wastes. The application did not specify what proportion of the proposed 10,500 tpa treated at the facility would be classified as clinical waste.

11. The appellant's air quality assessment indicated that total nitrogen emissions as NO_x and NH₃ from the proposed facility would be 5.2 tonnes of nitrogen per annum. I asked about likely deposition of this nitrogen in the catchment of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site (SPA), which Natural England (NE) has advised is in unfavourable status because of nitrate pollution.⁴ At the Inquiry the appellant assumed as a worst-case that 100% of emissions would be deposited within the SPA catchment, but added that this would depend on many factors including rainfall, drainage and vegetation.⁵
12. The Inquiry was adjourned to enable the appellant to undertake a more detailed assessment. This predicted that of the 5,200 kilograms per annum (kgpa) of nitrogen emitted from the plant 230 kgpa (4.4%) would be deposited to the Tees catchment. It estimated that 33 kgpa (14.3% of the amount deposited) would be exported to the Tees River system following removal by vegetation processes, soil processes and attenuation during transport of nitrogen within the hydrological system.⁶ The appeal site is former pastoral land. In terms of nutrient neutrality, it was estimated that the proposed change of use would reduce nitrogen into the Tees River system by 8 kgpa. Therefore, the total nitrogen reaching the SPA as a result of the proposed development was predicted to be 25 kgpa.
13. A unilateral undertaking (UU) pursuant to section 106 of the 1990 Act, dated 17 October 2022, provides for a heat network, and includes provisions concerning nutrient neutrality.⁷ The UU states that development would not be commissioned until a Nutrient Mitigation Solution had been procured for the Determined Nutrient Load (25 kg nitrogen per year) and was thereafter implemented and retained for 30 years. These obligations are considered in more detail later in this decision.
14. The parties were given time to finalise suggested planning conditions, to consider the provisions in the UU and to comment on an article in The Lancet dated October 2022.⁸ The Inquiry was closed in writing on 10 November 2022.

⁴ The appeal site is located in the Skerne catchment, which is a tributary of the river Tees. The nearest boundary of the SPA is located approximately 19.5 km from the appeal site.

⁵ ID6.1.

⁶ ID50.

⁷ ID53.2.

⁸ ID63.

Main Issues

15. The main issues in this appeal are the effects of the proposed development on nearby employment areas and the delivery of Class B uses. I have also considered the effects on the amenity of the area, taken into account relevant policies for waste management, and assessed the likelihood of a significant effect on the SPA.

Reasons

Effects on nearby employment areas

16. CDP Policy 2 states that undeveloped land at the employment sites listed in Table 3 (allocations) and Table 4 (protected employment sites) are allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) unless specifically stated.⁹ Table 3 includes Merchant Park (Newton Aycliffe) 10.12 ha (this is referred to as the Merchant Park site in this decision). The appeal site is part of the Merchant Park site. Policy 2 also provides that development for non-employment uses on employment allocations (Table 3) or existing protected sites (Table 4) will not be permitted unless: a. there is documented evidence of unsuccessful active marketing for employment use or b. the proposed use would not compromise the main use of the site for B class uses.¹⁰ It adds that any new development for non-employment uses on employment allocations must comply with the other relevant policies in the Plan. A footnote clarifies that development for non-employment uses is uses other than Business (B1), General Industrial Use (B2) or Storage and Distribution (B8) unless specifically stated. The parties agree that the proposed facility is a *sui generis* use that does not fall within the defined employment classes specified in Policy 2.
17. The written justification does not provide much assistance in interpreting Policy 2. Paragraph 4.34 of the text states that non-employment uses will be resisted unless they meet the criteria detailed within this policy. It notes that in some instances, particularly on larger employment sites, facilities such as creches/nurseries, gyms, sandwich shops and cafes can support the wider functioning of the employment site. However, nothing in the policy or text restricts non-employment uses to those that would provide such valuable facilities for employees working within the estate.
18. In this case compliance with Policy 2 turns on whether the proposed facility would compromise the main use of the site for B class uses. It seems to me that the 'site' referred to in exception b. is determined by where the 'development for non-employment uses' is proposed - either 'on employment allocations' (Table 3) 'or existing protected sites' (Table 4). I consider that the 'site' for the purposes of this part of Policy 2 is the Merchant Park site listed in Table 3. In interpreting Policy 2 'compromise' has its ordinary meaning to bring into disrepute or endanger. I have, therefore, considered whether the appeal scheme would be likely to undermine the main use of the Merchant Park site for B class uses.

⁹ In the Use Classes Order as amended in 2020 Class E encompasses uses that previously fell within Class B1.

¹⁰ Exception a. was not pursued by the appellant. Compliance is also required with Policy 9 concerning retail development, but that does not apply in this case.

19. The appeal scheme would occupy 20% of the area of the Merchant Park site. The remaining 80% is either committed, or available, for B class uses. It was clarified at the Inquiry that, excluding the appeal site, if the Durham Animal Feeds proposed development next to the appeal site was constructed, some 5.9 ha of land to the east of the Hitachi Rail manufacturing facility would remain for future development.¹¹ This 5.9 ha of land is separated from the appeal site by a large and well landscaped balancing pond, as well as an extensive area of railway sidings associated with the Hitachi facility. In terms of the location and areal extent of remaining land available for development, the appeal scheme would not compromise the main use of the Merchant Park site for B class uses.
20. DCC recognises that there would be industrial users that may well be indifferent to the presence of an high temperature thermal treatment facility for clinical and hazardous wastes. However, DCC argues that the appeal scheme would detract from the high quality location and act as a deterrent for sensitive and image-conscious industrial users, and so would potentially reduce the attractiveness of the Merchant Park site to a significant cohort of beneficial industrial users. The impact on existing employers and potential future employers in their ability to recruit and maintain staff was an issue for DCC.
21. Merchant Park is a high quality and attractive employment location as evidenced by its score of 29/30 in an Employment Land Review. The supporting text in the CDP notes that the development of a network of high quality and attractive employment locations has been both a priority and a success of DCC. It adds that DCC will seek to ensure that new waste facilities will not adversely affect the suitability of those locations for other employment development.
22. The evidence adduced at the Inquiry about the likelihood of the appeal scheme compromising the main use of the Merchant Park site for B class uses is far from conclusive. The appellant's analysis of 34 energy from waste facilities and two high temperature incinerators at sites deemed most comparable with the location of the appeal site is not much help in this regard.¹² This compared the take-up of industrial property before, during and after the procurement of energy from waste facilities. However, there are many possible confounding factors involved, such as the size of the industrial units, the quality of the industrial estate, along with the supply and demand for industrial land in the locality. These other factors render this assessment an unreliable indicator of the likely effects of the appeal scheme on the prospects for quality development of the remainder of the Merchant Park site.
23. In support of its case that a cohort of industrial users would be deterred by the presence of an high temperature thermal treatment facility for clinical and hazardous wastes DCC referred to the lack of pre-lets for the Durham Business Units at Station Place, and to a re-valuation for a unit at the Aycliffe Industrial Estate. There are many possible reasons why the Station Place units had not been pre-let. One possibility is that these types of units are aimed at a local market where future occupiers prefer to view completed units before making a commitment. That would not have been possible here because the

¹¹ ID42. Durham Animal Feeds planning application at ID54 (1.137 ha). Durham Business Units at Station Place currently under construction (1.0178 ha). The Table 3 figure of 10.12 ha is a net area and the figures for planning applications are for gross area.

¹² Section 9 of Mr Thomas' Proof of Evidence.

development was behind schedule. There is no convincing evidence that pre-letting of the Station Place units was adversely impacted by the proposal for the development now at appeal. Similarly, it is difficult to attribute any re-valuation of property to a specific cause when potentially many different considerations might be at play.¹³ In the absence of any specific evidence to link the re-valuation with the application/appeal at the Merchant Park site, I am unable to give much weight to this, or to general observations at the Inquiry about the valuation process, as a basis for DCC's concerns.

24. TRG and others are concerned that the proposal would result in an under provision of jobs for this high quality site.¹⁴ The proposed development would create 27 full-time jobs at an employment density of one job per 245 m² of floorspace. Based on an employment density for a manufacturing site of one job per 44.8 m², DCC considers that the appeal scheme represents an under delivery of jobs that would otherwise be expected from a site within a high quality industrial estate.¹⁵ Employment density should not be a decisive issue here because a Class B use with a comparable job ratio to the appeal scheme would be compliant with Policy 2.
25. Neither Policy 2 or its supporting text require a certain level of jobs from development, nor do they distinguish between different Class B users on the basis of any specialist characteristics or particular qualities. There is no convincing evidence that the appeal scheme would be likely to undermine the main use of the Merchant Park site for B class uses. I find no conflict with Policy 2.
26. However, harm to the wider industrial estate, beyond the scope of Policy 2, was raised in representations to the Inquiry. TRG submits that the appeal scheme would sterilise the land usage of other sites nearby. DCC acknowledges that any harm to the wider industrial areas at Aycliffe North and Aycliffe South would not constitute a breach of Policy 2 because that would relate to other sites not specifically referenced in the context of Policy 2. Nevertheless, any such harm would be a material consideration to be weighed in the planning balance.
27. Several existing employers in the wider industrial estates object to the proposal because they consider that the appeal scheme would destroy the recruitment and employability prospects of businesses in the area on the basis of health concerns and working conditions.¹⁶ The proximity of an high temperature thermal treatment facility for clinical and hazardous wastes would, in these submissions, ask staff to work in a potentially health impacting environment, placing undue concern and anxiety upon employees, with potentially an increase in absenteeism due to health concerns.
28. Reservations by local businesses about a proposed facility dealing with clinical and hazardous wastes are understandable. However, I am not convinced that these concerns would be likely to translate into material land use considerations if conditional planning permission were to be granted for the appeal scheme and the facility was regulated in accordance with an EP issued by the EA. It seems to me that the issues raised by local businesses in the

¹³ ID7.

¹⁴ CD9.6 and ID43.

¹⁵ ID2 paragraph 19.

¹⁶ These include ID13.

wider industrial estate derive from a perception of harm. This can be a material consideration. However, for the reasons set out in the following section of this decision, I consider perception of harm here to be of minor significance that should be given slight weight in the planning balance.

29. On the main issue in this appeal, I consider that the proposed development would not have an unacceptable adverse effect on nearby employment areas and would not be likely to prejudice the delivery of Class B uses.

Effects on air quality and health

30. Air quality was considered in the ES.¹⁷ In determining the application DCC took independent expert advice from AECOM, who reviewed the calculations and underlying assumptions in the air quality assessment. AECOM confirmed that these held up to the standard that was usually expected, they covered the right material, the methods were appropriate, and the conclusions were justified by the underlying calculations.¹⁸ DCC considers that there would be no unacceptable environmental or amenity impacts associated with the proposed development.¹⁹ This is disputed by TRG. The Rule 6 party refers to a written statement prepared by Dr Ashley Mills and Prof Stephen Peckham from the Centre for Health Services Studies at the University of Kent.²⁰ This was the subject of a rebuttal proof of evidence by the appellant's air quality expert.²¹ Air quality and health is a major concern for local residents, and particularly so for vulnerable members of the local community. Many representations at the application and appeal stages raised concerns about the effects of the proposal on air quality and the health of those living, working and studying in the locality.
31. The nearest residential dwellings are individual properties located to the north-west of the appeal site. The SoCG records that Twin Oaks Stables is some 320 m from the site, Eastfield Farm about 680 m and Dormerstiles 780 m.²² There is residential development in School Aycliffe, Heighington, Aycliffe Village and Newton Aycliffe. Local businesses in the wider area include manufacturing, nurseries, conference facilities, gyms, cafes, restaurants and leisure facilities.
32. Planning decisions should, in accordance with NPPF paragraph 186, sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMA) and Clean Air Zones, and the cumulative impacts from individual sites in local areas.²³ Paragraph 188 provides that the focus of decisions should be on whether the proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes), and that these regimes should be assumed to operate effectively.

¹⁷ CD1.20, CD1.31, CD1.37, CD1.38 and CD7.6.

¹⁸ Committee Report Minutes at CD3.2.

¹⁹ SoCG paragraph 77.

²⁰ Comment on planning appeal for proposed high temperature incinerator plant, land off Heighington Lane, Newton Aycliffe dated 7 June 2022 at CD8.8.

²¹ CD9.1. Dr Gair was not called to give oral evidence to the Inquiry and CD9.1 was before the Inquiry as a written statement.

²² At ID10 the occupier of Eastfield Farm states that the smallholding (10 acres) is approximately 300 m from the appeal site. The smallholding has a small flock of sheep and lambs, chickens and is used to grow fruit and vegetables.

²³ The nearest AQMA is in Durham city about 20 km to the north of the appeal site.

33. The appellant undertook detailed air quality modelling using the AERMOD 7 dispersion model, with a stack height of 30 m, to predict the impacts associated with emissions from the proposed facility.²⁴ Emissions from the site were assumed to occur at the Best Available Techniques (BAT) Reference Document (BREF) daily emission limit values for a new plant. The predicted maximum off-site concentrations were assessed as not significant and well below the relevant air quality standards for all the pollutants assessed. The predicted process contributions were not significant compared with the critical levels for NO_x, SO₂, NH₃ and HF. Critical loads for nutrient nitrogen deposition and acidification at the local wildlife sites were also considered and assessed as insignificant. The modelling has been the subject of independent expert review. I consider that this is a robust and professional assessment.
34. The Inquiry heard local concerns about deteriorating air quality in the area and the risk that the appeal scheme would result in an adverse cumulative impact. The appellant's review of planning websites and local plans did not identify any similar proposed schemes, such as combustion facilities or waste handling activities with emissions, that would combine with the appeal scheme.²⁵ I have not been provided with any evidence to the contrary. Local residents referred to emissions from existing premises within the nearby industrial estates. However, the appellant's assessment reasonably took into account ambient air quality monitoring.²⁶ I am satisfied those existing emissions of concern to local residents were considered properly as part of the baseline in the assessment.
35. The possible impacts on human health arising from dioxins, furans and dioxin-like PCBs emitted from the proposed facility were assessed under the worst-case scenario, namely that of an individual exposed for a lifetime to the effects of the highest airborne concentrations and consuming mostly locally grown food. The assessment identified and considered the most plausible pathways of exposure for local residents. This demonstrated that for the maximally exposed individual, exposure to dioxins, furans and dioxin-like PCBs would not be significant.²⁷ I consider that this is a sound assessment.
36. TRG contends that the modelling methodology applied by the appellant is unreliable, with only a 30% confidence level. Uncertainty is also an issue for other local residents. Modelling aims to replicate the complexity of natural systems and some uncertainty is inherent in doing so. Nevertheless, the AERMOD 7 dispersion model has been formally validated and is widely used for regulatory purposes. The appellant has appropriately applied worst-case parameters. The EA has indicated that it would require submission of the air dispersion modelling as part of any environmental permit application so that it could be assessed by the EA's specialists.²⁸
37. TRG raise three other points. Firstly, that air quality within the local area is poor, relative to World Health Organisation (WHO) guidelines for NO_x and PM_{2.5}. However, maximum predicted annual mean concentrations from the proposed facility at the nearest receptor would be less than 1% of the WHO air quality guideline value for NO_x (as NO₂). The same figure for PM_{2.5} would be less than 0.1%. The impact of the proposal on sensitive receptors would be very small

²⁴ CD7.6.

²⁵ CD7.6 paragraph 1.3.5.

²⁶ CD7.6 paragraph 2.5.

²⁷ CD7.5.

²⁸ Consultation response from EA dated 20 May 2021.

having regard to WHO air quality guidelines. Secondly, TRG recommends that a detailed assessment should be undertaken about the impact of additional traffic on the local community. This would not be necessary having regard to guidance by the Institute of Air Quality Management (IAQM). Likely traffic movements associated with the proposed facility would fall far short of the IAQM criteria for a detailed assessment of traffic-related air quality impacts.

38. Vehicles servicing the facility would not need to travel via minor roads or residential areas unless collecting directly from the local area. Residential properties fronting routes to the appeal site, such as on Bickford Terrace, are generally set well back from the road. The combined effect of process emissions with the impact of road traffic associated with the proposed facility would not be likely to have a significant adverse effect on local air quality.
39. The third issue for TRG is a purported inconsistency in the presentation of predicted concentrations for arsenic (As) and hexavalent chromium (CrVI). However, the difference is due to the methodology for assessing Group 3 metals, which include As and Cr, in guidance by the EA. This requires further assessment of long-term concentrations of CrVI. However, As is screened out because the total predicted environmental concentration, which includes the background concentration, is less than 100% of the long-term air quality assessment level.
40. Local residents are concerned about odour, but the transfer of waste delivered to the facility would take place inside the building. Operation of the facility in accordance with EP restrictions would be unlikely to result in odour emissions that would impact adversely on the amenity of the local area. Subject to appropriate mitigation measures the risk of annoyance or adverse health impacts from dust during the construction period would be low or negligible.
41. The article in The Lancet submitted by TRG does not provide any epidemiological evidence for health effects arising from exposure to black carbon particles.²⁹ These have the potential to affect health, but the article notes that the exact impact of direct foetal black carbon exposure requires clarification and must be further elucidated in follow-up studies. It also adds that further research is needed about how mechanisms for particle translocation and black carbon accumulation could be directly responsible for observed adverse health effects.
42. The proposed development would be subject to controls under other legislation for environmental permitting and the control of hazardous substances. The Planning (Hazardous Substances) Regulations 2015 would require the facility to obtain Hazardous Substances Consent if the operation stored or used hazardous substances at or above specified controlled quantities.
43. The NPPG states that the role of the EP, regulated by the EA, is to provide the required level of protection for the environment from the operation of a waste facility. EPs aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level, and to ensure that ambient air and water quality meet standards that guard against impacts to the environment and human health. The ability of the EA to thoroughly police and regulate emissions at a time when public service

²⁹ ID63, ID64 and ID65.

resources are stretched was questioned, but it is Government policy that the pollution regime should be assumed to operate effectively.

44. The EA would consider the following areas of potential harm when assessing any application for an EP: Management (including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes); Operations (including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design); Emissions (to surface water, sewer, air, odour, noise and vibration, monitoring and reporting of emissions).³⁰
45. The EA noted that the stack height of 30 m is on the lower end of the spectrum for this type of installation. The proposed building height is over 50% of the height of the stack and therefore has the potential to distort the airflow of the emissions plume and result in increased concentrations at ground level. Therefore, the EA indicated that it may need to consider the proposed facility in more detail and whether the risk to air emissions could be mitigated satisfactorily to grant an EP. The EA notes that stack height must represent BAT and the Industrial Emissions Directive requires the height of the stack to be calculated in such a way as to safeguard human health and the environment.³¹ That calculation would be a matter for the EA. I am satisfied on the evidence before me that the air quality assessment with a 30 m high stack reasonably demonstrates that the proposed facility would not be an unacceptable use and development of land for the purposes of applying the planning regime.
46. Fear and anxiety can be a material consideration where there is a reasonable basis for the perception of harm.³² Public Health England's (PHE) risk assessment for municipal waste incinerators found that modern, well-run and regulated incinerators are not a significant risk to public health, but noted that while it was not possible to rule out adverse health effects completely, any potential effect for people living close by would be likely to be very small.³³ People are more likely to be anxious about a facility dealing with clinical and hazardous wastes than the municipal waste incinerators that were the subject of PHE's assessment. The perception of harm by local residents and businesses about the likely effects on air quality and possible health implications in this case is not irrational.³⁴ In particular, the concerns of residents and parents for vulnerable people is understandable.
47. The weight that can be given to the perception of harm is limited by the fact that the anticipated harm may, or may not, be as consequential as feared. Health fears are not immaterial, but in this case, I consider that any resultant adverse effect on the living conditions of residents and on the prospects of nearby businesses would be of minor significance. In my judgement, the perception of harm in this case is an adverse material consideration that should be given slight weight in the planning balance. However, this would not be

³⁰ Consultation response from EA dated 20 May 2021 at ID15.1.

³¹ Consultation response from EA on additional information dated 3 September 2021 at ID15.2.

³² *West Midlands Probation Committee v Secretary of State for the Environment Transport and the Regions* [1997] 11 WLUK 123. *Smith v First Secretary of State* [2005] EWCA Civ 859. TRG refers to *Newport BC v Secretary of State* Court of Appeal (Civil Division) June 1997.

³³ CD3.1.

³⁴ ID16.

sufficient to bring the proposal into conflict with CDP Policy 31 concerning amenity and pollution.

48. Subject to the imposition of appropriate planning conditions, and assuming effective pollution controls, I am satisfied that the proposed development would not lead to unacceptable levels of air quality. In this respect it would accord with paragraph 170 e) of the NPPF, which seeks to prevent new development from contributing to unacceptable levels of air pollution. The perception of harm to health would, to some extent, adversely impact on the amenity of the area, but for the reasons given above that should not be given much weight in determining this appeal. I find that the proposed development would be an acceptable use and development of land insofar as the likely effects of the appeal scheme on air quality and health are concerned.

Waste management

49. The National Planning Policy for Waste (NPPW) provides that positive planning plays a pivotal 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, in line with the proximity principle, without endangering human health and without harming the environment.³⁵ The waste hierarchy requires that prevention and reuse should be considered before recycling, then recovery and finally disposal. The latter being the least desirable solution where none of the other options is appropriate. The Waste Management Plan for England 2021 (WMPE) supports efficient energy recovery from residual waste. The WMPE also states that the proximity principle must be applied when decisions are taken on the location of appropriate waste facilities.
50. DCC agrees with the appellant that there is a proven need for the provision of appropriate waste treatment infrastructure for hazardous and clinical wastes, and that furthermore, there is a significant shortage of such capacity within the local and regional areas.³⁶ Submissions by TRG and other third parties dispute this view. TRG refers to evidence indicating that the National Health Service (NHS) in the north-east of England would only generate a fraction of the total capacity of the proposed incinerator. The appellant acknowledges that the total tonnage of NHS clinical waste increased from 2019 to 2020, but the amount to incineration by the NHS dropped, whilst the amount to alternative treatment increased in 2020/21.³⁷
51. Nevertheless, there is compelling evidence of a need to deal with hazardous waste closer to where the waste arises.³⁸ The amount of hazardous waste currently transported outside a two-hour drive time from the appeal site significantly exceeds the capacity of the proposed facility. The tonnage of hazardous waste currently exported to the European Union for incineration indicates insufficient capacity at a national level. It is difficult to quantify the benefits arising from the appeal scheme attributable to likely reductions in the need to transport waste long distances for treatment. It will always be a commercial decision to which facility clinical and hazardous waste is

³⁵ The proximity principle requires waste to be treated in one of the nearest appropriate installations.

³⁶ SoCG paragraph 75.

³⁷ CD8.17.

³⁸ CD8.16.

transported for high temperature treatment. But the proposed development would provide an opportunity that does not currently exist to minimise the transport of such waste in accordance with the proximity principle.

52. I prefer the appellant's evidence about the need for the appeal scheme. For the purposes of applying CDP Policy 60 c. I consider that the evidence submitted to the Inquiry reasonably demonstrates an additional need that cannot be met by existing operational facilities within the north-east of England. Furthermore, for the purposes of applying national waste policy, need is not a determining factor in this case, for the reasons set out later in this decision.
53. The Waste Framework Directive (WFD) refers to R1 waste recovery operations as those used principally as a fuel to generate energy.³⁹ The WFD applies an energy efficiency formula for incineration facilities dedicated to processing Municipal Solid Waste (MSW). This R1 formula does not formally apply to facilities that are dedicated to the incineration of hazardous and hospital waste. Therefore, the proposed development would be a disposal facility for the purposes of applying the WFD waste hierarchy, and justifiable only where none of the other options is appropriate.
54. There is evidence that the NHS has employed alternative treatments to reduce the amount of clinical waste sent for incineration. For the north-east of England this resulted in a reduction in the proportion of clinical waste incinerated from 41% in 2019/20 to 30% in 2020/21.⁴⁰ These figures are affected by the Covid-19 pandemic. Some clinical waste arising because of the pandemic was, as a special exception, treated in MSW incinerators. The appellant speculates that during this period a reduction in elective surgery might have resulted in a higher proportion of clinical waste that was easier to treat.
55. There are existing and emerging alternative technologies for treating some clinical waste that would have environmental advantages over incineration. It is likely that these will in future play a more significant role in dealing with clinical waste. However, there is likely to be a substantial proportion of this waste stream that can only be treated by disposal. Similarly, for hazardous waste, options other than high temperature incineration are not likely to be appropriate for much of this waste stream, thereby precluding treatment solutions higher in the waste hierarchy. I have not seen any convincing evidence that the appeal scheme, in treating 10,500 tpa of clinical and hazardous waste, would materially compete with greater waste prevention, re-use or recycling.
56. There is no formal requirement for the proposal to meet the R1 formula for energy efficiency, but the WMPE supports efficient energy recovery from residual waste.⁴¹ The UU would require the development to be designed so as to facilitate the future supply of heat (up to 5 MW thermal) with the installation of sufficient plant and pipework to termination points at the highway boundary. During the five year investigation period specified in the UU all reasonable endeavours would be required to procure opportunities to use the heat by

³⁹ Annex II 2008/98/EC.

⁴⁰ CD8.17 Table 3.

⁴¹ ID49.1-ID49.3. Energy efficiency is also a matter that the EA would take into account in determining an application for an EP.

occupiers within two km of the proposed development. The UU provides that if during this period, a viable off-take opportunity emerged, a heat supply agreement would be sought, with the off-taker not charged more than 90% of the open market price of the heat.

57. DCC's submissions about the efficacy of the UU are addressed later in this decision. I am satisfied that the heat network obligation in part 1 of the second schedule of the UU would be necessary having regard to the WMPE and NPPF paragraph 158 a). A planning condition was suggested at the Inquiry, in the event that some or all of the surplus heat was not taken up, that would secure steps to be taken to recover energy from the waste, whether through its conversion to electricity or other recovery.⁴² This is dealt with in more detail in the Conditions and Obligations section of this decision. The NPPF recognises that even small-scale low carbon development provides a valuable contribution to cutting greenhouse gas emissions.⁴³
58. I find no conflict with CDP Policy 47, which facilitates the development of a sustainable resource economy by, amongst other things, a.2. resisting proposals for the disposal of residual waste via the incineration of waste without energy recovery unless a need can be demonstrated which cannot be met by existing facilities and by treatment solutions higher in the waste hierarchy.
59. There is local concern about the combined effect of emissions from the appeal scheme with the emissions from existing operations on the nearby industrial estates. However, the appellant's assessment reasonably accounts for ambient air quality. There is a Health and Safety Executive (HSE) Major Hazard Site consultation zone to the north-east of the appeal site, but HSE does not advise, on safety grounds, against the granting of planning permission for the appeal scheme.⁴⁴ Subject to the imposition of planning conditions and pollution controls, I find no conflict with WLP Policy W35 regarding cumulative impact with other waste and non-waste development in the locality.
60. The proposed development would accord with national and local policy for waste management. It would provide for the treatment of potentially harmful clinical and hazardous wastes in a way that would assist in minimising distances for the transport of this waste, thereby resulting in significant public benefits.

Nutrient neutrality

61. Regulation 63 (1) of the Conservation of Natural Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) requires a competent authority, before deciding to give permission for a plan or project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected to the management of the site, must make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

⁴² ID51.4 part of suggested condition 12(d).

⁴³ The NPPF defines low carbon technologies as those that can help reduce emissions (compared to conventional use of fossil fuels).

⁴⁴ ID44.

62. The appellant's assessment that the determined nutrient load on the SPA from the proposed facility would be 25 kg of nitrogen per year is based on many assumptions. I have no reason to doubt that these assumptions are based on the best scientific knowledge, but there is a risk with the uncertainty that is inherent in many of these assumptions that the modelling results in an outcome of spurious precision. Nevertheless, the assessment does indicate the likelihood that the nutrient load on the SPA from the appeal scheme would be very low and insignificant in the context of fluctuations in nitrogen concentrations that occur with the tides.⁴⁵ Taking into account the precautionary principle, I am satisfied that the proposal, on its own, would have no appreciable impact on the SPA. The effect would be of little importance and no consequence, and so could be considered *de minimis*.⁴⁶ I find, beyond reasonable scientific doubt, that there would be no likely significant effect on the SPA because of the appeal scheme alone.
63. I turn next to in-combination effects. Other plans and projects likely to have a significant effect on the SPA would themselves need to comply with the Habitats Regulations and, where necessary, require their own mitigation to ensure nutrient neutrality. No 'in-combination' effects would result from such development when combined with the appeal scheme. NE in relation to the assessment of road traffic emissions advises that "...it is only the appreciable effects of those other plans and projects that are not themselves significant alone which are added into an in-combination assessment with the subject proposal...".⁴⁷ But this is referring to the possibility that appreciable effects below a screening threshold may be significant in combination. That would not apply if an effect was *de minimis* because such an effect would not be 'appreciable' and so would be excluded.
64. The appellant considers that the assessment provides a robust evidence base to conclude that there would be no likely significant effects, either in solus or in combination, due to the appeal scheme on the SPA. DCC does not challenge the appellant's position on nutrient neutrality.⁴⁸ NE advised that the proposed development would not result in likely significant effects on the SPA as a result of aerial emissions, and that NE would not consider it 'in scope' of its guidance on nutrient neutrality.⁴⁹
65. I conclude that the appeal scheme would not have a likely significant effect on the SPA, either alone or in combination with other plans and projects. It would not, therefore, be necessary for the appeal scheme to require mitigation for nitrogen deposition.

⁴⁵ ID50 states that the predicted incremental total inorganic nitrogen concentration from the proposed facility of 0.000042 mg/l at the freshwater limit is equivalent to 0.007% of the estuarine baseline average concentration of 0.636 mg/l.

⁴⁶ *C-258/11 Preliminary ruling from the Supreme Court of Ireland, Peter Sweetman Ireland Attorney General, Minister for the Environment Heritage and Local Government vs An Bord Pleanala 11 April 2013 (together with the opinion of the Advocate General delivered on 22 November 2012)* refers to 'a *de minimis* threshold' adding that plans or projects that have no appreciable effect on the site are thereby excluded.

⁴⁷ Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations NEA001 cited in ID50.

⁴⁸ ID56.

⁴⁹ ID6.2 and ID55.

Other matters

66. The proposed facility would be a conventional industrial portal building that would not be out of keeping with other industrial development in the locality. It would be sited towards the western edge of an extensive industrial estate. The development would be mostly screened in views from Heighington Lane by a thick roadside wooded belt. Views into the appeal site from Heighington are limited by intervening trees and woodland. Some filtered views of the proposed development would be possible in the winter months when trees had lost their leaves. Part of the 30 m high exhaust stack would be visible above these wooded areas, and particularly so from higher vantage points in the wider area. However, in these more distant views the stack would be seen in the context of large industrial buildings. Furthermore, the proposed stack would not be an unusual feature of the area because there are several other stacks of various heights located within the nearby industrial estates.
67. The proposal would have no material effect on the setting of the Area of Outstanding Natural Beauty, which is located some distance to the south-west of the appeal site. Given its location within an established employment area it would be unlikely to have any significant effect on local tourism. The proposed development would not have a harmful effect on the character and appearance of the area. I find no conflict with WLP Policy W6 about design, or with GANP Policy CH1 in respect of the local townscape.
68. Traffic generation is a concern for third parties, but it is not an issue for DCC. A suggested planning condition would limit the total number of all HGV vehicles delivering waste, reagent and consumables, and collecting ash and pallets, to a daily total of 30 (15 in and 15 out) as averaged over a period of a month.⁵⁰ It was apparent from my site visits that the appeal site has reasonable access to the strategic road network via Heighington Lane and St Andrews Way to the A1(M). I find that the effects of vehicles associated with the proposed facility would be unlikely to have an unacceptable impact on highway safety, or to result in the severe residual cumulative impacts on the road network, that would in accordance with the NPPF justify preventing or refusing the proposed development on highways grounds. Subject to the imposition of appropriate planning conditions, I find no conflict with WLP Policy W31 concerning highway safety and the protection of amenity.
69. Groundwater is sensitive in this location because the appeal site is within a source protection zone for a principal aquifer. The EA requires further details of ground conditions within the proposed attenuation pond to ensure groundwater protection. The imposition of a condition to secure a scheme to manage surface water was suggested by the EA.⁵¹ Subject to such a condition, I find no conflict with WLP Policy W26 concerning water resources.
70. It was apparent from my site visits that there would be some minor harm to nearby heritage assets.⁵² The setting of the Grade II listed Heighington Signal Box (some 240 m to the north-east of the access to the appeal site) and the Grade II listed Locomotion One Public House and East Platform (about 260 m to the north-east) would be marginally affected by activity associated with the

⁵⁰ Suggested condition 26 in ID53.4.

⁵¹ Consultation response from EA dated 20 May 2021.

⁵² CD1.16.

appeal scheme and, where visible, its exhaust stack.⁵³ This would be less than substantial harm and at the very lowest end of the scale. Nevertheless, it would bring the proposal into some conflict with GANP Policy CH4, which requires proposals affecting Listed Buildings and their settings to preserve their significance. Applying paragraph 202 of the NPPF, I consider that the waste management advantages of the appeal scheme would amount to public benefits that would far outweigh this minor heritage harm. The proposed development would have a negligible effect on other heritage assets in the wider area. I find no conflict with CDP Policy 44 concerning the historic environment because the policy provides that development that leads to less than substantial harm to a designated heritage asset will be weighed against the public benefits of the proposal.

71. With respect to carbon emissions and climate change considerations it is likely that the clinical and hazardous waste that would be treated at the proposed facility would need to be disposed of somewhere by high temperature incineration, resulting in carbon emissions to the atmosphere. Therefore, it would be important that the overall impact of greenhouse gas emissions was minimised by providing treatment close to the source of waste, thereby limiting transport emissions, and to maximising the energy recovered from the treatment process. I am satisfied that the appeal scheme would reasonably achieve these aims.⁵⁴ There are no grounds to dismiss the appeal because of climate change considerations.
72. I consider that the other matters raised at the Inquiry by TRG and interested persons, and in the written representations, could be satisfactorily addressed by the imposition of appropriate planning conditions.

Planning balance and policy

73. The perception of harm is a material consideration that should be given slight weight in the planning balance. The harm to designated heritage assets in this case is minor, but it nonetheless attracts considerable importance and weight. In my judgement, these disadvantages of the appeal scheme would be outweighed by the benefits of a modern waste management facility to process potentially harmful clinical and hazardous waste at a location that would assist in minimising the distances that these wastes were transported. TRG speculates that more employment opportunities may be lost than would be gained as a result of the proposed development. I am not convinced that a perception of harm is a consideration that would significantly detract from the actual benefits to the local economy of 27 full-time jobs. I find that the planning balance falls in favour of the proposed development.
74. For the reasons set out earlier in this decision the appeal scheme accords with CDP Policy 2. I find no conflict with CDP Policy 47 or WLP Policy W35. The proposal would satisfy part a. of CDP Policy 60 because it would contribute, insofar as this would be possible for a disposal facility, towards driving the management of waste up the waste hierarchy by providing reasonable scope for surplus energy to be recovered. The scheme would assist in moving the management of waste in the County towards net self-sufficiency and would make an appropriate contribution to regional net self-sufficiency by managing waste streams as near as possible to their production, and so would accord

⁵³ George Stephenson's Locomotion 1 was first put on the rails at this site.

⁵⁴ ID5.

- with part b. of Policy 60. The proposal reasonably demonstrates an additional need that cannot be met by existing operational facilities within the north-east of England (Policy 60 c.). The requirements for permitting the provision of new waste management capacity set out in Policy 60 are met.
75. CDP Policy 61 states that proposals for new waste management facilities will be permitted where they will assist the efficient collection, recycling and recovery of waste materials. The proposed development is a disposal facility, so recycling and recovery would not apply. However, the scheme would assist in minimising the transport of waste and so, in that regard, would meet the 'assist efficient collection' requirement for permitting a new waste management facility, and would satisfy Policy 61 c. The facility would be located close to potential users of energy and heat, and so would comply with Policy 61 d. The appeal site is not designated as a strategic or specific use employment site, and I have found that the proposed facility could be satisfactorily located on suitable land identified for employment use (Policy 61 e.). I find no conflict with the part of Policy 61 that states all proposals must demonstrate that there will be no unacceptable adverse impact on the environment, human health or the amenity of local communities.
76. Subject to the imposition of appropriate planning conditions, and assuming effective pollution controls, the proposed development would not lead to unacceptable levels of air quality. The appeal scheme would not have an unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. With appropriate planning and pollution controls I see no impediment to the effective integration of the proposed development with existing business and community facilities. I find no conflict with CDP Policy 31 concerning amenity and pollution.
77. Provision of 27 full-time jobs would gain some support from GANP Policy R3 regarding the development of employment activities, in suitable and appropriate locations, that diversify the current offer in Great Aycliffe. The proposal would accord with the requirements for acceptable renewable and low carbon energy development as set out in GANP Policy EE3. However, there would be some conflict with GANP Policy CH4 concerning heritage assets.
78. Taking all these considerations into account, I find that the proposed development would accord with the development plan taken as a whole. NPPW states that applicants are only expected to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up-to-date local plan. Therefore, for the purposes of applying national waste policy there is no need for the proposed development to demonstrate a market need.

Conditions and obligations

Obligations

79. The appeal scheme would not have a likely significant effect on the SPA and so mitigation would not be necessary. The nutrient neutrality obligation in part 2 of the second schedule of the UU is incompatible with the test of necessity set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as amended, (CIL Regulations) and I attach no weight to it in determining this appeal.

80. DCC does not dispute the need for the obligations regarding a heat network but has doubts about the efficacy of the UU. I am satisfied that these obligations are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related to the scale and kind of the development. A discounted price for the sale of the heat would be necessary to encourage the take up of the heat in accordance with the aims of WMPE.
81. DCC raised an issue in Closing Submissions about title to the appeal site, but this was resolved in a further exchange between the appellant and DCC.⁵⁵ The reservations raised by DCC about the heat network obligations include the UU not binding the land to which the heat would be delivered, the operation of the incinerator not being contingent on the ability to make the heat transfer available to the wider estate, along with vague and inchoate terms rendering the undertakings impossible to be enforced with any degree of certainty. DCC is also concerned that the local planning authority would have no input to the process.
82. However, it seems to me that the heat network obligations are set out in these terms because it is not known at this stage which properties might receive the off-take heat, and that it is unlikely that potential users would give any commitment to doing so in advance of the scheme gaining planning permission. CDP Policy 61 d. acknowledges this by reference to 'potential users of...energy and heat'. DCC's criticisms of the heat network obligations do not justify dismissing the appeal on the grounds that provisions, necessary and reasonable for the purposes of compliance with the CIL Regulations, would not be delivered. Nevertheless, I consider that it would be necessary for DCC to have greater input into the process for securing a heat network. This is a matter that could be addressed by the imposition of appropriate planning conditions.

Conditions

83. Suggested conditions were discussed on a without-prejudice basis at the Inquiry. The agreed position between DCC and the appellant, which includes pre-commencement conditions, is set out in ID51.4. I have considered the need for these and their wording in the light of the advice contained in the NPPG. Where necessary minor changes to the suggested wording would be required so that conditions would be precise and enforceable.
84. DCC suggests that the wording of conditions should refer to required features being 'maintained'. I concur with the appellant that a maintenance requirement would not be reasonable. To comply with the tests for conditions reference would need to be made to the 'provision for and thereafter retention of' required features.
85. A site restoration condition is suggested by DCC. This seeks the removal of all buildings, chimney stack, associated plant, machinery, waste and processed material from the site within 24 months of approval of a site restoration scheme to be submitted within 6 months of final cessation of the operation of the permitted development. This would not be necessary as the proposed building is a conventional portal building on an industrial estate that would have the potential for reuse. If reuse of the building was achieved, it would

⁵⁵ ID61 and ID62.

result in significant carbon savings. Furthermore, the EA would need to be satisfied that necessary measures had been taken to return the site to a satisfactory state for the surrender of the EP. I was referred to an appeal decision purportedly for a similar development where such a condition was imposed. The full particulars that applied in that case are not before me. I do not consider that it sets a precedent for the imposition of a site restoration condition in the current appeal.

86. DCC considers that suggested conditions in ID51.4 should be read in conjunction with the second schedule of the UU and would need to be rationalised. There is insufficient information before the Inquiry about details for the provision of infrastructure for a heat network and the process to be followed in securing its utilisation. It would be necessary for these details to be submitted to the local planning authority for approval. I have included conditions to do so in rationalising the obligations and conditions.
87. The standard three-year commencement period would be appropriate (Condition 1) and the local planning authority would need to be notified of commencement (Condition 2).⁵⁶ Otherwise than as set out in this decision and conditions, it would be necessary that the development be carried out in accordance with the approved plans discussed at the Inquiry, to provide certainty for all parties (Condition 3). An approved Construction Management Plan would be required to safeguard the amenity of the area and to comply with CDP Policy 31 (Condition 4).
88. Condition 5 would be necessary to safeguard trees in accordance with CDP Policies 29 and 40. The constructed access to the site would need to be retained (CDP Policy 21) (Condition 6). Details for parking and the external yard would need to be approved (Condition 7) in the interests of the appearance of the area and highway safety. It would be necessary to approve details of the proposed building as the submitted plans do not show sufficient information, including about carbon mitigation measures (CDP Policies 29 and 33) (Condition 8). To safeguard the amenity of the area in accordance with CDP Policy 31 controls on noise emissions would be necessary (Condition 9). External materials would need to be approved in the interests of the appearance of the area and compliance with CDP Policy 29 (Condition 10).
89. Conditions 11, 12 and 13 are necessary and reasonable to provide for the implementation and retention of infrastructure required for a heat network, and for the local planning authority to secure measures that would capitalise on the potential of the scheme for beneficial reuse of surplus energy in accordance with the aims of the WMPE. To rationalise the UU obligations and suggested planning conditions it would be necessary for the local planning authority to approve a Sustainable Energy Reuse Scheme. This would need to include details about how commercial opportunities would be assessed and advertised, along with provisions for monitoring and reporting. Details of how any technical and administrative practicalities would be addressed would also need to be approved. The scheme would also need to approve how the price for the heat would be determined so as to encourage take up in accordance with the WMPE. It would be necessary for the scheme to specify in what circumstances it would be appropriate to cease monitoring of heat off-take opportunities and for it to set out a procedure for how this would be determined and for the local

⁵⁶ The numbering of conditions in this section refers to the numbering in the Schedule of Conditions attached to this decision and not to the suggested conditions in ID51.

planning authority to give notice in writing. Provision would also be required to approve steps to be taken to recover energy in the event that some or all of the surplus heat was not taken up.

90. A scheme to manage surface water would be required to safeguard groundwater, and surface and foul water would need to be adequately disposed of in accordance with CDP Policies 35 and 36, and WLP Policy W26 (Conditions 14 and 20). Approved hard and soft landscaping would need to be provided in the interests of the appearance of the area (CDP Policies 39, 41 and 43) (Conditions 15 and 16). For similar reasons lighting would need to be controlled (Condition 17). A Travel Plan would be required to promote sustainable transport in accordance with CDP Policy 21 (Condition 18). The recommendations in the submitted ecological appraisal would need to be implemented in the interests of nature conservation and to comply with CDP Policies 41 and 43 (Condition 19).
91. For sustainable development reasons and for the purposes of CDP Policy 29 the proposed building would need to achieve a BREEAM score of 'very good' (Condition 21). The stack height would need to be specified as the evidence before the Inquiry was on the basis of a stack height 30 m above the existing ground level. The top of the stack would, therefore, need to be no higher than 128 m AOD (CDP Policies 29 and 39) (Condition 22). To accord with the description of the proposed development the site should not be used as a treatment facility for household, commercial, industrial or municipal wastes (Condition 23). Hours of operation and times for deliveries would need to be controlled in the interests of the amenity of the area and compliance with CDP Policy 31 (Conditions 24 and 25).
92. The total number of HGVs serving the proposed facility would need to be limited to 15 in and 15 out per day as averaged over a month so as to safeguard the amenity of the area and ensure highway safety in accordance with WLP Policy W31 (Condition 26). A condition to ensure that mud, dirt and waste was not transferred to the public highway would be necessary to safeguard highway users (WLP Policy W32) (Condition 27). A scheme would be necessary on amenity grounds (CDP Policy 31 and WLP Policy W32) to minimise the number of vehicles servicing the proposed facility travelling through local villages (Condition 28). The proposal was assessed on the basis that it would treat no more than 10,500 tpa of waste. It would be necessary to stipulate this, and to require records to be kept, to ensure that the proposed development would be carried out in accordance with the evidence before the Inquiry (Condition 29). Drawing P2 shows preliminary proposed levels and so finished floor and ground levels would need to be approved prior to the commencement of the development in the interests of the appearance of the area (Condition 30).

Conclusion

93. It is clear from the petitions and written representations at the application and appeal stages, and from the thoughtful and sincere submissions to the Inquiry by local people, including elected officials, that there is a significant level of public opposition to the appeal scheme. Given the type of waste proposed to be treated it is understandable why people hold these views so strongly. I have taken these points of view into account in my decision. However, they must be balanced against the other aspects of the evidence before the Inquiry.

In doing so, I have determined the appeal on its planning merits, having regard to relevant policy.

94. Some objectors referred to the proposal resulting in an infringement of their human rights. These concerned the right to life, the right to respect for private and family life, and the right to the peaceful enjoyment of possessions and property. I do not consider these submissions to be well founded, as I have concluded that the appeal scheme would not materially harm human health and that it would not have an unacceptable environmental impact. In my judgement, having had regard to my conclusions on the main issues and other matters raised, allowing the appeal would not result in interference with or violation of any Human Rights with reference to the Human Rights Act 1998.
95. The planning balance falls in favour of the proposed development. Overall, the appeal scheme would comply with the development plan. It would also accord with national policy and guidance when taken as a whole. There are no material considerations here to indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

J Woolcock

INSPECTOR

APPEARANCES

FOR DURHAM COUNTY COUNCIL (DCC):

John Barrett of counsel	Instructed by Neil Carter Solicitor for Durham County Council
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He called

Gawin Holmes FRICS Faav	Consultant
Samuel Thistlethwaite BA (Hons)	Managing Director IC Planning Ltd
MSc MRTPI	

FOR THE APPELLANT:

Paul G Tucker KC and Piers Riley-Smith of counsel	Instructed by James Blakey Indev Projects
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They called

Andrew Olie BSc MIWM FID	Managing Director Monksleigh Ltd
Miles Thomas BSc (Hons) MRICS	Group Partner Carter Jonas LLP
Simon Greaves BA (Hons) Dunelm MSc	Castellum Consulting

FOR THE RESIDENTS' GROUP (TRG) RULE 6 PARTY:

John Longley	Advocate/witness for Rule 6 party
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He called

John Longley	Local resident
David Storry	Local resident

INTERESTED PERSONS:

Gary Bosomworth	Gestamp Tallent Ltd
Helen Parsons	Local resident
Adam Guy	Local resident
Fiona Sowerby	Local resident
Harriet Sowerby	Local resident
Robin Wallington	Local resident
Suzanne Wood	Local resident
Kate Ridgeway	Local resident
Eileen Brewis	Local resident
Michael Wright	Local resident
Joanne Smith	Local resident
Mike Atkinson	Local resident
Chris Yates	Local resident
Kevin Ayrton	On behalf of Great Aycliffe Town Council
Cllr Eddy Adam	School Aycliffe Town Council and Durham County Council
Cllr Jim Atkinson	Durham County Council
Sharron Marshall	Local resident

Catherine Lenahan
John Sowerby

Local resident and education expert
Local resident

Statement by Emily Harker read to the Inquiry by Hilda Longley

Mr Carter for DCC and Mr Harding for the appellant joined in the discussion about suggested planning conditions

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

ID	1	Opening submissions on behalf of the appellant
ID	2	Opening on behalf of Durham County Council
ID	3.1	Durham County Council publicity for Station Place dated 4 May 2022
	3.2	Durham County Council publicity for Station Place dated 19 November 2021
	3.3	Durham County Council publicity for Station Place dated 19 January 2022
ID	4	Errata for Proof of Evidence by Mr Olie
ID	5	Briefing Note of Sol Environmental Ltd dated 27 June 2022
ID	6.1	Additional queries regarding the impact of the HTI facility on the SPA Gair 22 June 2022
	6.2	Email from Nick Lightfoot Natural England dated 27 June 2022
ID	7	Email exchange dated 24 June 2022 between Nick McTague and Paul Fairlamb concerning valuation of a unit at Hilton Road
ID	8	Written statement by Matthew O'Keefe
ID	9	Opening statement by The Residents' Group
ID	10	Statement by Helen Parsons
ID	11	Written statement by John Sowerby [read out at the Inquiry]
ID	12	Written statement by Penny Jackson
ID	13	Written representation dated 9 June 2021 at application stage by Kevin Gay Director PWS
ID	14	Written statement by Amanda McCosh [read out at the Inquiry]
ID	15.1	Environment Agency consultation dated 20 May 2021
	15.2	Environment Agency consultation dated 3 September 2021
ID	16	Statement by Cllr Eddy Adam
ID	17	Written statement by Karron Miller
ID	18	Written statement by Sarah Travis
ID	19	Written statement by Janice Barnes
ID	20	Written statement by Susan Searby
ID	21	Statement by Eileen Brewis
ID	22	Written statement by Paul Barber CEng MIMechE
ID	23	Written statement by Connie Wright
ID	24	Statement by Adam Guy
ID	25	Written statement by Alex Burkill Durham Precision Engineering Ltd
ID	26	Google Earth photos showing context for Stoke High Temperature Incinerator (HTI) Fawley HTI Ellesmere Port HTI and Kent HTI
ID	27	Written statement by Barbara Brown
ID	28	Written statement by Gemma Bottomley
ID	29	Written statement by Indra Falla-Holmes
ID	30	Written statement by Paula Meale
ID	31	Written statement by Helen Brooks
ID	32	Written statement by Steve Aspinall

ID	33	Written statement by Veronica McNeillie
ID	34	Written statement by Kimberley Lee
ID	35	Statement by Sharron and Arthur Marshall
ID	36	Written statement by Dave Buttle
ID	37	Written statement by Emma Judge
ID	38	Written statement by Wendy Falla-Holmes
ID	39	Written statement by Lauren French
ID	40	Written statement by Jeanne Taylor
ID	41	Written statement by Elizabeth Harker
ID	42	Inquiry Note Regarding Development Areas within Merchant Park Employment Site
ID	43	Written statement by Hilda Longley
ID	44	Inquiry Note HSE consultation including responses dated 6.5.21 23.6.21 (2) and 6.8.21
ID	45	Olive Compliance Ltd report commissioned by appellant dated 7 July 2022 concerning hazardous waste
ID	46	The Residents' Group email dated 10 July 2022 responding to ID44 and ID45
ID	47	Tate Consulting report dated July 2022 concerning heat management commissioned by appellant
ID	48	Extract from House of Lords NHS: Dangerous Waste and Body Parts Disposal Volume 793: debated on Wednesday 10 October 2018
ID	49.1	Email dated 10 August 2022 from appellant concerning R1 efficiency
	49.2	Inquiry Note: R1 status of proposed Merchant Park HTI facility
	49.3	Email from appellant dated 16 September 2022
		R1 Efficiency Standard – EA Liaison
ID	50	An Assessment of the Impact of Air Emissions from a High Temperature Incineration Plant on the Teesmouth & Cleveland Coast Special Protection Area including Annex A Previous Assessments Undertaken Annex B Position of Natural England on Nutrient Neutrality for Aerial Emissions Annex C Argus Ecology Technical Report Annex D Archon Environmental Technical Report Annex E Nutrient Neutrality Assessment
ID	51.1	Proposed Conditions - Review
	51.2	Tracked version of proposed Conditions
	51.3	Appellant's suggested replacement of Condition 11 d) by conditions 11A and 11B
	51.4	Final version of suggested conditions
ID	52	Information to inform Habitats Regulations Assessment Argus Ecology 6 September 2022
ID	53.1	Draft unilateral undertaking
	53.2	Unilateral undertaking dated 17 October 2022
ID	54	Application documents for Durham Animal Feeds DM/2200748/FPA/MOSU
ID	55	Email from Natural England dated 27 September 2022 with comments on ID50 and ID52
ID	56	Email from DCC dated 28 September 2022 confirming DCC's position on nutrient impacts
ID	57	Closing statement on behalf of The Residents' Group (Rule 6 Party)
ID	58	Closing on behalf of Durham County Council
ID	59	Closing submissions on behalf of the appellant

- ID 60 Email dated 30 September 2022 from The Residents' Group forwarding previous emails regarding response from DCC and Darlington Borough Council about poor air quality
- ID 61 Email from appellant dated 11 October 2022 concerning redacted Option Agreement
- ID 62 Email from DCC dated 11 October 2022 responding to ID61 and advising that the Pre-emption Agreement does not affect the appeal site
- ID 63 *Maternal exposure to ambient black carbon particles and their presence in maternal and fetal circulation and organs: an analysis of two independent population-based observational studies* The Lancet Vol 6 Issue 10 E804-E811 October 2022
- ID 64 DCC response to ID63 dated 8 October 2022
- ID 65 Appellant's response to ID63 dated 9 October 2022

PLANS

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CORE DOCUMENTS (CD)

1.1	Application Form
1.2	Validation letter
1.3	Planning Statement
1.4	Planning Statement Appendix 1 Policy
1.5	Planning Statement Appendix 2 EA Flood Map
1.6	Planning Statement Appendix 3 Designations
1.7	Planning Statement Appendix 4 Scoping Opinion
1.8	Planning Statement Appendix 5 LVIA
1.9	Planning Statement Appendix 6 Transport
1.10	Planning Statement Appendix 7 Ecology
1.11	Planning Statement Appendix 8 Noise
1.12	Planning Statement Appendix 9 Levels
1.13	Planning Statement Appendix 10 Consultation
1.14	Planning Statement Appendix 11 Ventilation and Extraction
1.15	Planning Statement Appendix 12 Validation
1.16	Planning Statement Appendix 13 Heritage
1.17	Environmental Statement Volume 1

1.18	Environmental Statement Volume 2 Appendix 5 Proposed Development
1.19	Environmental Statement Volume 2 Appendix 8 Population and Human Health
1.20	Environmental Statement Volume 2 Appendix 10 Air Quality
1.21	Environmental Statement Volume 2 Appendix 11.1 (1) Water Quality Hydrology and Flood Risk
1.22	Environmental Statement Volume 2 Appendix 11.1 (2) Water Quality Hydrology and Flood Risk Groundsure Plans Part 1
1.23	Environmental Statement Volume 2 Appendix 11.1 (3) Water Quality Hydrology and Flood Risk Groundsure Plans Part 2
1.24	Environmental Statement Volume 2 Appendix 11.2 (1) Geoenvironmental Appraisal Part 1
1.25	Environmental Statement Volume 2 Appendix 11.2 (2) Geoenvironmental Appraisal Part 2
1.26	Environmental Statement Volume 2 Appendix 11.2 (3) Geoenvironmental Appraisal Part 3
1.27	Environmental Statement Volume 2 Appendix 11.3 Flood Risk Assessment and Drainage Management Strategy
1.28	Environmental Statement Volume 2 Appendix 11.4 Drainage Emails
1.29	Environmental Statement Volume 2 Appendix 13 designated heritage assets within 2 km of site centre
1.30	Environmental Statement Volume 3 NTS v1
1.31	Air Quality Addendum April 2021
1.32	Environmental Statement Volume 3 NTS v2
1.33	Built Heritage Statement
1.34	LVIA 28.04.21 V5
1.35	Sustainability Checklist
1.36	Further Information Package - Covering Letter
1.37	Further Information Package - Air Quality Information Part 1 LA Responses
1.38	Air Quality Information Part 2 Environmental Statement Volume 1 Chapter 10
1.39	Further Information Package - Arboriculture Plan
1.40	Further Information Package - Arboriculture Report
1.41	Further Information Package - Carbon Impacts Response
1.42	Further Information Package - Carbon Management - Sustainability Highlights Information
1.43	Further Information Package - 20032-BGL-XX-XX-RP-D-01001 V3 Flood Risk Assessment and Drainage Strategy
1.44	Further Information Package - Ecology - Butterfly Survey
1.45	Further Information Package - Market Context Newton Aycliffe
1.46	Further Information Package - Supplementary Planning Statement
1.47	Further Information Package - Supplementary Planning Statement Appendix 1 - MP Meetings Q and A

1.48	Further Information Package - Supplementary Planning Statement - Final Sustainability Highlights
1.49	NPPF Public Benefits Heritage Commentary Final
1.50	Response to DCC ref GATC 11-10-2021 Letter
1.51	Response to Residents Report Schedule - 11-10-21
1.52	Response to DCC ref clarifications 08-09-2021 Letter Final
1.53	Response to DCC ref EA response 13-09-2021 Letter Final
1.54	Response to Hitachi questions - letter - 08-09-2021
1.55	Hitachi comments on application
2.1	P01 Site Location
2.2	P02 Site Plan
2.3	P03 Site Layout
2.4	P04 Proposed Basement Layout
2.5	P05 Proposed Ground Floor Layout
2.6	P06 Proposed Mezzanine Layout
2.7	P07 Proposed Roof Plan
2.8	P08-09 Proposed Elevations (1 of 2)
2.9	P08-09 Proposed Elevations (2 of 2)
2.10	P10-11 Proposed Sections (1 of 2)
2.11	P10-11 Proposed Sections (2 of 2)
2.12	Preliminary Proposed Levels
2.13	Arboricultural Layout
3.1	7 December 2021 Committee report
3.2	17 December 2021 Committee minutes
3.3	Decision notice dated 17/12/2021
4.1	National Planning Policy Framework
4.2	National Policy for Waste
4.3	Planning Practice Guidance Notes
5.1	County Durham Plan (2020)
5.2	County Durham Waste Local Plan (Saved Policies) (2005)
5.3	Great Aycliffe Neighbourhood Plan (2017)
5.4	Employment Land Review
6.1	Appellant's Statement of Case
6.2	Council's Statement of Case
6.3	Inspector's Case Management Notes
6.4	Statement of Common Ground
6.5	Statement of Common Ground Addendum
6.6	Inquiry timetable
6.7	Rule 6 Party Statement of Case
7.1	ES - Fornax ES Vol 1 Resubmission
7.2	ES - Fornax ES Vol 2 Resubmission
7.3	ES - Appendix 1 Competency Statement
7.4	ES - 21002 Project Helios All Planning Drawings 16.04.21
7.5	C82-P39-R04 Newton Aycliffe HHRA May 2022

7.6	C82-P39-R05 Air Quality Report Newton Aycliffe May 2022 ES Version
7.7	ES - GS-7729894 Largescale
7.8	ES- GS-7729894 Smallscale
7.9	ES - GS-7729895
7.10	20032-BGL-XX-XX-DR-S-01250 P2 Drainage Strategy
7.11	20032-BGL-XX-XX-RP-D-01001 V2 Flood Risk Assessment and Drainage Strategy
7.12	Appendix 11.2 Sirius Site Investigation Report 2008
7.13	ES - APPENDIX 11.4
7.14	Newton Aycliffe LVIA Chap 12 Figures
7.15	Newton Aycliffe ES Heritage Appendix 1
7.16	ES Vol 3 NTS Resubmission
8.1	Council Evidence – Samuel Thistlethwaite - Planning
8.2	Council Evidence – Gawin Holmes
8.3	Council Evidence – Gawin Holmes Appendix
8.4	Rule 6 Party – Evidence
8.5	Residents Group Proof of Evidence – ERIC Data 2015 16
8.6	Residents Group Proof of Evidence – ERIC Data 2020 21
8.7	Residents Group Proof of Evidence – Fornax Environmental Merchant Park Paul Howell
8.8	Residents Group Proof of Evidence – High Temperature Incineration Plan – Report from The University of Kent by Dr Ashley Mills and Professor Stephen Peckham BSc (Hons) MA (Econ) HMFPH
8.9	Residents Group Proof of Evidence – PDF-006683 Royal College of Nursing Freedom of Information Follow up Report on Management of Waste in the NHS February 2021
8.10	The Residents’ Group Proof of Evidence – Statistics on Waste Managed by Local Authorities in England in 2020/21 (Defra)
8.11	Appellant Evidence – Castellum - Simon Greaves – Planning Evidence
8.12	Appellant Evidence – Castellum - Simon Greaves – Appendix 1
8.13	Appellant Evidence – Castellum - Simon Greaves – Appendix 2
8.14	Appellant Evidence – Castellum - Simon Greaves – Appendix 3
8.15	Appellant Evidence – Castellum - Simon Greaves – Appendix 4
8.16	Appellant Evidence – Monksleigh – Andrew Olie – Need
8.17	Appellant Evidence – Monksleigh – Andrew Olie – Clarification and errata
8.18	Appellant Evidence – Carter Jonas – Miles Thomas – National Market
8.19	Appellant Evidence – Carter Jonas – Miles Thomas – Appendix 4

9.1	Rebuttal Evidence of Dr Amanda Gair BSc (Hons) MEnvSc MIAQM CEnv dated 17 June 2022
9.2	Council Evidence – Samuel Thistlethwaite Rebuttal
9.3	Council Evidence – Gawin Holmes Rebuttal
9.4	Council Evidence – Gawin Holmes Rebuttal Appendix 1
9.5	Council Evidence – Gawin Holmes Rebuttal Appendix 2
9.6	Rule 6 Party – Rebuttal
10.1	Inquiry Programme
10.2	Pre-Inquiry Note
10.3	Inspector Queries on Conditions

JUDGMENTS

Newport BC v Secretary of State Court of Appeal (Civil Division) June 1997
Scottish Widows Plc v Cherwell DC [2013] EWHC 3968 (Admin)
Smith v First Secretary of State [2005] EWCA Civ 859
West Midlands Probation Committee v Secretary of State for the Environment Transport and the Regions [1997] 11 WLUK 123

SCHEDULE OF CONDITIONS (1-30)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.
3. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below.

Site Location Plan	P01
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Preliminary Ecological Appraisal	June 2020
Heighington Lane	
Flood Risk Assessment and Drainage Management Strategy	27 July 2021
Arboricultural Layout	
Arboricultural Report	June 2021

4. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, and light) that the development may have upon any nearby sensitive receptors and shall detail the mitigation proposed, as a minimum this should include, but not necessarily be restricted to, the following:
 - (a) Hours of construction including deliveries.
 - (b) A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
 - (c) Details of methods and means of noise reduction/suppression.
 - (d) Details of construction lighting.
 - (e) Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - (f) Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 - (g) Designation, layout and design of construction access and egress points.
 - (h) A delivery management plan including details for the provision of directional signage (on and off site) and how construction and servicing

- vehicles would be managed on the public highway to avoid queuing.
- (i) Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
 - (j) Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 - (k) Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
 - (l) Routing agreements for construction traffic.
 - (m) Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - (n) A waste audit and a scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
 - (o) Management measures for the control of pest species as a result of demolition and/or construction works.
 - (p) Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy for the Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations. The approved Construction Management Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

5. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved Arboricultural Layout are protected by the erection of fencing as shown in the Arboricultural Report referred to in Condition 3. The fencing shall thereafter be retained. No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any protected tree. No removal of limbs of trees or other tree work shall be carried out for protected trees. No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Arboricultural Layout.
6. The access to the site shall be built as detailed and approved by permission DM/21/02178/FPA prior to commencement of development and shall thereafter be retained in accordance with the approved details.
7. No development shall commence until final details of the design and layout of the car park and external yard area, including fencing and CCTV, along with a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. Such details shall include cycle parking and electric charging points. Once approved the details shall be implemented and thereafter retained for the life of the facility in accordance with the approved details.
8. No development shall commence until a detailed scheme for the proposed building, including confirmation of low and zero carbon measures, and plant, including the retention of these details and measures for the life of the facility, have been submitted to and approved in writing by the Local Planning Authority. Once approved the scheme shall be implemented before the development hereby permitted processes waste other than for the

- purposes of commissioning plant and equipment and shall thereafter be retained for the life of the facility in accordance with the approved details.
9. Prior to finalisation of the scheme design required by Condition 8 a detailed noise impact assessment and scheme of sound attenuation measures prepared by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall only be operated in complete accordance with the approved details. The rating level of noise emitted from plant and machinery involved in the proposed commercial process on the site shall not exceed the background (L_{A90}) by more than 5 dB L_{Aeq} (1 hour) between 07:00 and 23:00 hours and 0 dB L_{Aeq} (15 mins) between 23:00 and 07:00 hours as measured at the nearest noise sensitive receptors. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019.
 10. No development shall commence until details of the make, colour and texture of all walling and roofing materials and the stack have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and thereafter retained.
 11. No development shall commence until details of the district heat network infrastructure to be provided from the development site to the edge of the public highway has been submitted to and approved in writing by the Local Planning Authority. These details shall include the period for which the infrastructure shall be retained in a usable condition.
 12. The development hereby permitted shall not process waste other than for the purposes of commissioning plant and equipment until the district heat network infrastructure approved by the Local Planning Authority in accordance with Condition 11 has been installed. The district heat network infrastructure shall thereafter be retained in a usable condition for the period approved in Condition 11.
 13. The development shall not process waste other than for the purposes of commissioning plant and equipment until a Sustainable Energy Reuse Scheme for the beneficial reuse of surplus energy generated by the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The Sustainable Energy Reuse Scheme shall include:
 - (a) Details about how potential commercial opportunities for the use of waste heat from the development hereby permitted shall be assessed.
 - (b) The steps to be taken to advertise and facilitate the off-take of surplus heat, including details of the initial promotion and advertisement of the opportunity for heat off-take and arrangements for subsequent promotions in accordance with the monitoring provisions set out in (e).
 - (c) Details about how the price at which the heat would be provided would be determined.
 - (d) Provisions to address any technical and administrative practicalities of delivering the heat.
 - (e) Provisions for the ongoing monitoring and exploration of potential commercial opportunities for heat off-take, along with the procedure for reporting in writing to the Local Planning Authority the details of the monitoring undertaken and the implications for further promotions in accordance with (b).

- (f) Details about the circumstances in which it would be appropriate to cease the monitoring required by (e), along with a procedure for such a determination and for the Local Planning Authority to approve in writing the cessation of monitoring.
- (g) Details about the steps to be taken to recover energy from the waste, whether through its conversion to electricity or other recovery, in the event that some or all of the surplus heat is not taken up.

The development hereby permitted shall only be operated in accordance with the approved Sustainable Energy Reuse Scheme.

14. No development shall commence until a scheme to manage surface water by means of the proposed attenuation pond has been submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall be implemented before the development hereby permitted processes waste other than for the purposes of commissioning plant and equipment and shall thereafter be retained and managed in accordance with the approved scheme.
15. No development shall commence until details of proposed hard landscaping (including retaining walls) have been submitted to and approved in writing by the Local Planning Authority. The development shall not process waste other than for the purposes of commissioning plant and equipment until the hard landscaping has been implemented in accordance with the approved details and shall thereafter be retained.
16. No development shall commence until details of a scheme for soft landscaping have been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the provision of birds-foot trefoil and include details of planting species, sizes, layout, densities, numbers, a timeframe for implementation of the landscaping scheme, and the establishment of a maintenance regime, including the replacement of vegetation that dies or fails to flourish. The works shall be carried out in accordance with the approved scheme. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the first planting season after this occurs with others of a species, size and number as originally approved.
17. The development hereby permitted shall not process waste other than for the purposes of commissioning plant and equipment until a scheme for the provision of lighting for the external areas, including details of the number, type, position, design, dimensions and lighting levels of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be implemented in accordance with the approved details and thereafter retained.
18. The development hereby permitted shall not process waste other than for the purposes of commissioning plant and equipment until a Travel Plan (conforming to the National Specification for Workplace Travel Plans, PAS 500:2008, Bronze level) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single occupancy car use shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall thereafter be implemented, monitored and reviewed in accordance with the approved details.

19. The development shall be implemented in accordance with the recommendations contained within the submitted document entitled "Preliminary Ecological Appraisal Heighington Lane" dated "June 2020".
20. No development shall commence until final details of the drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the principles of the drainage scheme contained within the submitted document entitled "Flood Risk Assessment and Drainage Management Strategy" dated "27/07/2021". The drainage scheme shall be implemented in accordance with the approved scheme before the development hereby permitted processes waste other than for the purposes of commissioning plant and equipment and shall thereafter be retained.
21. The proposed building shall be designed so as to achieve a BREEAM score of 'very good' and written evidence of this shall be submitted to and approved in writing by the Local Planning Authority prior to its construction. The building shall be constructed in accordance with the approved details and thereafter retained.
22. The stack height shall not exceed 128 m above ordnance datum (AOD).
23. Only hazardous and clinical waste, as defined in an Environmental Permit issued by the Environment Agency shall be imported to the site. The site shall not be used as a treatment or storage facility for household, commercial, industrial or municipal wastes.
24. External construction operations shall only take place between 06:00 and 22:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays with no works on Sundays or Bank and Public Holidays. Internal works to install and commission the plant and equipment for the facility are not restricted by this condition.
25. Delivery of waste and export of all residues, including ash, shall only take place between the hours of 06:00 and 22:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays. No deliveries or export of residues shall take place on Sundays or Bank and Public Holidays.
26. The total number of all HGV vehicles transporting waste, reagent, ash, pallets and consumable goods to/from the facility hereby permitted shall not exceed a daily total of 30 (15 in and 15 out), as averaged over a period of a calendar month. A written record of all service vehicles entering and leaving the site shall be maintained by the operator and a copy of this record shall be submitted to the Local Planning Authority within two working days of such a request.
27. The development hereby permitted shall not process waste other than for the purposes of commissioning plant and equipment until details of measures to ensure that mud, dirt, and waste is not transferred onto the public highway, and for measures to remove any such deposits, have been submitted to and approved in writing by the Local Planning Authority. These measures shall include provisions to cease vehicle movements to and from the site until any material transferred to the highway is removed in accordance with the approved details. The development hereby permitted shall at all times operate in accordance with the approved measures.
28. Development shall not commence until a scheme for the management of construction traffic, vehicles carrying waste and other HGVs associated with the development, has been submitted to and approved in writing by the Local Planning Authority. As a minimum this scheme shall include measures to prevent such vehicles driving through School Aycliffe or Aycliffe Village, other than when making a local collection in those villages, and shall include

measures to enforce the proposed actions. The development hereby permitted shall only be operated in accordance with the approved scheme.

29. The amount of waste imported to the site shall not exceed 10,500 tonnes per annum. Written records of the tonnage of all waste received at the site shall be kept and made available for inspection by the Local Planning Authority upon request.
30. Development shall not commence until details about finished floor and ground levels have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved levels.