North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

21 January 2020

PLANNING APPLICATION ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT FOR THE PURPOSES OF THE VARIATION OF CONDITION NO'S 2, 3, 4, 5, 6, 9, 11, 13, 14, 15, 26, 37, 38, 39, 42, 43, 54, 55, 56, 57, 58 & 62 OF PLANNING PERMISSION REF. NO. C8/2013/0677/CPO 'THE RELOCATION OF COLLIERY ACTIVITIES AND CONSTRUCTION OF AN ENERGY CENTRE TO RECOVER ENERGY FROM WASTE WITH ANCILLARY DEVELOPMENT INCLUDING OFFICES AND UTILITY USES (E.G. WORKSHOPS AND ELECTRICAL ROOMS); PARKING; A NEW ACCESS POINT AND IMPROVEMENTS TO THE EXISTING ACCESS; INTERNAL ROADS; RAILWAY SIDINGS; A WEIGHBRIDGE AND GATEHOUSE; A SUBSTATION AND TRANSFORMER COMPOUND; A NATIONAL GRID CONNECTION; PRIVATE WIRE CONNECTION TO THE COLLIERY; SUSTAINABLE URBAN DRAINAGE SYSTEMS; LIGHTING; CCTV; LANDSCAPING AND FENCING ON LAND AT KELLINGLEY COLLIERY, TURVER'S LANE, KNOTTINGLEY, WEST YORKSHIRE, WF11 8DT.' THE PROPOSED VARIATIONS RELATE TO:- INCREASING THE CONSENTED ANNUAL THROUGHPUT OF WASTE AT THE ENERGY CENTRE, INCREASING THE TWO WAY HGV MOVEMENTS, INCREASING THE TWO WAY HGV MOVEMENTS DURING CONSTRUCTION OF THE ENERGY CENTRE, CHANGES TO ASPECTS OF THE CONSENTED DEVELOPMENT TO ACCOMMODATE PLANT SELECTION INCLUDING CHANGES TO THE TURBINE HALL, BOILER HALL, FGT PLANT AND ACC UNIT, AND CHANGES TO THE CONSENTED CONSTRUCTION PHASING TO INCLUDE THE USE OF THE FORMER KELLINGLEY COLLIERY ACCESS ON LAND AT LAND AT THE FORMER KELLINGLEY COLLIERY, TURVERS LANE, KELLINGLEY, SELBY, WF11 8DT ON BEHALF OF PEEL ENVIRONMENTAL LIMITED (SELBY DISTRICT) (OSGOLDCROSS, MID SELBY, SOUTH SELBY ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

1.1 To determine a planning application accompanied by an Environmental Statement for the purposes of the variation of condition no's 2, 3, 4, 5, 6, 9, 11, 13, 14, 15, 26, 37, 38, 39, 42, 43, 54, 55, 56, 57, 58 & 62 of planning permission ref. no. C8/2013/0677/CPO 'The relocation of colliery activities and construction of an energy centre to recover energy from waste with ancillary development including offices and utility uses (e.g. workshops and electrical rooms); parking; a new access point and improvements to the existing access; internal roads; railway sidings; a weighbridge and gatehouse; a substation and transformer compound; a national grid connection; private wire connection to the colliery; sustainable urban drainage systems; lighting; CCTV; landscaping and fencing on land at Kellingley Colliery, Turver's Lane, Knottingley, West Yorkshire, WF11 8DT.' The proposed variations relate to:- Increasing the consented annual throughput of waste at the Energy Centre, increasing the two way HGV movements, increasing the two way HGV movements during construction of the energy centre, changes to aspects of the consented development to accommodate plant selection including changes to the Turbine Hall, Boiler Hall, FGT plant and ACC unit, and changes to the consented construction phasing to include the use of the former Kellingley Colliery access on land at Land at the Former Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT on behalf of Peel Environmental Limited.

1.2 This application is subject to 8 objections from members of the public, objections from Beal and Eggborough Parish Councils, and an objection from UKWIN (United Kingdom Without Incineration). It is therefore reported to this Committee for determination.

2.0 Background

Site Description

2.1 The application site is located within the former Kellingley Colliery site. The wider colliery site covers an area of approximately 60 hectares and is located approximately 1 kilometre eastwards of Knottingley town. It is bounded by the A645 / Weeland Road to the north, Sudforth Lane to the east and the Aire and Calder Navigation (Knottingley and Goole Canal) alongside the Knottingley-Goole railway to the south. Railway sidings run into the wider colliery site from east to west that used to allow coal to be imported and exported over the railway rather than using the road network.

2.2 The application site covers an area of approximately 13 hectares in the western corner of the wider colliery site. It is bound to the west by existing commercial and residential properties at Calder Grange Farm; to the south-east by the railway line as it diverts to cross the Aire and Calder Navigation (Knottingley and Goole Canal); and to the south-west by the Canal itself. To the north, the A645 / Weeland Road and existing residential properties on Turver's Lane bound the site; and the eastern site boundary is located alongside and around the former colliery activities.

2.3 The application site is set in a predominantly industrial context, although there are pockets of residential development in close proximity. Further afield, the surrounding area comprises mostly arable land and a scattering of settlements focussed around the neighbouring villages, with the town of Knottingley to the west.

2.4 The nearest residential properties to the application site include:

- those on Turver's Lane, immediately adjacent to the northern perimeter;
- Calder Grange Farm, immediately adjacent to the western perimeter; and,
- The Oval, just over 500 metres to the north-east.

2.5 The closest settlements include the town of Knottingley (the eastern extent of which is approximately 1 kilometre to the west of the application site) and the parish villages of Byram-cum-Sutton, Birkin, Beal, Kellington, Eggborough, Whitley, Cridling Stubbs, Womersley, and Stapleton; all of which lie within a 5 kilometre radius of the site. Brears Farm and Kellingley Farm sit to the north of the A645 where it abuts the former Kellingley Colliery, and are approximately 200 metres and 400 metres away from the closest site boundary respectively.

2.6 The site is located within the landscape identified by Natural England as the *Humberhead Levels* national character area, stated as being a '*flat, low-lying and large scale agricultural landscape'*. This is not a landscape designation, but a method of identifying the character of the area. The *Humberhead Levels* stretch from the Vale of York in the north to the *Trent and Belvoir Vales* and *Sherwood* in the south. To the east, it is bounded by the *Yorkshire Wolds* (north of the Humber) and the *Northern Lincolnshire Edge* with *Coversands* (south of the Humber), whilst to the west lies the low ridge of the *Southern Magnesian Limestone*. The primary landscape unit within which this site sits is categorised in the County Planning Authority's *Landscape Character Assessment* as '*Farmed, lowland and valley landscapes*'; and, within this, the site is identified as the '*Levels farmland'* landscape character type.

2.7 The '*Levels farmland*' character type is described as a predominantly flat and low-lying, arable landscape; however, the County Planning Authority's *Landscape Character Assessment* acknowledges that *"Industrial scale farm buildings, large embankments and drains, and major energy and transport infrastructure contribute human elements*". Notable industrial features in the wider landscape include Ferrybridge Power Station approximately 4.3 kilometres to the west, beyond Knottingley; Eggborough Power Station approximately 4.8 kilometres to the east; and Drax Power Station, approximately 12.2 kilometres from the application site.

Constraints affecting the application site

2.8 The site does not lie within any national or local landscape designations.

2.9 There are no heritage assets such as Listed Buildings within the immediate contextual setting of the site. The nearest Listed Buildings are Kellington Windmill, approximately 2 kilometres to the east, and a cluster of three listed buildings in Knottingley, approximately 2 kilometres to the west. Kellington Windmill is separated from the application site by the former colliery buildings (although these are subject to demolition and the site subject to redevelopment proposals) and built development at The Oval. Farmland lies between The Oval and the windmill. The listed buildings in Knottingley are situated within the '*building envelope'* of the centre of Knottingley such that development on the application site would have no impacts.

2.10 There are no known features of archaeological interest on or in the immediate vicinity of the application site.

2.11 One small part of the site lies within the designated West Yorkshire Green Belt; an area to the west of the site, between the properties on Turver's Lane and Calder's Grange. The total area of the site falling within the Green Belt is approximately 2.34 hectares in size which is mainly undeveloped land.

2.12 Two aquifers have been identified. A secondary A aquifer underlying the site and the Roxby Formation Principal Aquifer alongside this to the east of the site.

2.13 Surface water run-off is currently discharged to the Beal Drain via a series of settlement lagoons, and the Beal Drain then connects to the Aire and Calder Navigation (Knottingley and Goole Canal). Flood Zone 2, land which is at medium risk of flooding, encloses most of the former colliery site, abutting the application site boundary to the south in the location of the canal, to the west, and in some areas to the north where the A645 is subject to flooding. A small area of Flood Zone 3, land which is at the highest risk of flooding, also abuts the northern site boundary with the A645.

2.14 There are a number of *Air Quality Management Areas* (AQMA) in the general vicinity of the site; the closest is the *M62 AQMA*, 380 metres to the south at its nearest point. *Knottingley AQMA* is located approximately 1.8 kilometres to the west of the application site, with the *A1 AQMA* 3.4 kilometres beyond.

2.15 A plan showing the application site is attached to this report.

Planning History

2.16 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -

2.17 Planning permission for this development was originally granted on 23rd February 2015 under planning permission ref. no. **C8/2013/0677/CPO**. This planning permission, as well as being conditioned, was subject to the completion of a legal

agreement prepared under S106 of the Town & Country Planning Act 1990 (as amended) which required the following items:

- a Travel Plan,
- an HGV Routeing Plan,
- the appointment of a Travel Plan Co-Ordinator,
- a contribution of £25,000 towards the monitoring of the nearby Willow Garth SSSI,
- a contribution of £6,000 for a replacement pond and/or such other remedial works within the Ecological Monitoring Area at Willow Garth Nature Reserve,
- a contribution of £45,000 towards an off-site landscape improvement fund,
- the implementation of off-site green infrastructure improvement and a contribution of £60,000 towards improvements to pedestrian infrastructure.
- In addition, the completion of a S278 Agreement under the Highways Act 1980 (as amended) for a proposed new access was also sought.

A deed of variation of the original Section 106 agreement was made on 26th May 2017 following the previous S73 variation application being submitted, which had a clause inserted to enable future Section 73 applications to be granted and linked to the original 2015 Section 106 agreement without needing any further deeds of variation.

2.18 Following the closure of Kellingley colliery on 18th December 2015, the provisions within the application and the permission to accommodate activities that were related to the former coal mine became superfluous. To address this change in circumstance, a Section 73 application ref. **C8/2017/0455/CPO** (NYCC ref: NY/2017/0018/ENV) was submitted on 24th January 2017 which took account of the closure. It varied and removed several of the conditions on the original consent as follows: *"application for the variation of condition no's. 2, 17, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 & 61 of planning permission ref. no. C8/2013/0677/CPO (dated 23rd February 2015) which relate to the omission of the domestic coal area, rearrangement of the internal access routes and revised layout of the rail handling facility at the former Kellingley Colliery, Turver's Lane, Knottingley, West Yorkshire, WF11 8DT"* That submission included an addendum to the Environmental Statement (ES), and was approved on 23rd February 2018.

2.19 Alongside the changes applied for within the Section 73 application C8/2017/0455/CPO, but also stemming from the changes arising from the colliery closure, a separate planning application ref **C8/2017/0515/CPO** for the construction of a road to access the Southmoor Energy Centre was made on 9th February 2017, and was granted permission on 5th September 2018.

2.20 During the last year some condition discharge applications have been made to discharge planning conditions in respect of the development. These have been in relation to further details requested by those conditions and therefore this application proposes altered wording to reflect the fact that the details have now been submitted and approved by the Planning Authority and to ensure ongoing compliance with the approved details.

2.21 In addition to the above planning history, of relevance to this application, is the fact that on 6th February 2019 Selby District Council granted Outline planning permission for the construction of an employment park up to 1.45 million sqft. (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) on the wider site at Kellingley and adjacent to the Energy Centre planning application site boundary.

3.0 The Proposal

3.1 Planning permission is sought under the provisions of Section 73 of the Town & County Planning Act 1990 for the variation of condition no's 2, 3, 4, 5, 6, 9, 11, 13, 14, 15, 26, 37, 38, 39, 42, 43, 54, 55, 56, 57, 58 & 62 of planning permission ref. no. C8/2013/0677/CPO 'The relocation of colliery activities and construction of an energy centre to recover energy from waste with ancillary development including offices and utility uses (e.g. workshops and electrical rooms); parking; a new access point and improvements to the existing access; internal roads; railway sidings; a weighbridge and gatehouse; a substation and transformer compound; a national grid connection; private wire connection to the colliery; sustainable urban drainage systems; lighting; CCTV; landscaping and fencing on land at Kellingley Colliery, Turver's Lane, Knottingley, West Yorkshire, WF11 8DT.' The proposed variations relate to:- Increasing the consented annual throughput of waste at the Energy Centre, increasing the two way HGV movements, increasing the two way HGV movements during construction of the energy centre, changes to aspects of the consented development to accommodate plant selection including changes to the Turbine Hall, Boiler Hall, FGT plant and ACC unit, and changes to the consented construction phasing to include the use of the former Kellingley Colliery access on land at Land at the Former Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT on behalf of the Peel Environmental Limited. This application is accompanied by an Environmental Statement.

3.2 The changes proposed in this application are described below:

- Increasing the approved annual throughput of waste at the Energy Centre;
- Increasing the two-way HGV movements during the operational phase of the Energy Centre.
- Increasing the two-way HGV movements during construction of the Energy Centre.
- Changes to aspects of the approved development to accommodate plant selection including changes to the Turbine Hall, the Boiler Hall, the Flue Gas Treatment (FGT) plant and the Air Cooling Condensing (ACC) unit. Other additional minor changes to other structures are proposed within the Energy Centre and are listed in Appendix B of the planning statement. Changes to the previously approved construction phasing to include the use of the former Kellingley Colliery access are also proposed in this application.

3.3 The variation to the conditions of the previously approved scheme are, as detailed by the applicant, required to account for changes to the existing site circumstances (closure of the former Colliery) and the evolution of the project with their Technology Supplier/ EPC contractor. It is the case that when planning permission is granted, development must take place in accordance with the planning permission and conditions attached to it, and with any associated legal agreements. However, new issues may arise after planning permission has been granted, which require modification of the approved proposals (as is the case with this S73 planning application). Where minor changes are proposed, conditions attached may be amended making minor material amendments to the development. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged, amended or deleted. It is then a decision for the applicant as to which planning permission they implement.

3.4 The main modifications proposed which require the variation of the above conditions are:-

- An increase in annual waste throughput;
- Increased HGV movements both during construction phase and during the operational period;
- A small lateral extension to the size of the Turbine Hall, a small increase in the height of the Boiler Hall and a larger ACC unit to accommodate the Technology Supplier/ EPC contractor plant requirements;
- External changes to facilitate the required plant and operations;

The details comprise the following:

- The size of the turbine hall would be increased in width by 6m and would be increased in height by 2m ;
- The service yard adjacent to the Turbine Hall would be adjusted;
- Diesel and ammonia tanks shown on the proposed elevation plans are now identified as dotted outlines;
- A rain water pit has been added – this would now be located below ground level adjacent to the Boiler Hall on the north elevation.
- The car parking arrangement has now been varied. 50 spaces have been retained but have been split into two areas (34 No. adjacent to the office and 16No. relocated to be adjacent to the turbine hall service access yard).
- The gatehouse has been moved 2m west wards along the access road.
- The substation layout has been changed and the substation adjusted in size. Norther Power Grid substation layout is now proposed and the adjacent road access has been amended to accommodate the substation changes.
- The tanks and plant to the south of boiler hall have changed in configuration, number and description – now proposed a Fuel Oil Tanks, Fuel Pumps and an Emergency Diesel Generator.
- FGT external plant and equipment have been re-configured in line with the exact plant to be installed on site.
- The boiler hall height has increased by 1.6m to be 46.6m in height.
- A vehicular access door has been added to the North elevation of boiler hall.
- A new Silo and canopy have been added to the north elevation adjacent to the boiler hall.
- A series of process access doors have been added to the south elevation of the Boiler Hall and the Tipping Hall.
- Three old Silos have been moved to the north elevation adjacent to the boiler hall.
- Louvres have been added to elevations.
- Internal process equipment has been changed internally.
- Waste bunker depth has been changed and the height amended to 36m in height, with the location shifted internally.
- The waste bunker chute has been adjusted.
- The ash bunker has been rotated through 90 degrees.
- The ACC structure has been changed in shape to be wider and shorter to accommodate the six fans required. The proposed new structure will be

42 m in length, 29m in width and 25 m in height. ACC ductwork has also changed;

- A water pit adjacent to the ACC structure has been added to the elevations.
- Roof top condensers and extract fans have been added to the Turbine Hall roof.
- The style of the stack has been amended from a duel stack to a single stack which has reduced the width of it and added a platform.
- Material detail has been added to the plans.
- Roof pitches have been adjusted as follows;
  - Boiler Hall roof asymmetric duel pitched roof
  - Waste Bunker roof mono pitched roof
  - Tipping Hall roof mono pitch roof
  - Turbine Hall roof mono pitch roof

- There has been an amendment to the phasing of construction to take account of the colliery closure.
- There is a proposed increase in two-way Heavy Goods Vehicle movements per day during the construction phase from 100 to 180
- An increase in two way Heavy Goods Vehicle movements per day during the operation of Energy Centre from 30 to 44
- The quantity of waste throughput would change from a permitted 280,000 tonnes per annum of non-hazardous waste to a maximum of 350,000 tonnes per annum.

3.5 In detail, the amendments sought for each condition are as follows:

3.6 **Condition 2** - Definition of Development
Amendments are sought to the approved list of plans, and includes design modifications to the approved building and site layout.

3.7 **Condition 3** relates to construction and activities taking place in accordance with the approved Construction Environmental Management Plan (CEMP). It is proposed that this condition should be updated to require all construction activities to be undertaken in accordance with the approved Construction Environmental Management Plan. (CEMP), the Southmoor CEMP Appendix 7 checklist 300719 and further details contained in "Application Correspondence" which commits the application site to Noise limits throughout the construction phase to a maximum of 70dB.

3.8 **Condition 4 –** Highways and Traffic
The existing condition is worded such that the access point to the Proposed Development would have been the only access available for construction traffic associated with the actual Energy Centre. The new access was required to be in place before construction works could commence on the energy centre. Since the Kellingley Colliery is now closed, the Applicant has permission from the landowner (Harworth Group Plc) to undertake initial construction works using the main former colliery access onto Weeland Road, including:

- site establishment,
- new access formation bund construction,
- earthwork/ remediation (if required),
- piling and formation of bunkers
- creation of new vehicular access point;
- construction of a gate house and the installation of wheel wash facilities;
- formation of the internal access road;
- formation of a construction car park.

This is an established access which historically has been used for vehicle movements including HGVs.

It is therefore proposed to amend condition 4 to solely relate it to the proposed access and to enable initial construction works to be undertaken in parallel to the construction of the new access point. The construction of the proposed access point and access roads will still be undertaken in Phase 1 of the construction programme and will accommodate construction vehicles once constructed.

3.9 **Condition 5 -** Highways and Traffic
Condition 5 is a Highways and Traffic Condition which seeks to remove reference to details required in relation to highway improvements for new pedestrian facilities along Weeland Road in the village of Eggborough.

The pedestrian facilities to be provided in Eggborough comprise off site highways work which do not relate to the proposed access improvements and are to be delivered separately by North Yorkshire County Council as the Highway Authority. As they are off site works, these requirements and payment for them are included within the Section 106 (as amended) which provides the mechanism to deliver the contribution from the Proposed Development for those works to be undertaken.

The new condition is therefore proposed to be worded to remove the requirement for the details for the pedestrian facilities and other highway works to be submitted. The new condition will require the works to be undertaken in accordance with the approved plans.

3.10 **Condition 6:** Highways and Traffic
Condition 6 Highways and Traffic
Given that construction work and vehicle movements associated with construction works can commence utilising the former colliery access point along with the network of metaled access roads, this would allow various Phase 1 construction works to take place at the same time as the construction of the new access point, making Phase 1 works shorter and more efficient. It is therefore sought to amend this condition to relate to all access points used for construction works and not solely relate to the proposed new access. Details have been submitted and approved by the Planning Authority, therefore the requirements of this condition are to ensure compliance with the approved details.

3.11 **Condition 9** - Lighting
Condition 9 requires updated wording to reflect the details on an approved plan (new condition no. 12).

3.12 **Conditions 11, 13, 14 & 15** - Ecology
These conditions require modification to ensure adherence to the most recent approved mitigation measures and are proposed to be split down into a number of conditions relating to bat mitigation, amphibian species, existing water bodies, breeding birds and provision of nest boxes.

3.13 **Condition 26** - Fencing
This condition was included on the original planning permission due to the original access road alignment lying adjacent to the railway line and network rail owned land. However, the proposed access arrangements have been amended through the previous Section 73 approval (Ref: (NY/2017/0018/ENV) and are reflected on the amended plans as submitted through this Section 73 application. The access road now does not lie adjacent to network rail land or the railway line. There are existing sidings which lie in between the proposed access road and network rail land and

therefore a trespass proof fence adjacent to the railway boundary cannot be achieved any longer due to the change in access arrangements. It is therefore proposed to remove this condition as it is no longer necessary to provide a fence along the railway boundary to make the scheme acceptable.

The Energy Centre will still be secured by fencing as shown on the enclosed Boundary Treatment Detail Plan (Ref: 11015 – PL19 Rev G) and this is conditioned separately in several other conditions including Condition 2. It is therefore considered reasonable to remove this condition in light of the change in the site access arrangements.

A new condition requiring adherence to approved boundary treatment details is proposed instead.

3.14 **Condition 37**: Screening Bund
As the details of the proposed screening bund have now been approved, it is not considered necessary to retain this condition. The requirement for the fence and specification can be amalgamated together into one new condition as per para.3.18.

3.15 **Condition 38**: Screening Bund
This condition relates to the screening bund and the acoustic fence to be erected on top. The new wording is required to reflect adherence to approved plans.

3.16 **Condition 39** Screening Bund
This condition ensures the removal of the bund after decommissioning of the Energy Centre and needs to be re-worded to refer to updated plan.

3.17 **Condition 42**: Dust Management

The Dust and Particulate Emissions Management Plan has now been updated to take account of the colliery closure and therefore the wording of this condition needs to be updated to reflect this.

3.18 **Condition 43**: Waste Imports
This condition referenced the tonnage of waste imports permitted to the site at a maximum of 280,000 tonnes per annum. It is proposed to re-word this condition to refer to a maximum of 350,000.

3.19 **Condition 54**: Odour
It is proposed to amend the wording of this condition due to amended details having been submitted.

3.20 **Condition 55**: Highways and Traffic
This condition limited HGV movements during the construction phase of development to 100 two-way HGV movements a day. It is proposed to change the wording of the condition to change the limit to180 two-way HGV movements per day.

3.21 **Condition 56**: Highways and Traffic
It is proposed that this condition be removed as its requirement is covered in condition no.43 which requires a maximum throughput of 350,000 tonnes per annum of non-hazardous waste each year.

3.22 **Condition 57**: Highways and Traffic
This condition seeks to restrict HGV movements during the operational phase of the Energy Centre from 30 per day (15 in, 15 out) to a new maximum figure of 44 per day (22 in, 22 out) associated with the export of waste products. It is therefore requested that the condition be re-worded to reflect the higher number of HGVs requested.

3.23 **Condition 58**: Parking Access
The Proposed Circulation and Access Plan has been amended and re-submitted as part of this Section 73 application, and therefore the condition is proposed to be re-worded to reflect the new plan details.

3.24 **Condition 62**: Stack Height
This condition seeks to ensure that the proposed stack is built in accordance with approved plans and to ensure that its height is restricted to a maximum of 80 metres. No change is proposed to the stack height, however there are changes to the design proposed and therefore this condition needs updating to reflect the new drawing.

4.0 Consultations

4.1 The consultee responses summarised within this section of the report relate to consultation undertaken on the 25 February 2019.

The following consultees responded:

4.2 **Selby District Council (Planning):** Responded on 7th June 2019. Comments made on the proposal identify that they are aware of the benefits that the scheme would have in relation to producing lower carbon energy and the ability to power a large number of homes, together with economic benefits which would increase full time employment opportunities in the area. They note that there is no time limit on the peak construction period on condition 46 and raise concern with regards to routing of HGVs and the constrained road network. They raise concern at the absence of a revised travel plan given the increased movements. They seek a revised travel plan identifying movements.

4.3 **Heck Parish Council :** Responded on 5Th March 2019. No objection.

4.4 **Beal Parish Council:** Responded on 14th March 2019 and again on 5th April 2019 objecting to the planning application on the following grounds:

- Increase in tonnage and HGV's as proposed. They do not believe it is a minor change – increase of 25%
- There would be an increase of 80% of HGV movements during construction
- Lack of infrastructure for the increased traffic
- Applicant should look for other ways to access the site, rail, canal, from M62
- Concern the application being dealt with by planning committee and not delegated

Further response:

- Would like to know where is the waste coming from and have concern that local waste should be dealt with and not imported
- Concerns that the energy centre won't be able to turn the number of vehicles around and potential impact on the highway
- Concern over covering of vehicles and unloading
- Concern about pollution regarding transporting waste/waiting on site
- Air quality and pollution concerns

4.5 **Eggborough Parish Council :** responded 6th April 2019 Object on grounds of traffic and wear of the road surface; the effect on Eggborourgh and surrounding area; health effects on local residents from the Incinerator and increase in traffic. Would like to know where the waste is coming from. They consider that the increase in HGV's is misleading.

4.6 **NYCC Heritage - Principal Landscape Architect:** responded on 16th April 2019 - no objection.

4.7 **NYCC Heritage - Ecology :** Responded 12th March 2019 stating no objection in respect of the proposed variation of conditions, but pointing out a typographical error in the application submission where the proposed wording of condition 15 should make reference to para 3.6 not para 3.5 within appendix 2.3. (N.B. this has now been corrected in the planning application).

4.8 **NYCC Highway Authority:** Responded 4th April 2019. The Highway Authority has no objection in respect of the proposed variation of conditions, but would like to see consideration given to transport by other means such as Rail or Canal.

4.9 **NYCC Public Rights of Way Team:** Responded 26th February 2019 - no objection.

4.10 **Lead Local Flood Authority (SuDS):** Responded 13th March 2019 – no objection.

4.11 **NYCC Heritage – Archaeology:** Responded 5th March 2019 – no objection.

4.12 **Selby District Council (Environmental Health):**
Condition 3: Construction - no objections to the proposed amendment of this condition as detailed in Appendix C of the Planning Statement (January 2019).

Condition 9: Lighting The Planning Statement indicates that this condition is to be amended to include reference to the Lighting Technical Report submitted as Appendix 3.2. *"This document has been considered and I have no further comment to make in relation to the permanent lighting for the site."*

"However, monitoring of the installed lighting is welcomed and the records kept for inspection by the planning authority if necessary. In respect to construction lighting it is noted that some properties may be adversely affected and the proposed mitigation measures in paragraph 6.1.12 noted. It is again welcomed that monitoring will be carried out and records should again be available to the planning authority if required."

Condition 37, 38 and 39 (30, 31 and 32): Screening Bund**:** no objections.

Condition 42(33): Dust and Particulate Emissions Management Plan**:** No objections.

Condition 54: Odour**:** No objections.

Condition 55, 56 and 57: Highways and Traffic
"With regard to condition 55 It is noted that the condition is amended to increase the construction traffic to 180 two way HGV movements per day as opposed to the previously consented 100. Appendix 2.1: Noise and Vibration Statement does not consider the noise impact which may be exacerbated due to the proposed entry point to the site for the first three months (see Noise paragraph 3 below). I would, therefore, request further information on the impact of this increase and access point from a noise aspect before agreeing to this amendment."
"With regard to condition 56, until the issue of increased noise attributable to the increase in vehicle movements to and from the site has been assessed I cannot agree to the amendment to this condition".

*"With regard to condition 57**,** it is noted that the condition is amended to increase HGV movements from 30 to 44 per day to remove waste products. Appendix 2.1: Noise and Vibration. The statement does not consider the noise impact from this increase in HGV traffic associated with the operation of the site. I would, therefore,*

request further information on the impact of this increase and access point from a noise aspect before agreeing to this amendment".

Condition 62: Stack Height**:** no objections.
Air Quality and Odour: No further information is required.

Noise**: "***Having considered the information provided in Appendix B of the Planning Statement it would appear that a number of possible noise sources have been added to the structure eg fuel pumps, north elevation vehicle access to the boiler hall, louvers added, six fans, roof top condensers and extract fans. The impact of these changes are not considered in detail and it is stated in Appendix 2.1: Noise and Vibration Statement "The changes are not considered to result in significant residual noise effects from the fixed plant and equipment, provided the approved noise rating levels as set out in condition 37 of the previously consented Section 73 application ref. NY/2017/0018/ENV are achieved." I do not object to this approach to controlling noise from the plant as part of this development and would recommend that the above condition is applied to any permission given."*

"With respect to the increase in waste to be processed at the plant it is stated in Appendix 2.1: Noise and Vibration Statement that increased throughput will be achieved largely through the use of slightly increased weight in vehicles (i.e. 22T rather than 18T), thereby only requiring very few additional movements per day but goes on to state that the number of trips to the energy centre will increase from 66 to 72 over a 12-hour period (07:00 – 19:00). It is recommended that the use of larger vehicles and the maximum number of trips per day be condition on any permission given. However the Appendix has not considered the increase in HGV movements to include those involved with the transfer of waste from site as referred to above. This document should, therefore, be amended to determine the full impact of the increase in HGV movements to and from the site. It is also noted that construction traffic now proposes to use the former colliery access point for three months whilst the new access road to the energy centre is being constructed. This site access is located closer to the domestic properties in the area and its use has previously given rise to complaints from residents. Appendix 2.1: Noise and Vibration Statement does not consider this aspect of noise generation and I would, therefore, request that either an assessment of the noise impact is provided or the entrance on Sudforth Lane is used to reduce the impact on residential".

"It is also recommended that the applicant mitigates climate change as required under the National Planning Practice Guidance (NPPG) (Ref 7.3) by supporting sustainable travel and contributing to safe walking and cycling paths to site from surrounding domestic centres. However, it is noted that the application includes a change to Condition 5 to remove the requirement to improve the pedestrian facilities along Weeland Road and in Eggborough village.

Condition 46 (Previously 47 in C8/2013/0677/CPO) has been amended to allow 180 two-way Heavy Goods Vehicle movements per day during the period of peak construction activity (a 80% increase on current levels)

Condition 47 (Previously 48 in C8/2013/0677/CPO) increases the waste accepted at the site to 350,000 tonnes (an Increase of 70,000 tonnes) of non-hazardous waste accepted each calendar year. (a 25% increase on current levels)

Condition 48 (Previously 49 in C8/2013/0677/CPO) increases the two-way HGVs movements per day associated with the export of waste products from 30 to 44. (a ~50% increase on current levels)."

Further response from EHO – 13th June 2019)
The applicant is in agreement to provide a condition limiting the boundary noise level but has not commented on my request for a condition to limit the number of vehicle movements.

1. No further comment to make regarding the increase in noise from HGV's (this includes both HGV's delivering feedstock and removing waste).
2. "*The applicant has provided an assessment to show that the noise generated by the use of the main gate by construction traffic for three months would not give rise to levels above the BS5228-1:2009+A1: 2014 Code of Practice for Noise and Vibration on Construction and Open Sites. It is recommended, however, that residents in the area are contacted and advised of the work over the 3 month period prior to the work commencing. Also that the times of day for use of the entrance is restricted to prevent any early morning disturbance."*

4.13 **Selby District Council – Planning**
SDC has no formal objections.
The wider benefits that the scheme could bring to the District are recognised. It would produce lower carbon energy which could power a large number of homes. The economic benefits the scheme brings will increase the number of full-time jobs in the District.

Observations.

- Aware that to accommodate the increase in waste accepted at the Southmoor Energy Centre as mentioned in the Condition 47, that it will have knock-on effects on Condition 46 and Condition 48. However, this has led to some further concerns:
- Concern 1. There is no time limit on the period of peak construction within Condition 46. There can be variations and delays in construction so the peak period of construction could change; how this will be monitored should be set out clearly prior to the application being granted.
- Concern 2. The routes that the HGV vehicles are likely to make within the District which is of particular concern given the constrained road network in certain areas of the District. As part of the 2013 application an Interim Travel Plan was submitted. This application sought to amend several highways conditions, however no further Travel Plan has been submitted despite the increases in highways movements and potential increases in staff levels which further would impact the road network. How the travel movements will be monitored should be set out in an updated travel plan prior to the application being granted.

4.14 **Environment Agency York:** Responded 19th March 2019 - no objection. Comments have been made in relation to Environmental Permits which can be placed as an informative on the planning permission.

4.15 **Canal & River Trust:** Responded on 8th March 2019 no objection - but further comments made as follows:

- *"The loss of the gatehouse to the south could provide opportunity for additional planting between the vmesh fencing and the roadway which would better screen traffic from the waterway and reduce the visual and noise impact at the ground floor level of the development, and as such landscaping should be considered."*
- Identified the potential to use the adjacent waterway for the transport of material. They note that the current proposal removes reference to 'Area Safeguarded for potential future wharf Container Handling'. They believe that this should be reinserted.
- Also require Phase 2 Contaminated land surveys to be undertaken.

4.16 **Yorkshire Water Services Ltd:** response received 12th March. Comments as per 2013 application and conditions relating to that application remain (17-22 should be duplicated)

4.17 **Historic England:** response received 13th March 2019 – no objection.

4.18 **Yorkshire Wildlife Trust:** response received 21st March 2019. Raises concerns with regards to its siting within 350m of the Willow Garth Reserve. Raises concern with regards to emissions dependant on waste.

4.19 **Coal Authority:** responded 13th March 2019 - no objection**.**

4.20 **Council for the Protection of Rural England:** responded 7th March 2019, neither objecting nor supporting but noting the changes and updates to the EIA**.**

4.21 **Robin Hood Airport:** responded 12th March 2019. No objection

4.22 **Police Designing Out Crime Officer:** responded 6th March 19. No objection/comments

4.23 **Natural England:** responded 28th February 2019, no comments to make on the application. Standing advice given.

4.24 **Danvm Drainage Commissioners:** responded 11th March 2019, applicant will need to ensure that any proposed SWS has the capacity to accommodate surface water discharge, standard advice has been given**.**

Notifications

5.0 Advertisement and representations

5.1 This application has been advertised by means of 12 Site Notices posted on 12th March 2019 (responses to which expired on 13th April 2019). The Site Notices replicated the same locations as those for the original planning application i.e. posted in the following locations:

- Beal;
- Birkin;
- Cridling Stubbs;
- Eggborough;
- Kellingley Colliery;
- Kellington;
- Knottingley;
- Stapleton;
- Sutton;
- Whitley; and,
- Womersley.

A Press Notice appeared in the Selby Times and the York Press on 30th March 2019 (responses to which expired on 29th April 2019).

5.2 A total of 214 Neighbour Notification letters were sent on 26 March 2019 and the period in which to make representations expired on 25th April 2019. The neighbour notifications were sent to all those originally consulted about the application as well as those who had made representations upon the original planning application.

A total of 9 letters of representation have been received (8 from members of the public) and 1 from UKWIN (United Kingdom without Incineration). No letters of support have been received in respect of the planning application.

The 8 letters of representation from members of the public raise objections on the following grounds:-

- Traffic danger posed by the development and increase in traffic.
- Road network capacity not adequate, (needs access road from motorway).
- Impact upon the environment from burning waste.
- Air pollution from the incinerator.
- Impact on health.
- Pollution from additional traffic.
- HGV movement increase (especially during construction).
- Affect of traffic on other road users such as pedestrians, cyclists, horse riders
- Hours of arrival of HGV's (06:00 – 07:00) will create disturbance.
- Noise pollution,
- Dust,
- Emissions and Climate change.
- Impact on Children in playground and nearby playing fields.
- Impact on the environment not outweighed by minimal number of jobs created.
- Damage to property from vibration caused by HGV's
- Not a minor increase in waste throughput applied for.
- Increase in damage to highway (pot holes etc.)
- Application may meet current Environmental standards and reduce landfill, but these standards not fit for purpose now and in the future.
- Increase in noxious fumes when there are 2 chemical plants already.
- Should be reducing harm to environment not increasing it.
- Increase in HGV's travelling through Eggborough village
- Not our (local) waste being dealt with.
- Waste should be transported by rail/canal

Non material objections were raised on the following matter:-

- Affect on house prices.

The UKWIN response identifies the following concerns:

- Considers reports submitted with the planning application justifying 'Need' to be erroneous.
- Considers that the quantity of available waste to go to the Energy Centre into the future has been massively over estimated and that this would therefore conflict with the proximity principle.
- Although the plant would have a design life of 40 years the applicant's assessment is only until 2035

UKWIN considers that recycling rates will increase as time goes on to a level which will mean a significant reduction in available waste available to feed the plant, hence competition with other EfW plants and the potential for waste to be brought a greater distance.

NYCC received a letter in August 2019 objecting to the planning application.
A further objection was received from UKWIN in November 2019 following publication of the committee report. This further letter set out UKWIN's opinion that the Committee Report did not adequately address the issues raised by UKWIN in their August 2019 submission relating to deficiencies in the applicant's need assessment.

UKWIN considered that the report did not address UKWIN's concerns regarding the adverse climate change impacts of the proposal. They refer to the Environment Bill recently considered by Parliament which they say highlights how the Government's December 2018 Resources and Waste Strategy and the Circular Economy Package will, when implemented, result in significant increases in recycling. They therefore

state again that they consider that this will result in significant reductions in the quantities of local feedstock available for the proposed incinerator.

5.3 Further points raised by UKWIN include the following:

- The studies cited by the Applicant in favour of the application confirm that in the event that the UK meets its recycling targets, North Yorkshire will not need any new incineration capacity and that new capacity would therefore result in an over-provision of such facilities.
- The Officer's report refers to "net low carbon energy (up to 28.4 MWe)" but UKWIN's submission states that the facility would actually be worse than landfill in terms of its climate change harm. UKWIN consider that energy exported would have a higher carbon intensity than CCGT and as such does not meet the NPPF definition of low carbon, and in relation to the burning of plastics (which is a fossil fuel), this actually has a higher carbon intensity than coal.

UKWIN consider that planning permission should be refused due to the adverse impacts and unproven benefit and lack of need for the facility.

6.0 Planning policy and guidance

The *Development Plan*

6.1 Our planning system is a plan-led system. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires planning applications to be determined in accordance with the *Development Plan*, unless material considerations indicate otherwise. In considering the application, other material considerations need to be taken into account. Such other important considerations include other relevant policy and guidance, particularly national planning policy in the *National Planning Policy Framework* (updated Feb 2019) and other relevant Government policy statements (including the *National Planning Policy for Waste* (2014) and *National Policy Statements on Energy*) as well as those which are provided within the web-based National Planning Practice Guidance (NPPG). Key policy and guidance relevant to determination of the application is identified in this section of the report; although, for the purpose of this report, only summary references are used rather than reproduction of the full text of the policies.

6.2 In this instance, the *Development Plan* consists of the policies of the *North Yorkshire Waste Local Plan* ('*saved*' by Direction of the Secretary of State until the policies being developed under the *Joint Minerals and Waste Local Plan* supersede them), the *'saved'* policies of the *Selby District Local Plan* (2005) and the policies of the *Selby District Core Strategy* (2013) and the '*Saved*' policies of the North Yorkshire Waste Local Plan (2006)

6.3 Paragraph 2.21 of the North Yorkshire Waste Local Plan (from here on referred to as NYWLP) expresses the over-arching strategy of the County Planning Authority as being "*to seek a balance between providing essential facilities to treat and dispose of waste with the need to protect, and where possible, enhance the environment and the quality of life in North Yorkshire, in accordance with the principles of sustainable development*."

6.4 Its five aims (paragraph 2.22) are stated as

- *to protect the environment and local amenity from potential harm from waste related development;*
- *to seek a reduction in the amount of waste that requires treatment and disposal;*

- *to secure an adequate and integrated network of facilities for dealing with waste generated within, or in proximity, to North Yorkshire;*
- *to encourage a move away from traditional waste disposal to alternative methods of re-use and recovery;* and,
- *to encourage the use of environmentally acceptable standards of operational practices in respect of waste treatment and disposal.*

6.5 With regards to the waste hierarchy, the NYWLP explains that "*the waste hierarchy has been developed to provide a policy framework within which waste management decisions can be taken*". It goes on to say that "*within the hierarchy, incineration with energy recovery is not to be considered before the opportunities for recycling and composting have been explored*".

6.6 The NYWLP also addresses the issue of the principle of proximity. It advises, *"the proximity principle requires that waste is managed and disposed of as close as possible to the place at which it was generated, wherever practicable. This encourages local communities to take greater responsibility for the waste generated and is also likely to reduce the environmental impacts of transporting waste. In doing so, this accords with the principle of sustainable development and the aim of achieving, as far as possible, self-sufficiency in the provision of waste management facilities*".

6.7 '*Saved*' *Policy 4/1* of the NYWLP provides the criteria against which to assess developments such as that proposed, seeking to ensure the all material environmental and amenity considerations are taken into account in decision-making. Although a number of the criteria (i.e. *a*), *b*), *i*) and *j*) are not reflected within the more recent national policy, they nevertheless follow the '*thrust*' of the overall guiding principles set down therein, as well as those within the herein later referred to *'National Planning Policy for Waste'* (2014). With specific reference to criterion *i), Best Practicable Environmental Option (BPEO)* is a set of procedures with the goal of managing waste and other environmental concerns. BPEO assessment is a method for identifying the option that provides *"the most environmental benefit"* of *"least environmental damage".* These principles of putting forward the most sustainable option, i.e. the movement of waste up the '*waste hierarchy'*, is also reflected in national policy. While criterion *g*) is consistent with the provisions of the NPPF insofar as supporting the adequacy of transport links, a difference exists where the national policy seeks consideration of highway improvements. With respect to the local environment, the NPPF states that developments should contribute to and enhance the local area, not give rise to unacceptable risks from pollution, and that cumulative effects should be taken into account. The wording in '*saved*' *Policy 4/1* states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis the provisions of the policy are generally consistent with the NPPF and should be given weight. Finally, criterion *e*) of '*saved*' *Policy 4/1* requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character.

6.8 With regard to landscape protection, *'saved' Policy 4/3*, seeking respect for and enhancement of the special character and distinctiveness of features which make specific landscapes locally important, is given full weight as safeguarding against any adverse effects of development upon landscapes (including an area's potential sensitivity to adverse landscape impacts) is similarly reflected within national policy.

6.9 Locally important sites for their ecological interest are the focus of '*saved*' *Policy 4/10* and, while the national policy does not refer to local sites, it nevertheless advocates minimising impacts upon bio-diversity; thereby making it NPPF-consistent and given full weight.

6.10 While the '*thrust'* of *'saved' Policy 4/18* requires developments to demonstrate that generated traffic can be satisfactorily accommodated on the highway network, national policy requires consideration of highway improvements and should therefore be afforded more weight in this respect. The NPPF goes on to say that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.11 In seeking to safeguard against any unacceptable impacts upon local environments and residential amenity, *'saved' Policy 4/19* is NPPF-consistent reflected in taking into account the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution and is, therefore, afforded full weight.

6.12 Specific waste management policies within the NYWLP include '*saved*' policies *5/1* and *5/10*. As the NPPF also seeks the minimisation of waste, locating new development on previously developed land and sets out the criteria against which to assess development, '*saved*' policies *5/1* and *5/10* are considered consistent and are afforded full weight

'*Saved*' policies of the Selby District Local Plan (adopted 2005)

6.13 A number of the policies in the existing Selby District Local Plan (adopted in 2005 and *'saved'* in 2008 by Direction of the Secretary of State) remain extant. However, as is the case with the '*saved*' Waste Local Plan policies which also pre-date the adoption of the NPPF, the weight that can be afforded depends upon the degree of consistency with the NPPF.

6.14 While '*saved*' *Policy ENV1*, which is a criteria-based policy, establishes the parameters that must be met by new development including amenity, highway, infrastructure, landscape, ecological and archaeological safeguards, national policy also takes into account the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution and stipulates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Therefore, with limited consistency with the NPPF, limited weight is thereby afforded.

6.15 Full weight is afforded to '*saved*' *Policy ENV2* whereby the effects of pollution on the natural environment or general amenity and the potential sensitivity of an area to those adverse effects are reflected in national policy.

6.16 Whilst not exactly mirroring national policy within '*saved*' *Policy ENV3*, it is nevertheless afforded some weight in that it seeks to ensure external lighting would protect against any adverse amenity and/or safety issues through glaring and light spill.

6.17 '*Saved*' *Policy ENV12* addresses the issue of the protection of the water environment, is consistent with national policy and, in this regard, is afforded full weight.

6.18 The encouragement of development to be well related to the existing highways network and permitted only where existing roads have adequate capacity and can safely serve development (unless appropriate off-site highway improvements are undertaken by the developer) is advocated by '*saved*' *Policy T1*, consistent with national policy, thereby affording it full weight.

6.19 As the proposed development lies outside designated development limits, '*saved*' *Policy EMP9* is relevant. Consistent with national policy, it seeks to protect residential

amenity and although, additionally, the NPPF refers to "*a good standard of amenity*", this local plan policy is considered to be generally consistent with national policy and is, therefore, afforded weight. It is similarly the case that whilst exact text is not replicated at both local and national levels, the general '*thrust'* of policy is generally the same and, therefore, '*saved' Policy EMP11* is regarded in a similar manner of general consistency affording weight in the decision-making process.

Selby District Core Strategy (2013)

6.20 Given that the *Core Strategy* has been adopted since the coming into existence of the NPPF in 2012 and, therefore, found to be NPPF-consistent, an assessment of consistency is not required for the purpose of this report in respect of the policies contained within the *Core Strategy* and, consequently, such policies are afforded full weight for the purpose of decision-making.

6.21 *Core Strategy Policy SP1* sets out a presumption in favour of sustainable development and *Policy SP2* sets of the guiding principles for the location of development. For the purpose of the assessment of the development the subject of this report, the specific *Green Belt* policy, *Policy SP3*, is relevant, but only insofar as there exists a very minor area of land that falls within the Green Belt boundary. *Policy SP12* addresses infrastructure issues and community facilities; seeking their improvement wherever possible. Furthermore, *Policy SP13* encourages economic development and regeneration wherever possible. With a view to looking to the future, *Policy SP15* seeks development which takes into account climate change linking to policies *SP16* ('*improving resource efficiency*') and *SP17* ('*low-carbon and renewable energy*'). *Policy SP18* seeks to safeguard and, where possible, enhance the historic and natural environment including the landscape character and setting of areas of acknowledged importance and, finally, the quality of a development's design is the focus of *Policy SP19*. It is against these relevant policies of the Core Strategy that the proposal is assessed.

Other material considerations:

The emerging Joint Minerals and Waste Local Plan (North Yorkshire, City of York and North York Moors National Park Authority)

6.22 Members will be aware that the Council is currently working towards the adoption of a *Joint Minerals and Waste Local Plan* together with the City of York Council and North York Moors National Park Authority. When adopted the new polices in the *Joint Plan* will replace existing *'saved'* policies of the Council's *Waste Local Plan*.

6.23 The draft MWJP was published in November 2016 for representations, after which consultation commenced on an Addendum schedule of proposed changes for an 8 week period over summer 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 and the Examination in Public (EiP) began on 27 February 2018 and now Main Modifications are under consideration. Given the amount of public and other stakeholder engagement in the consultation and the corresponding need to consider the implications of views received before the Plan can be finalised, it must be acknowledged that there is the potential for the detail of the draft policies to be subject to varying degrees of change preparation of the Plan is complete. Notwithstanding the particular stage at which the Plan has reached on its way through to adoption, it is nevertheless material to the determination of this application and, with this in mind, it is noted that the document includes the proposed Southmoor Energy Centre in the list of potential waste sites.

6.24 The *submitted Joint Plan for examination* contains *draft Policy W04* which, under the heading of *'Meeting waste management capacity requirements - Commercial and Industrial waste (including hazardous C&I waste)',* includes reference to the

Southmoor Energy Centre (proposed allocation site ref. WJP03) as helping to meet the capacity needs of Plan area's self-sufficiency in managing its construction and industrial waste. The policy aims to make provision for large scale capacity for recovery of energy for C & I waste through a combination of spare capacity within a number of allocated sites, which includes Southmoor Energy Centre (WJP03). In moving waste up the '*waste hierarchy*', as advocated within *draft Policy W01*, and providing key sites with significantly strategic capacity (*draft Policy W02*), such developments as the one proposed, when commissioned, will contribute to the provision of the Plan area's infrastructure. Overall locational principles for waste capacity are set out within *draft Policy W10* and *draft Policy W11* establishes the site identification principles for waste sites. It should be borne in mind however, that the principle of developing this site as an Energy Centre has already been set through previous permissions. The policies referred to in the emerging Minerals and Waste Joint Plan are now at an advanced stage, with anticipated adoption of the Plan taking place next year. It is therefore considered that some weight should be attached to these policies.

6.25 The NPPF states that decision takers may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6.26 Whilst the emerging policies are potentially material to the consideration of the current planning application, it is considered appropriate that they should be given some weight at this stage of the Minerals and Waste Joint Local Plan.

6.27 The draft MWJP was published in November 2016 for representations, after which consultation commenced on an Addendum schedule of proposed changes for an 8 week period over summer 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 and the Examination in Public (EiP) began on 27 February 2018 and now Main Modifications are under consideration and it is anticipated that the Plan will be adopted in Spring 2020.

National Planning Policy

6.28 The policy relevant to the determination of this particular planning application provided at the national level is contained within the following documents:

- National Planning Policy Framework (NPPF) (published February 2019); and,
- National Planning Policy for Waste (NPPW) (published October 2014).

National Planning Policy Framework (NPPF)

6.29 The updated National Planning Policy Framework (NPPF) 2019, sets out the Government's planning policies for England and how these are expected to be applied. It does not change the statutory status of the *Development Plan* as the starting point for decision-making, but is, nevertheless, an important material consideration in the determination of all applications for planning permission.

6.30 The overriding theme of Government policy in the NPPF is to apply a '*presumption in favour of sustainable development'*. For decision-making purposes, this means approving development proposals that accord with the *development plan* without delay (if plans are up-to-date and consistent with the NPPF). The Government set down its intention in respect of sustainable development stating its approach as

"making the necessary decisions now to realise our vision of stimulating economic growth and tackling the deficit, maximising wellbeing and protecting our environment, without negatively impacting on the ability of future generations to do the same". The Government defines sustainable development as that which fulfils the following three roles:

- **an economic role** – development should contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation;
- **a social role** – development supporting strong, vibrant and healthy communities; and,
- **an environmental role** – development that contributes to protecting and enhancing the natural, built and historic environment and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy. Each of these roles must be assessed in the evaluation of the changes proposed in this application to apportion weight to each, and then to reach an on balance conclusion.

6.31 The NPPF advises that when making decisions, development proposals should be approved that accord with the *Development Plan* and when the *Development Plan* is absent, silent or relevant policies are out of date, permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole; or
- specific policies in [the] framework indicate development should be restricted.

6.32 The national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.

National Planning Policy for Waste (16th October 2014)

6.33 The guidance has been reviewed to establish whether there have been any updates or changes to the guidance with which due regard must be had in determining the current application. This is considered to be a key relevant policy, and is relied upon for the purpose of the determination of the current application as it remains material. The NPPW sets out guidance to ensure that a more sustainable and efficient approach to resource use and management is taken with positive planning playing a pivotal role in delivering the country's waste ambitions. It's aims are to see the delivery of sustainable development and resource efficiency including the provision of modern infrastructure, local employment opportunities and wider climate change benefits bu driving waste up the waste hierarchy.

6.34 The national policy also aims to help to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment. Detailed locational criteria are provided for assessment of planning applications in Appendix B of which the following have relevance to this planning application: *traffic and access; air emissions, including dust; odours, noise; light and vibration.*

National Planning Practice Guidance (PPG) (2014)

6.35 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. This was accompanied by a *Written Ministerial Statement* which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG)

web-based resource. This was accompanied by a *Written Ministerial Statement* which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections: -

- Air Quality
- Climate Change
- Design
- Environmental Impact Assessment
- Health and Wellbeing
- Light Pollution
- Noise
- Renewable and low carbon energy
- Waste

6.36 The guidance in the NPPG has been reviewed to establish whether there have been any updates or changes to the guidance with which due regard must be had in determining the current application. In particular in respect of increased throughput of waste the following has been considered: air quality, climate change, noise, waste and renewable and low carbon energy.

6.37 With regard to environmental impact assessment, notwithstanding the coming into force of the new *Town and Country Planning (Environmental Impact Assessment) Regulations 2017* on 16th May 2017, these new regulations are not retrospectively applicable (under the provisions of *Article 76(2)*) and, therefore, insofar as the consideration of this current application, the former regulations (*the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011*) still apply.

6.38 Whilst new advice is provided in respect of health and well-being of local communities within the current national planning practice guidance, and deals with planning considerations mainly in respect of health in relation to food choices etc,it is potentially relevant in terms of potential air quality impacts on the local community. Air quality is assessed as part of the evaluation of this application.

6.39 With the exception of new references to *'ecosystem services'* and '*green infrastructure*' both introduced into the guidance in 2016, the national guidance relating to the natural environment essentially remains the same as that the time of determining the original application in 2014.

Other policy and legislative considerations:

DEFRA Energy from Waste: A Guide to the Debate (2014)

6.40 This document is concerned with recovering energy from residual waste that is the waste that is left when all the recycling possible has been done, which generally means the environmental or economic costs of further separation and cleaning of the waste are greater than any potential benefit of so doing. It confirms that residual waste will, in part, include things made from oil, like plastics, and in part things that were recently growing and are biodegradable e.g. food, paper, wood etc. - only the energy generated from the recently grown materials in the mixture is considered renewable. It confirms that energy from residual waste is therefore a partially renewable energy source, sometimes referred to as a low carbon energy source. This remains the current national view in relation to proposed Energy from Waste plants. The method is considered to be a partially renewable energy source and is therefore sometimes referred to as a low carbon energy source.

DEFRA Our Waste, Our Resources: A Strategy for England (2018)

6.41 This government strategy was published with a view to refreshing and renewing environmental policy. The Strategy sets out how we should preserve our stock of material resources by minimising waste, promoting resource efficiency and moving towards a circular economy. At the same time, it continues to say, that we will have firm commitments for the forthcoming years and will minimise the damage caused to our natural environment by reducing and managing waste safely and carefully.

6.42 The Strategy recognises however that no matter what we do, waste will be generated, as materials given a new life by reuse or reprocessing will eventually reach a point of such little value that they need to be disposed of. Waste needs to be managed in the most resource efficient way possible. The goal is for at least 65% of municipal waste by weight to be recycled by 2035, with no more than 10% ending up in landfill. The Strategy puts forward a number points to lead to the figures aimed for, and these include "Drive greater efficiency of Energy from Waste (EfW) plants."

6.43 Para 3.2 of the Strategy seeks to improve waste management such that environmental impacts are minimised and the resource value extracted is maximised. There are three main ways of dealing with municipal residual waste, sending it for energy recovery, exporting it as a refuse-derived fuel and landfilling it. Landfill is the least preferred option given its environmental impact and long–lasting nature.

6.44 With regard to Energy from Waste (EfW) plants, those that operate in Combined Heat and Power (CHP) mode deliver greater efficiency and it is the government's intention to make the remaining plants more efficient by assessing and removing barriers to making use of heat produced when incinerating waste. Future EfW plants should therefore be ideally located near potential heat customers. The government also aims to work closely with industry to secure a substantial increase in the number of plants that are formally recognised as achieving recovery status, and will ensure that all future EfW plants achieve recovery status.

6.45 The Strategy notes that England has approximately 10.5Mt of EfW operational capacity dedicated to treating municipal and/or industrial and commercial waste, which is around enough to treat around 36% of municipal residual waste at current levels. A further 2.0Mt of EfW capacity is expected in 2020 from plants which are under construction. However, greater waste prevention, reuse and a 65% municipal residual waste recycling rate will mean that municipal residual waste is expected to decrease to around 20.0Mtpa by 2035.

6.46 Given these projections, further market investment in residual waste treatment infrastructure is welcomed. Developments that increase plant efficiency and minimise environmental impacts are particularly encouraged together with technologies that produce outputs beyond electricity generation where these are demonstrated to be environmentally sound and economically viable. The aim overall though is to minimise waste going to landfill.

6.47 EU Directives have also been reviewed to establish whether there have been any updates or changes with which due regard must be had in determining the current application. As a consequence, though there are no changes with respect to the EU Directives on the *'Promotion of the Use of Energy from Renewable Resources'*, '*Waste Incineration'* (2000/76/EC) (as amended by Regulation (EC) No 1137/2008) and '*Industrial emissions' (Integrated Pollution Prevention and Control) (2010/75/EU) (Recast), 'Waste Framework' (2008/98/EC*) (except insofar as changes to the list of waste and hazardousness properties (applicable from 1st June 2015)) or the 2005 '*Thematic Strategy on sustainable resource use'*, relevant to the determination of this current application, the EU Landfill Directive has been revised.

6.48 By 2014, under the provisions of *Article 5(2)* of the *Landfill Directive*, there was a requirement to prepare a report based on the practical experience gained by Member States in the pursuance of the targets laid down in *Articles 5(2)(a)* and *5(2)(b)* accompanied, if appropriate, by a proposal with a view to confirming or amending these targets in order to ensure a high level of environmental protection. The Commission subsequently adopted on 2nd July 2014, a legislative proposal to review waste-related targets in the *Landfill Directive* as well as recycling and other waste-related targets in *Directive 2008/98/EC* on *waste* and *Directive 94/62/EC* on *Packaging and Packaging Waste*. The proposal was aimed at phasing out landfilling by 2025 for recyclable waste (including plastics, paper, metals, glass and bio-waste) in non-hazardous waste landfills, corresponding to a maximum landfilling rate of 25%.

National Policy Statement on Energy (EN-1) and National Policy Statement on Renewable Energy)

6.49 These, have been reviewed to establish whether there have been any updates or changes with which due regard must be had in determining the current application. They have not been subject to review, revocation or replaced since the original planning permission was granted and issues considered at the time remain the same at the current time in relation to this planning application.

UK Renewable Energy Strategy (2009), UK Low Carbon Transition Plan (2009) and UK Renewable Energy Roadmap Update 2013

6.50 These strategies provide the *'direction of travel'* in policy making relevant to the proposal. In addition to the above '*Clean Growth Strategy - Leading the way to a low carbon future'* has been published *and* "*presented to Parliament pursuant to Sections 12 and 14 of the Climate Change Act 2008*" , further developing the '*thrust*' of previous policy approaches to low carbon technologies. *(Environmental Protection Act 1990 (with specific regard to Part II: Waste on Land); Environmental Permitting Regulations 2010 (as amended 2013) (with specific regard to Schedules 10 & 13A); the Waste (England and Wales) Regulations 2011 (as amended 2012) and the Climate Change Act 2008).*

6.51 These have all been reviewed to establish whether there have been any updates or changes with which due regard must be had in determining the current application. They have not been subject to review, revocation or replaced and remain materially relevant to the determination of this application.

7.0 Planning considerations

7.1 As referred to earlier, *Section 38(6)* of the *Planning and Compulsory Purchase Act 2004* requires the starting point of decision-making to be the *'development plan*'. Applications must be determined in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. Thus, in the context of policies to which reference has been made in this report, the main considerations in the determination of this application are set out within this section of this report.

7.2 It is important to note that when deciding upon the amount of weight to be attached to the various elements of the *development plan*, proposals should be judged against the *development plan 'as a whole'* rather than against the individual policies in isolation.

7.3 It is equally important to note that *Section 73* (under which the current application is made) of the *Town and Country Planning Act 1990* (as amended) provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. National Planning Practice Guidance advises that "*where an application under section 73 is granted, the (effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended "* and finally, *"as a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation*". Furthermore, as the original application was accompanied by an Environmental Statement, this application is also obliged to be so accompanied and this has been the case in this particular instance. Planning permission can be granted in respect of an application made under section 73 either unconditionally or subject to different conditions, or the application can be refused if it is decided that the original conditions should subsist.

7.4 This application seeks to vary 22 conditions from the original planning permission (C8/2013/0677/CPO) for an Energy Centre. In 2017 planning permission was granted for a S.73 variation which sought to vary a set of conditions also from the original planning permission. This current application is another S.73 application, which aims to amend and update the set of conditions but which would still be bound by the previous S106 agreement and it's Deed of Variation.

7.5 This current application seeks the variation of conditions to allow for increased throughput of residual non-hazardous waste material and increased HGV movements, together with associated amendments to the proposed building and amendments to access arrangements during the construction period to reflect the closure of the Kellingley Colliery and to enable the development to operate in the absence of the operation of the colliery. Many of the proposed conditions remain similar, and as further detailed information has been submitted to and approved by the Waste Planning Authority in the interim, some conditions now need to be updated to reflect that there is no need for further submissions, but simply to state that the details required by the condition shall be completed and/or implemented in accordance with the approved plan.

7.6 The main differences therefore, relate to a request for an increased throughput of waste material (from permitted 280,000 increased up to 350,000 tonnes per annum) and an increase in HGV movements both during the construction and operational phases of the development. The increase in daily HGV movements during the construction period would be from 100 (50 in, 50 out) to 180 (90 in, 90 out) and when the plant is operational the increased daily maximum number of HGVs visiting the site would be 146 (73 in, 73 out). It is anticipated that the construction period would be over approximately 3 years. In addition, other alterations are proposed to the design and form of the plant. The original planning permission being granted for an Energy from Waste facility has confirmed the acceptability of the principle of the proposed development on the application site as an Energy from Waste plant in locational terms, and the proposal has previously been fully assessed by North Yorkshire County Council against all relevant planning policies together with all relevant national policy.

7.7 Planning considerations in respect of the original development principally focussed upon air quality, noise, transport, odour, landscape and visual impact, lighting, ecology, land contamination, land stability, hydrology and flood risk, de-commissioning and restoration. These were all fully assessed within an Environmental Statement. A new, updated Environmental Statement (ES) has been submitted with this application and the key issues in relation to this planning

application now focus on need, air quality, and noise, impact on the local highways network and any other environmental impacts.

7.8 The revised ES that accompanies this application assesses the environmental effects of the proposed development changes, in particular with regard to the proposed increase in the waste throughput of the facility from 280,000 tonnes of residual non-hazardous waste per annum to 350,00 tonnes per annum. Technical chapters of the ES also cover Transport, Access and Air Quality and reflect the changes proposed. The detail on the importation of waste, together with the specific plant to be used on site has been remodelled. The applicant has also provided an updated noise assessment and a Landscape Technical note. The ES together with its technical appendices conclude that there would be no changes to the significant effects of the proposed development through the proposed revisions and that through the previously approved mitigation, the proposed development should still be considered acceptable.

7.9 The main amendments that are sought through this planning application therefore relate to an increase in the quantity of waste throughput, an increase in the number of HGV movements to and from the site both during the construction phase and in the operational phase, together with other physical amendments to the design of the buildings and site. In relation to the determination of this current application, the following elements should be assessed in order to evaluate any impacts that could occur from this proposal and to determine whether the proposed increase may be acceptable. These comprise - *Need*, *Increased Waste throughput, HGV Movements* and *Other alterations* to the Energy Centre.

Need

7.10 As part of this application, an updated Need Assessment has been submitted by the applicant to demonstrate that there is a clear identified need for the increase of tonnage from 280,000 to 350,000. The submitted Need Assessment states that by 2020 there would be 2.2 million tonnes of available residual waste within a 2-hour catchment area which would then drop to 1.65 million tonnes by 2035. The applicant considers that the principal benefits of the proposed amendments in this application would be the diversion of up to 350,000 tonnes per annum of residual waste away from landfill or export which is 70,000 tonnes of waste above the already permitted level, together with the production of more net low carbon energy (up to 28.4 MWe) helping to reduce reliance on fossil fuels and combat the causes of climate change.

7.11 In terms of waste policy, the requirement to demonstrate need is clearly set out in National Planning Policy for Waste (NPPW). However, in Para.73 (Determining Planning Applications) it states that it only expects a market need to be demonstrated where proposals are not consistent with an up to-date development plan. The planning history of this site and previous assessment through this planning application has clearly demonstrated that the proposed Energy Centre would be in accordance with the development plan. In addition, the emerging replacement Minerals and Waste Joint Plan is at an advanced stage and both allocates and safeguards the Southmoor site (WJP03) and relies on the Energy Centre providing energy recovery capacity over the future Plan period. Policy W04 of the emerging Minerals and Waste Joint Plan supports the provision of large scale capacity for recovery of energy through specified sites including Southmoor Energy Centre. Therefore, it is considered that the applicant does not need to demonstrate a market need in these circumstances.

7.12 With regard to projected future recycling rates in the UK, the higher these would be, the lower the amount of available residual waste there might be to provide feedstock for Energy from Waste plants. UKWIN has submitted concerns on this point, indicating that there may not be enough residual waste available within a reasonable

distance of the site if recycling rates increase to a more substantial level. However, the applicant has fully analysed predictions and modelling for the future availability of residual waste to supply the Southmoor Energy Centre and has concluded that it demonstrably remains the case that the UK needs significantly more residual waste treatment capacity. It is considered that the submitted Need Assessment with the application shows a likely accurate picture in respect of the national residual waste management position looking at future years. It is therefore considered, on balance, from the submitted information and predictions that as there is a known likely gap between political aspirations for (higher) recycling rates and (lower) public reality rates that there would be likely remain sufficient residual waste at the higher level as required for the operation of this proposed plant.

7.13 The previous assessment undertaken using the same policy base in the determination of this current planning application remains the same when taking into consideration the proposed changes. It was considered that there was a clear need for the Energy Centre facility to contribute towards future sustainable waste management both nationally and within the local catchment area which it would primarily serve, and this remains the case in consideration of the increased quantity proposed currently.

7.14 The principle of developing the Southmoor site as an Energy Centre using residual waste as fuel has therefore been established in previous planning permissions. It is considered that any additional impacts from the proposed increase in throughput as required in this application would not result in significant differences to the operational use of the premises as previously permitted. This application is therefore also considered to be consistent with national policy and complies with the NPPF (Chapter 14) which seeks to increase the use and supply of renewable and low carbon energy and heat. The NPPF (para.148) is clear in stating that the planning system should support the transition to a low carbon future in a changing climate and should support renewable and low carbon energy and associated infrastructure.

7.15 It is also considered that the proposed increase in throughput at the Energy Centre would be consistent with the aims of the NPPW which seeks to plan positively for waste disposal working towards a more sustainable and efficient approach. Together with the policy aims in the NPPF which aim to help increase the use and supply of renewable and low carbon energy facilities and waste planning authorities should plan to maximise the potential for suitable development. As the energy generated from an Energy from Waste facility is considered to be low carbon and a partially renewable energy source these policies are considered relevant. Weight should therefore be attached to the NPPF aiming to meet the challenge of climate change and the proposed facility at either the original level of throughput or the proposed increased level would remain in accordance with national policy on this point.

7.16 Local policies within the North Yorkshire Waste Local Plan, the emerging Minerals and Waste Joint Plan and Selby District Local Plan/ Selby District Core Strategy (as set out in Section 6 of this report) should also be given weight. The principle of the development of the site as an Energy from Waste plant has already been assessed against these policies and has previously been found, on balance, to comply. The policies seek to see a reduction in the amount of waste that requires treatment and disposal by encouraging a move away from traditional landfill disposal which forms the basis of national waste policy in respect of the Waste Hierarchy. Another aim of local policy is to protect the environment and local amenity from any potential harm. It is considered that the amendments sought in this planning application would continue to be consistent with those aims and would not cause any further additional level of harm. Policy W04 of the emerging Minerals and Waste Joint Plan refers specifically to Southmoor Energy Centre with regard to supporting net self-sufficiency in capacity

for management of C & I waste, with this application site being an allocated site for this type of use.

Increased Waste Throughput

7.17 During work on the design and review process of the proposed development in recent years, the applicant has identified a number of ways in which the scheme could be optimised and is therefore seeking some alterations and flexibility for the project. The throughput of the Energy Centre would be a function of a number of factors including the availability of residual waste and the thermal capacity of the plant. With the appropriate maintenance programme, modern Energy from Waste plants are able to operate for longer periods between major maintenance shutdowns and the throughput of the facility is a function of the calorific value of the residual waste that forms the basis of the fuel for the facility. A reduction in the calorific value of the residual waste will result in an increase in the throughput.

7.18 In order to optimise the Energy from Waste facility therefore, the applicant considers that an increase in the maximum permitted amount of waste is required in order to meet an identified need. The applicant therefore seeks to amend the permitted maximum amount of waste throughput from 280,000 tpa to 350,000 tpa. The proposed design and functionality of the proposed development and building fabric has previously been assessed within the planning process which led to the previous planning permission being granted. This application now requests amendments to the proposed Energy Centre to allow the building to cater for the proposed increase. The applicant considers that these changes would allow the proposed Energy Centre to operate to its optimum capacity.

7.19 There would clearly be factors which would result in benefits if an increased amount of throughput were to be permitted. This would mainly be the potential for an even greater quantity of waste being diverted away from disposal and the resulting benefits in promoting low carbon and renewable energy. However, in permitting an increased quantity of waste throughput, there could also be concomitant impacts occurring on other aspects in connection with this proposal. A number of objectors responded to consultation on this planning application with concerns regarding an increase in HGV lorry movements in the local area and the potential for increased noise, dust, odour, air pollution and visual effects impacting on the amenity. Each of these issues is assessed in respect of any extra environmental impact that could arise from the increased operation of the proposed Energy Centre. As the principle of developing the site as an Energy Centre has already been established through the granting of two previous permissions, the assessment must purely be restricted to the additional impact that the proposed increase might have, and then be balanced against the benefits that the increase could have.

Air Quality

7.20 In relation to air quality, the assessment of the impacts from the development remain the same in relation to the demolition of the colliery structures which has, since the grant of the original consent been virtually completed. The assessment of air quality impacts that could occur as a result of the development (including dust), have been considered, and the measures proposed to be undertaken to mitigate against any possible adverse effects (including the implementation of a '*Dust Management Plan'*) have been designed to a reasonable extent to afford the local community with adequate protection. It is considered that any effects would not be significant and there is no objection on this aspect of the proposal by the Environmental Health Officer. As a result, the proposal is considered to be acceptable, and that any further impacts resulting from the increased throughput would be negligible. The proposal, as varied therefore, would be similar to the original proposal, in relation to air quality impacts and would comply with the relevant policies of the *Development Plan* and, specifically, *'saved'* Policy EMP9(1) and ENV2 of the Selby District Local Plan and

Policy SP13(d), SP17(b)(i) SP18 and SP19 of the Selby District Core Strategy subject to the implementation of the mitigation measures as specified within the application.

Noise

7.21 In terms of noise, the overall development of the *Southmoor Energy Centre* would remain unchanged in principle within the proposals put forward in the current application. The assessment of the development in operational terms in respect of the effects of noise remains as that assessed within the original planning application for the Energy Centre. The screening bund and acoustic fence and other mitigation measures remain a requirement of the permission and conditions are proposed that would safeguard against any potential unacceptable noise impacts. The only difference that can be noted is that there would be a higher number of HGV movements in this proposal, particularly at the construction phase which some local residents have raised concern about. However, even with the greater number proposed, these vehicles would mostly be spread throughout the day and the maximum number has been selected as a maximum to cater for occasional days when there would be a requirement for more vehicles during construction. The proposed construction period is likely to take up to 36 months, however the peak HGV movements near to the maximum requested would only be likely over a few months during the overall construction period. The Environmental Health Officer has commented that the applicant is in agreement on a condition limiting the boundary noise level. The applicant has already set up a Local Liaison Committee which, it is intended, would meet most frequently in the early years of the project, being able to forewarn local residents of large or unusual movements in connection with the construction period. There would also be communication via the Local Liaison Committee in the 3 months prior to work commencing to provide clarity to local residents on the proposes vehicle movements that will take place during the construction period. In terms of hours of opening of the site both during construction and during the operational period, the early morning movements in both categories is restricted to no arrivals before 7am each morning to avoid early morning disturbance.

7.22 The applicant has also stated that any increase in noise from HGV's could include both HGV's delivering feedstock and removing waste and that the applicant has provided an assessment to show that the noise generated by the use of the main gate by construction traffic for three months would not give rise to levels above the BS5228-1:2009+A1: 2014 Code of Practice for Noise and Vibration on Construction and Open Sites. There is therefore no objection to the proposed increase in throughput of HGV movements from a noise perspective. Once the Energy Centre has been built, there would be a maximum of 146 daily HGV movements which would equate to 73 in and 73 out. Given the site's context next to a forthcoming employment site this figure is not considered to be unreasonable. With regards to the relevant development plan policies against which to assess the proposed development, Selby Core Strategy's policies SP13(d), SP17(i) and SP19(k) and '*saved'* SDC Local Plan policies EMP9(1) and ENV2(part a, '*saved*' policy 4/1 of the NYWLP and Policy D02 of the MWJP are considered to be complied with.

Increased HGV movements

7.23 Due to the proposed increase in waste throughput requested, this application also seeks to vary conditions to increase both HGV movements within the construction phase and during the operation of the Energy Centre. During the construction phase of the development, which is expected to be completed within 3 years, the updated Transport Assessment has taken account of more specific phased working of the construction, the type and nature of vehicles that would be needed together with the fact that the finer specification of the design has now been established together with a specific development partner to progress the development. It is therefore considered by the applicant that there could be a peak of HGV movements in the

construction phase in the first three months and that by Month 3 there could be as many as 178 HGVs visiting the site each day. This would be mainly during the construction of site enabling works and would equate to 89 HGVs in and 89 HGVs out. However, this number is not expected to arrive and depart throughout the whole of the construction period, but would solely be on occasions when needed. The maximum figure is therefore considered necessary to allow sufficient flexibility for contractors to pursue construction within a specific timeframe for an expensive, complex development. Routes selected by the applicant have been designated for construction traffic and have been chosen to minimise HGV traffic impact over local roads in the area. It should also be borne in mind that the construction of the proposed EfW plant would be substantially similar to that originally granted planning permission and that construction vehicle movements will be a necessity.

7.24 Once the Energy Centre has been commissioned, there would be a drop in the number of HGVs arriving and departing from the site. The updated Transport Assessment has concluded that due to differences in types of vehicle and the quantity of waste that they can carry, a new daily total maximum for the operational phase is likely to be up to 146 HGVs comprising 73 in and 73 out. This figure would be comprised of 102 HGVs bring waste to the site and 44 removing ash and other wastes from the site.

7.25 The Highway Authority raises no objections to these increased figures for HGVs, but does comment that the applicant should be exploring other types of methods for transporting waste including by water and rail. The applicant has confirmed that both of these modes will continue to be investigated, during the lifetime of the site, through the Travel Plan (a requirement of the S106 agreement) particularly with regard to rail, which may be able to link up with the adjacent proposed Employment site for rail use opportunities. It is considered that the overall increase in HGVs would not worsen any impact on amenity in the local area and that the assessment that was made at the time of the original planning application is concluded the same with regard to this current application. That the proposed HGV figures would be acceptable in the context of the application site and its environs and would not result in any severe impact on the local highway network and are considered to be in compliance with local policies 4/18 of the NYWLP, D02 & D03 of the MWJP and Policy T1 of the Selby District Local Plan. The NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. This is not considered to be the case with the proposed numbers. A planning condition is therefore proposed to protect amenity which would restrict HGVs to arriving and departing from the site only between the hours of 7.00 – 19.00 on weekdays and from 07.00 – 13.00 on Saturdays and at no time at all on Sundays or Bank Holidays and that the proposed numbers during the construction period and operational period are limited to the numbers requested in this application.

Other issues in relation to the Energy Centre

7.26 The other proposed alterations are described earlier in this report and comprise functional alterations to the building and ducting including the stack. The alterations to the stack narrow it to one chimney from its original design of two chimneys joined together. As a result, it is now proposed that the stack would have a slimmer profile and yet remain the same height. Visually this is considered to be an improvement. Other alterations involve an increase in height to parts of the building but only minimally by an average of 2 metres. The alterations proposed are for functional, operational reasons and are not considered to represent any additional impact from a visual point of view. The Landscape Officer does not object to the application. There is another alteration proposed in relation to the re-configuration of the internal road arrangement which is considered to be minor in nature and does not alter the conclusions drawn previously. The proposed alterations are also not considered to result in an increase in odour and the Environmental Health Officer raises no

objections on this point. With regard to lighting, the Environmental Health Officer is satisfied with the mitigation measures proposed and suggests that monitoring takes place and records kept.

7.27 The relevant development plan policies to which due regard must be had in the determination of this current application are identical to those previously considered. In this application the evaluation of impact has focussed on any 'extra' impact that the alterations requested may have. The following policies have been used to evaluate the application: '*saved*' Policies 4/1 and 4/3 of the NYWLP, '*saved'* Selby District Local Plan policies ENV1, EMP9 and EMP11 as well as policies SP12, SP18 and SP19 of the Selby District Core Strategy. The proposals within the current application seek relatively minor amendments to solely to reflect the current situation prior to commencement of development, which is intended to happen in the near future. The current proposal, whilst acknowledging there are some aspects of concern for members of the public, have been fully assessed and the application is considered overall to be compliant with the development plan policies referred to, as well as according with national policy and guidance.

7.28 The issues of air quality, noise, HGV movements, visual, odour and lighting have all been considered and there are no changes proposed in this planning application that would give rise for concern. It is therefore considered that none of these issues would be unacceptable. There is also no need for a reassessment of the effects of the development in respect of ecology and protected species. Relevant conditions that remain necessary have been redrafted and put forward as part of this recommendation. The variations of these conditions proposed are considered reasonable and necessary and therefore it is recommended that they should be applied to this permission. The conclusions drawn within this report are that the proposal as submitted is considered acceptable. Although the proposal would result in an increased amount of waste imported to the site, this is considered to have clear benefits in relation to climate change and increased production of electricity. The traffic impacts that would arise from the additional HGV movements bringing the waste are considered to be acceptable and there are no objections from a Highways point of view.

Carbon

7.29 UKWIN refers to climate change and to the DEFRA report; "Energy recovery for residual waste. A carbon-based modelling approach, 2014". Calculations have been made in relation to the impact of the sequestration effect on the carbon model and it is noted that there has been considerable uncertainty in the calculations of this. It is concluded that reducing the level of sequestrating would require less biogenic carbon to be included in the Energy from Waste side of the model and would also result in more methane being emitted from the landfill side. Both factors will favour Energy from Waste over landfill.

7.30 In the submitted carbon assessment for the Energy Centre the applicant used a sequestration rate of 50%, which is considered to be a conservative assumption. This is consistent with the government report "Energy from Waste - a guide to the debate 2014" which suggests that up half of the biogenic carbon would be sequestered.

7.31 The Defra 2014 report however concludes that further work is required to understand sequestration levels. It is a complicated scenario due to the fact that the proportion of landfill gas captured is difficult to measure directly so assumed levels have previously been derived from a combination of measurement of the amount of landfill gas captured as a proportion of the amount modelled. Modelling for this also contains assumptions on sequestration. Therefore, any lowering in the sequestration and assumptions would also inherently reduce the assumed level of landfill gas capture. This interaction has not been captured in the above analysis. As a result, the

scenarios outlined above would be particularly sensitive to sequestering, with any dropping of levels assumed sequestration significantly favouring Energy for Waste over landfill. Given all of these interactions there is a high degree of uncertainty and further work is considered to be required. It is therefore not accepted that the 2014 Report supports the inclusion of a credit for sequestered carbon and consequently the validity of UKWIN's calculation on this point is not accepted.

7.32 UKWIN also seeks to draw support from three reports prepared by Eunomia. The context of the three reports is important. The 2006 report "A changing climate for Energy from Waste" was written by the Chairman and founder of Eunomia for Friends of the Earth. The quotation represented the author's opinion when comparing Energy from Waste with landfill. This opinion has not generally been accepted by relevant authorities or government although it has remained Eunomia's position since then. The 2010 report was prepared for the European commission but again represents the author's opinion on the correct treatment of biogenic carbon. The 2015 report was again prepared by the same author as the 2006 and the 2010 reports. It was commissioned by Zero Waste Europe, the group which opposes the use of Energy from Waste and was specifically intended to attack the approach taken under the United Nations Framework Convention on climate change in assessing the greenhouse gas emissions from the waste sector as part of the national inventories.

Ratty's Lane Decision

7.33 A recent Energy from Waste appeal decision was for the Ratty's Lane Energy from Waste proposal in Hertfordshire. The appeal decision was issued in July 2019 and is therefore the most recent authority on the subject. The Ratty's Lane decision was made as a 'Recovered Appeal', such that the Secretary of State made the final decision, not the Inspector.

7.34 The Ratty's Lane decision is a relevant consideration in relation to this application as the Secretary of State concluded with that he agreed with the Inspector that there would be a saving in greenhouse gas emissions compare to the status quo. The Inspector considered the use of gas CCGT (Combined Cycle Gas Turbine) as the counterfactual. At that Inquiry, Herts Without Waste (a campaign group against incineration) challenged the use of that as an appropriate comparator for electricity generated by the proposed Energy from Waste. However, it was concluded that as electricity generated by the Energy from Waste plant would be exported to the grid the Inspector considered that the use of a gas CCGT to be the appropriate counterfactual.

7.35 The Secretary of State also further agreed that there would be no conflict with the National Planning Policy for Waste, section 14 of the Framework, or the principles of NPSs EN-1 and EN-3. The Secretary of State also considered that the provision of an Energy from Waste plant with sufficient capacity to accommodate the waste demands of the county would carry substantial weight in favour of the proposal, and the climate change benefits of the proposal would also carry substantial weight, together with additional value created in the waste processing chain, which would carry moderate weight. The principle of many of these points are equally applicable to the Southmoor Energy Centre proposal.

7.36 The Secretary of State's decision, published in July 2019 states that "DEFRA's Energy From Waste: A Guide to the Debate (revised February 2014) is mostly concerned with recovering energy from residual waste, that is the waste that is left when all the recycling possible has been done, which generally means the environmental or economic costs of further separation and cleaning of the waste are greater than any potential benefit of so doing. It confirms that residual waste will, in part, include things made from oil, like plastics, and in part things that were recently

growing and are biodegradable e.g. food, paper, wood etc. - only the energy generated from the recently grown materials in the mixture is considered renewable. It confirms that energy from residual waste is therefore a partially renewable energy source, sometimes referred to as a low carbon energy source." It is clear then, that the current national view in relation to proposed Energy from Waste plants is that the method is considered to be a partially renewable energy source and is therefore sometimes referred to as a low carbon energy source.

7.37 The current legal framework for waste is contained in the Waste (England and Wales) Regulations 2011 which implement the revised EU Waste Framework Directive 2008/98. Documents reflecting current national energy policy include the Overarching National Policy Statement for Energy (revised) (EN-1) and the National Policy Statement on Renewable Energy Infrastructure (EN-3). It was concluded in the Ratty's Lane decision that regard should therefore be had to the 'underlying principles' of EN-1 and EN-3.53 with respect to need for the electricity generating infrastructure as follows:

a) the UK needs all the types of energy infrastructure covered by EN-1 to achieve energy security and dramatically reduce greenhouse gas emissions.
b) it is for the market to propose new energy infrastructure projects and it is not appropriate to set targets or limits on different technologies.
c) decision-makers should assess all applications on the basis of the government having accepted that there is a need for those types of infrastructure. Paragraph 3.3.15 of EN-1 makes plain in particular that there is an urgent need for new electricity generation capacity, particularly of a low carbon variety.
d) paragraph 3.4.3 of EN-1makes plain that energy from waste is to be regarded as a form of renewable electricity generation, in respect of which paragraph 3.4.5 concludes that 'The need for new renewable electricity generation projects is therefore urgent.'

Carbon Savings

7.38 With regard to carbon impact (from EfW plants), the Ratty's Lane decision concluded that the generation of energy from an Energy from Waste plant would result in overall carbon savings compared to the existing situation. The savings would come from identifiable sources as follows: inherent carbon efficiency of the ERF facility when compared to existing arrangements for dealing with the waste, irrespective of the transport implications, together with the potential savings in the event that a Combined Heat and Power (CHP) facility is taken up from the plant, and the third identified was in relation to the savings in vehicle mileage which would have accrued over the existing arrangements over distance and to a landfill. These are all applicable to the Southmoor Energy Centre, with the third one potentially less applicable. Overall, however, it is considered that this proposal, to some degree like Ratty's Lane would also result in overall carbon savings.

7.39 The Southmoor Energy Centre will be Combined Heat and Power (CHP) ready and capable of supply to the forthcoming adjacent business park which was recently granted Outline planning permission. Even in an electricity only (non-CHP) scenario, it is considered that Energy from Waste facilities would displace gas fired power stations and that in the current circumstances where the energy market is transitioning towards a low carbon provision of electricity, carbon benefit will reduce but the waste management benefits will not.

7.40 Objectors at the Ratty's Lane Inquiry attempted to indicate that there had been some sort of move away from Energy from Waste facilities favoured in recent government thinking or policy. However, the Inspector's conclusions on this issue were clear: *"a) no specific provisions of policy showing this purported change of attitude could be identified; instead objectors confused the ongoing desire of government to increase recycling and reuse of waste so as to make the best practical moves towards a*

circular economy, on the one hand, with a move away from Energy from Waste use, on the other; this would be small in national terms, the achievement of government renewable energy targets is dependent on the rapid delivery of many different schemes, from small to large, and using a range of technologies. This aspect of the proposal derives strong support from relevant national and local policy."

7.41 All of the comments made above relate to the Southmoor Energy Centre proposal as well, whether at the existing permitted throughput, or at the requested increased throughput level.

UKWIN comments

7.42 The principal changes sought in this planning application are aimed to increase electricity generating capacity from 30 to 32.4 MWe. The generating capacity increase would have a corresponding increase in residual waste throughput from 280,000 tons per annum to 350,000 tons per annum; the lower figures are already permitted via previous permissions.

7.43 The latest national position recycling rates and residual waste management requirements are set out in a DEFRA publication dated December 2018 "Our Waste Our Resources: A Strategy for England" which includes a goal for municipal waste recycling targets of 55% by 2025, 60% by 2030 and 65% by 2035. The report also includes a review clause for these targets in 2028 i.e. before they aspire to progress beyond 55%. The relevance of any increase in actual recycling rates beyond current levels is that the higher the recycling figure the lower the quantity of residual waste that would require treatment in Energy from Waste facilities.

7.44 UKWIN notes that the November 2017 Tolvik report is post-dated by the Strategy. However, UKWIN seem to make an assumption that the Strategy municipal recycling rate of 65% by 2035 will simply be fully met and therefore the Tolvik residual waste forecasts in the November 2017 report are incorrect.

7.45 The Need Assessment submitted with the planning application placed reliance on two reports prepared by Tolvik consulting from 2017, but these have now been superseded by two updated Tolvik reports covering the same subjects. With regard to the new reports, the statistics show that in respect of the 65% recycling goal, English household waste recycling rates have remained flat since 2013 at around 43 to 44%. This compares to the UK's revised waste framework directive target of 50% for household waste recycling by 2020 which now appears to be very unlikely to be met.

7.46 The key intervention measures that have the potential to materially impact on the residual waste market are considered to be:

- food waste reduction
- Legislation for separate waste food collection
- Rolling out a deposit return scheme
- Extended producer responsibility for packaging (EPR)

7.47 Only Germany and Austria currently exceed a 50% recycling rate and for the largest EU countries. The average annual increase of the highest performers is 0.5-0.6% per annum. On this evidence it is concluded that there is a clear difference between political aspirations as measured by indicative goals, and the overall ability to deliver them. There therefore remains a need to ensure market projections that are primarily based on empirical data underpinned by what has been assessed can actually be achieved. Three future waste management scenarios have therefore been put forward by the Applicant as follows:

1. *Incremental change* - A scenario in which modest incremental improvements in recycling and resource efficiency are seen driven by combination of social attitudes and relatively light touch legislation change

2. *Median* - A scenario in which the key elements of the strategy are eventually delivered but beyond which there is limited progress i.e. 50% chance that the tonnage could be higher residual waste and a 50% chance that they could be lower.

3. *Policy intervention* - legislative and physical support for sustained action on recycling and prevention to deliver the recycling performance in line with northern European experience this. This would require a step change towards circular economy targets.

7.48 In summary, by 2035, it is considered likely that England would achieve 50.1% of household waste recycling under the median scenario (2) and in the most optimistic policy intervention scenario (3) might achieve 55.2% compared to the strategy goal of 65%. The report therefore calculates the future quantity of residual waste and sets out projected UK residual waste quantities comprising energy from waste capacity. From this they can then work out how much new future energy from waste capacity will be required.

7.49 In conclusion, the publication of the Strategy referred to, sets new aspirational goals for increased recycling. When the targets within the Strategy and the measures for their delivery are reviewed in detail however, together with empirical data, and are benchmarked against the factual position elsewhere in Europe, the situation actually appears to be that there is a marked gap between political aspiration and reality. This point is also referred to earlier in the report.

7.50 Based on this assessment, it is considered that it remains the case that the UK will need significantly more residual waste treatment capacity and that the arguments made by UKWIN are not likely to be well founded. The conclusions of the Need Assessment submitted with the planning application are therefore considered to remain robust in respect of the national residual waste management position. It must also be borne in mind that planning permission has already been granted for an EfW plant on the site and that this application seeks only an increase in the quantity of waste brought to the site. The principle of the development has therefore already been established.

The proximity principle.

7.51 UKWIN also refer to the two hour Isochrone to be used which they consider indicates that additional capacity for the Southmoor Energy Centre may be at odds with the proximity principle as material could have to travel a further distance and potentially at the expense of being treated at closer and more sustainable locations.

7.52 It is considered however, that the proximity principle should not be over interpreted to mean that waste must always be managed as close to its source as possible to the exclusion of all other considerations. In terms of location, the Southmoor site is an allocated site within the emerging MWJP in which it is stated that it is considered that the scale of capacity that could be provided at the site is such that it is of strategic importance and the site is therefore allocated to help retain this potential for the future. In addition, guidance in the National Planning Policy for Waste also states that where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers. This is the case with this planning application site being adjacent to the proposed future business park on adjacent land.

7.53 The original submitted Need Assessment covered both a national and regional need and the Energy Centre application was explicitly approved previously on the basis

that it would contribute to a wider regional need than that just arising within the North Yorkshire County Council area and the same position applies today.

7.54 The Energy Centre catchment area need evaluation which utilised the two hour Isochrone looked at all of the residual waste and all of the residual waste treatment facilities within the catchment. It robustly concluded that the quantities of residual waste requiring management would significantly exceed the available management capacity. On this basis there are no more facilities within the catchment that could treat the waste, as they do not exist.

7.55 It is therefore concluded that the submitted Need Assessment is considered to be robust, and accordingly there remains a clear need for the Energy Centre to contribute towards future sustainable waste management both nationally and within the catchment area which it would primarily serve. As such it also consistent with the aims of the emerging MWJP for the future.

Environmental Impact Assessment and other issues

7.56 The environmental effects of the proposed development, as proposed to be varied by this current application have been assessed and conveyed to the Authority within the formally submitted Environmental Statement accompanying the application. It is considered that the information compiled is that which can be reasonably compiled for the purpose of the assessment of any environmental effects of the development as proposed.

S106 Agreement

7.57 As a result of a clause in the creation of the last Deed of Variation to the S106 Agreement, no further Deed of Variation is needed and therefore the requirements laid down within the existing S106 Agreement (and Deed of Variation) will continue to be required and be adhered to once development has commenced even with a new set of planning conditions if planning permission is granted for this application. Monies totalling circa £158,880 will be paid upon commencement of development to pay for highway improvements (pedestrian crossing facility), ecological enhancements and landscaping works as laid down in the S106 Agreement.

8.0 Conclusion

8.1 This current application seeks to vary conditions and has been borne out the requirement for the proposed development to change elements of the proposal that related to the former colliery activities now that the colliery has closed and as a result of updating functional and operational aspects of the development. The design of the proposed access arrangements will allow the potential future use of the Rail Handling Facility which could then be used by both the Energy Centre and the adjacent Employment use, thereby maximising the potential of rail infrastructure.

8.2 The DEFRA Guide to the Debate represents the most up-to-date statement of government policy on Energy from Waste. Overall, national policy aims to improve the environment, and to improve the management of residual waste, without making any negative reference at all to the ongoing development of Energy from Waste facilities.

8.3 As such, this planning application which seeks to increase throughput at the Southmoor Energy Centre is considered to be acceptable. No impacts from the proposal are considered to be unacceptable and up to 32.4MWe of electricity would

be generated for the grid. All objections have been appropriately considered and this application is considered to be in accordance with national and local policy and planning permission is therefore recommended to be granted planning permission.

8.4 It is important to note that the proposed development essentially remains the same as that originally proposed (and approved) with the exception of the removal of the colliery-related activities. The changes as put forward are considered acceptable and in many respects form an improved scheme.

8.5 The principle of the development and the analysis against both national and local planning policy and guidance also remain unchanged and that the amended development is considered to still continue to provide a sustainable development outcome which meets planning policy aims and objectives as referred to in earlier sections of the report.

9.0 Recommendation

9.1 For the following reasons:

i) the proposed development will contribute to the generation of renewable energy, consistent with the Government's emphasis on the need for such energy in the UK, and would be in accordance with the National Planning Policy Framework (NPPF) and National Policy Statements EN-1 and EN-3;

ii) the proposed development will contribute to the provision of an energy generation facility which will help to improve the security and sustainability of energy supply, in accordance with National Policy Statements EN-1 and EN-3;

iii) the overall proposed development would assist in the delivery of key waste planning objectives in accord with the National Planning Policy for Waste by enabling the sufficient and timely delivery of waste facilities to move waste up the hierarchy and divert waste from landfill;

iv) the overall proposed development would generate employment opportunities in accordance with policy in the National Planning Policy Framework (NPPF);

v) the proposed development with increased throughput would not, subject where necessary to mitigation measures and controls, give rise to unacceptable impacts on, or conflict with policies in the NPPF or the Development Plan relating to:

- residential amenity (including air quality, pollution, impact on health, noise, dust, odour and lighting) as required by the NPPF; North Yorkshire Waste Local Plan (NYWLP) '*saved*' Policy 4/19 *Quality of Life*, criterion *h)* of '*saved*' Policy 4/1 *Waste Management Proposals*, and criterion *e)* of '*saved*' Policy 5/10 *Incineration of Waste*; Selby District Local Plan '*saved'* Policies ENV1, ENV2, ENV3, EMP9 (1) and EMP11 (8); and Selby District *Core Strategy* Local Plan Policies SP13(d) *Scale and Distribution of Economic Growth* and criterion *(i)* of Policy SP17 *Low-Carbon and Renewable Energy*;
- air quality, as required by criterion *h)* of '*saved*' NYWLP Policy 4/1 *Waste Management Proposals*, criterion *h)* of '*saved*' NYWLP Policy 5/10 *Incineration of Waste*; Selby District Local Plan '*saved*' Policy ENV2; and Selby District Core Strategy Local Plan Policies SP18 *Protecting and Enhancing the Environment* and SP19 *Design Quality*;
    - highways and transport interests, as required by the NPPF (paragraphs 32, 34 and 36); NYWLP '*saved*' Policy 4/1 *Waste Management Proposals*, criterion *g)* of '*saved*' NYWLP Policy 4/18 *Traffic Impact*, and criterion *d)* of *'saved'* NYWLP Policy 5/10 *Incineration of Waste*; Selby District Local Plan '*saved'* Policies

ENV3, EMP9(1), criterion *(5)* of '*saved*' Selby District Local Plan Policy EMP11, and *'saved'* Selby District Local Plan Policy T1; and criterion *(f)* of the Selby District Core Strategy Local Plan Policy SP15 *Sustainable Development and Climate Change*;

- SP18(7) *Protecting and Enhancing the Environment* and SP19(k) *Design Quality* of the Selby District Core Strategy Local Plan;

9.2 It is therefore recommended that **PLANNING PERMISSION BE GRANTED subject to the S106 Agreement dated 13th February 2015 and the Deed of Variation dated 22nd February 2018** for the purposes of the variation of condition no's 2, 3, 4, 5, 6, 9, 11, 13, 14, 15, 26, 37, 38, 39, 42, 43, 54, 55, 56, 57, 58 & 62 of planning permission ref. no. C8/2013/0677/CPO 'The relocation of colliery activities and construction of an energy centre to recover energy from waste with ancillary development including offices and utility uses (e.g. workshops and electrical rooms); parking; a new access point and improvements to the existing access; internal roads; railway sidings; a weighbridge and gatehouse; a substation and transformer compound; a national grid connection; private wire connection to the colliery; sustainable urban drainage systems; lighting; CCTV; landscaping and fencing on land at Kellingley Colliery, Turver's Lane, Knottingley, West Yorkshire, WF11 8DT.' The proposed variations relate to:- Increasing the consented annual throughput of waste at the Energy Centre, increasing the two way HGV movements, increasing the two way HGV movements during construction of the energy centre, changes to aspects of the consented development to accommodate plant selection including changes to the Turbine Hall, Boiler Hall, FGT plant and ACC unit, and changes to the consented construction phasing to include the use of the former Kellingley Colliery access on land at Land at the Former Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT on behalf of Peel Environmental Limited .subject to the conditions below:

Environmental information statement:
In determining this application, pursuant to Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the County Planning Authority considers the Environmental Statement, including the further and other information submitted by the applicant, includes such information as is reasonably required to assess the environmental effects of the development and which the applicant could be reasonably required to compile, and has taken into account the environmental information relating to this application, namely the Environmental Statement, including further and other information submitted by the applicant, and duly made representations about the environmental effects of the development.'

9.3 That **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

Conditions

COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates shall be begun before 23rd February 2020.

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

   DEFINITION OF DEVELOPMENT

2. The development hereby permitted shall be carried out in accordance with the application details and the following approved documents and drawings:

Ref.	Date	Title
	Dated June 2014, received 6th June 2014	Summary of Planning Application Addendum
	Dated June 2014, received 6th June 2014	Planning Statement Addendum including Need Assessment
2127-01	January 2019	Need Assessment
	dated April 2013, received 29th May 2013	Environmental Statement
	January 2019	Section 73 Planning Statement
	dated April 2013, received 29th May 2013	Environmental Statement Non-Technical Summary
	dated November 2013, received 13th November 2013	Environmental Statement Addendum
	dated November 2013, received 13th November 2013	Environmental Statement Addendum Non-Technical Summary
	dated June 2014, received 6th June 2014	Environmental Statement Addendum
	dated June 2014, received 6th June 2014	Environmental Statement Addendum Non-Technical Summary
	dated 24th January 2017	Environmental Statement Addendum
	dated January 2019	Environmental Statement Non-Technical Summary
	(dated April 2013, received 29th May 2013)	Alternative Sites Assessment
	dated April 2013, received 29th May 2013	Canal Freight Feasibility Report
	dated April 2013, received 29th May 2013	Consultation Assessment Report including Statement of Community Involvement
	dated April 2013, received 29th May 2013	Design and Access Statement
	dated May 2013, received 29th May 2013	Framework Site Waste Management Plan
	dated April 2013, received 29th May 2013	Initial Radar & Operational Impact Assessment

	dated 4th January 2017	Rail Feasibility Facilities Report
	dated April 2013, received 29th May 2013	Sustainability Appraisal including Carbon Assessment; and Heat Plan;
S2539-0300-0001KLH	November 2018	Carbon Assessment
S2539-0030-0000SY	January 2019	Heat Plan
	dated April 2013, received 29th May 2013	Transport Assessment and Interim Travel Plan
J000019-TA01a	January 2019	Transport Assessment
	dated April 2013, received 29th May 2013	Tree Survey
	dated April 2013, received 29th May 2013	Utilities Study
	dated 2nd September 2013, received 2nd September 2013 and 13th November 2013	WSP's response on Noise and Vibration
	dated 31st January 2014, received 6th February 2014	WSP's additional response on Noise and Vibration
	dated 9th April 2014, received 9th April 2014	WSP's additional response on Noise and Vibration
	dated 11th November 2013, received 13th November 2013	Barton Willmore's response to the Regulation 22 Request
	dated 5th February 2014, received 6th February 2014	Barton Willmore's additional response
	January 2019	'Peel Environmental Ltd– Southmoor Energy Centre – Dust and Particulate Emissions Management Plan' prepared by Fichtner Consulting Engineers Limited
Document Reference: 2472-01-OTMP04	26th March 2019.	Operational Traffic Management Plan
Document Reference: 2472-01- CTMP06	29th March 2019.	Construction Traffic Management Plan
	March 2019	AES Condition Compliance Document
	May 2019	Acoustic Bund Design report
	May 2019	Southmoor Energy Centre Contaminated Land Risk Assessment
March 2019', and revised version 'July 2019 update' including revised Appendix 7 Checklist 300719	March 2019 and July 2019	Southmoor Energy Centre, Pre-Commencement Construction Environmental Management Plan,
11015_PL01 A	dated March 2013, received 6th June 2014	Existing Location Plan
11015_PL02 A	dated March 2013, received 6th June 2014	Existing Topographical Survey

11015_PL03 RevB	dated March 2013, received 6th June 2014	Existing Site-Wide Sections
11015_PL04 Rev L	March 2013	Proposed Location Plan;
11015_PL05 Rev M	March 2013	Proposed Site Plan
11015_PL06 Rev L	March 2013	Proposed Circulation and Access Plan
11015_PL08 Rev A	March 2013	Proposed GA Floor Plan Below ground
11015_PL09 Rev E	March 2013	Proposed GA Floor Plan 0m
11015_PL10 Rev A	March 2013	Proposed GA Floor Plans_+5m & +10m
11015_PL11 Rev A	March 2013	Proposed GA Floor Plans_+15m +20m
11015_PL12 Rev A	March 2013	Proposed GA Floor Plans +25m & +35m
11015_PL13 Rev E	March 2013	Proposed GA Roof Plan_+45m
11015_PL14	dated March 2013 received 29th May 2013	Proposed Office GA Floor Plans
11015_PL15 Rev K	March 2013	Existing and Proposed Elevations_sheet 1
11015_PL16 Rev G	March 2013	Existing and Proposed Elevations_sheet 2
11015_PL17 Rev D	March 2013	Proposed GA Sections
11015_PL18 Rev H	March 2013	Proposed Site-Wide Sections
11015_PL19 Rev G	January 2019	Boundary Treatment Details
11015_PL20 Rev C	March 2013	Sub Station Proposed GA Plans & Elevations
11015_PL21 Rev F	March 2013	Proposed Gatehouse GA Plans & Elevations
11015_PL22 RevC	dated March 2013, received 14th March 2017	Proposed GA Elevations [coloured]
11015_PL23 RevC	dated March 2013, received 14th March 2017	Proposed GA Elevations [coloured] 2
11015_PL25 Rev G	Dated 1 April 2014, received 6th June	Proposed Security CCTV Location Plan
11015_SK033 Rev H	Dated November 2018	Phasing Diagram - Ph 1
11015_SK034 Rev H	Dated January 2019	Phasing Diagram - Ph 2
11015_SK035 Rev I	Dated November 2018	Phasing Diagram - Ph 3
11015_SK036 Rev H	Dated November 2018	Phasing Diagram - Ph 4
11015_SK055 RevB	Dated 1 April 2014, received 6th June	Proposed Acoustic Bund
1179-01/GA-11(i) Rev C	12th February 2013	Potential Access Junction Indicative Highway Arrangement including New Access and Internal Roads
	March 2019	Landscape Proposals Revision C:
Drawing No. 2472-01-01 (Rev D)	11th March 2019	Landscape Design General Arrangement
Drawing No. 2472-01-02 (Rev C)	19th March 2019	Landscape Design Detail 1

Drawing No. 2472-01-03 (Rev B)	19th March 2019	Landscape Design Detail 2
Drawing No. 2472-01-04 (Rev A)	August 2019	Tree Protection Plan General Arrangements
SEC-BWB-00-XX-DR-E-0301 Rev P3 –	29th November 2018	Proposed Lighting Layout Plan
SK-C-002 Issue 03	July 2019	Surface Water Drainage Network
SK-C-003 Issue 03	29th March 2019	Foul Drainage Network Layout
SK-C-011 Issue 03	29th March 2019	Proposed Levels Layout
SK-C-021 Issue 03	29th March 2019	Surface Finishes Layout
SK-C-022 Issue 03	29th March 2019	Kerbs Layout
SK-C-031 Issue 02	29th March 2019	Details Sheet 1
SK0C-032 Issue 02	29th March 2019	Details Sheet 2

Reason: To ensure that the development is carried out in accordance with the application details.

CONSTRUCTION

3. All construction activities shall be undertaken in accordance with the Southmoor Energy Centre, Pre-Commencement Construction Environmental Management Plan, March 2019', (revised version 'July 2019 update', Southmoor CEMP Appendix 7 Checklist 300719 or any updates submitted to and approved in writing by the local planning authority). Noise levels throughout the construction phase shall not exceed 70dB $L_{Aeq,T.}$

Reason: To ensure that the development is carried out in accordance with the application details.

HIGHWAYS AND TRAFFIC

4. There shall be no access or egress by any vehicles between the highway and the application site from the proposed access point as shown on Drawing 1179-01/GA-11(i) Rev C (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 215m measured along both channel lines of the major road A645 from a point measured 4.5m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To maintain highway safety and to avoid conflict with vulnerable road users.

HIGHWAYS AND TRAFFIC (CONSTRUCTION PERIOD)

5. During construction of the Energy Centre, there shall be no more than 180 (90 in, 90 out) Heavy Goods Vehicle movements per day.

Reason: To minimise the impact of the HGV's on local amenity.

HIGHWAYS

6. The construction of the proposed access road and any other associated highway works shall be constructed and completed in accordance with the following approved plans prior to first operation of the Energy Centre:

- Weeland Road Junction Site Clearance Layout, Ref. SEC-ARP-WR-XX-DR-C-04100 Rev P02, dated 27 September 2019;
- Weeland Road Junction Existing Contours Layout, Ref. SEC-ARP-WR-XX-DR-C-04110 Rev P02, dated 27 September 2019;
- Weeland Road Junction General Arrangement Layout Ref. SEC-ARP-WR-XX-DR-C04200 Rev P07, dated 17 December 2019;
- Weeland Road Junction Horizontal Alignment Layout, Ref. SEC-ARP-WR-XX-DR-C04210 Rev P04, dated 13 December 2019;
- Weeland Road Junction Contours and Longsection Sheet 1 of 2, Ref. SEC-ARP-WR-XXDR-C-04221 Rev P04, dated 13 December 2019;
- Weeland Road Junction Contours and Longsection Sheet 2 of 2, Ref. SEC-ARP-WR-XXDR-C-04222 Rev P04, dated 13 December 2019;
- Weeland Road Junction Cross Sections Sheet 1 of 2, Ref. SEC-ARP-WR-XX-DR-C04241 Rev P04, dated 13 December 2019;
- Weeland Road Junction Cross Sections Sheet 2 of 2, Ref. SEC-ARP-WR-XX-DR-C04242 Rev P04, dated 13 December 2019;
- Weeland Road Junction Kerbs and Pavements Layout, Ref. SEC-ARP-WR-XX-DR-C04250 Rev P04, dated 13 December 2019;
- Weeland Road Junction Signage and Linemarking Layout, Ref. SEC-ARP-WR-XX-DR-C04260 Rev P04, dated 13 December 2019;
- Weeland Road Junction Visibility Layout, Ref. SEC-ARP-WR-XX-DR-C-04281 Rev P04, dated 13 December 2019;
- Weeland Road Junction Tracking Layout, Ref. SEC-ARP-WR-XX-DR-C-04282 Rev P04, dated 13 December 2019;
- Weeland Road Junction Highway Details Layout, Ref. SEC-ARP-WR-XX-DR-C-04291 Rev P05, dated 16 December 2019;
- Weeland Road Junction Surface water Drainage Layout, Ref. SEC-ARP-WR-XX-DR-C04410Rev P06, dated 17 December 2019; Weeland Road Junction Utility Diversions Layout, Ref. SEC-ARP-WR-XX-DR-C-04600 Rev P01, dated 12 December 2019;
- Weeland Road Junction HV Electricity Diversion Layout, Ref. SEC-ARP-WR-XX-DR-C04620 Rev P01, dated 12 December 2019;
- Weeland Road Junction Gas Diversion Layout, Ref. SEC-ARP-WR-XX-DR-C-04630 Rev P01, dated 12 December 2019;
- Hazard Risk Register, Ref. SEC-ARP-WR-XX-RE-C-00001, Not dated; Road Safety Audit, Ref. SEC-ARP-WR-XX-RP-C-00001, dated 27 September 2019;
- Proposed Improvement to pedestrian Infrastructure Along Weeland Road, Eggborough, Ref. 1179-01-GA12, dated 6 November 2013.

The required highway improvements shall also include:

- proposed new access from the A645 as shown on Drawing 1179-01/GA-11(i) Rev C dated 19.02.13 including the provision of a ghost island right turn priority junction.

Reason: In the interests of the safety of highway users and to ensure that the proposed works are undertaken to the satisfaction of the Highway Authority.

MUD ON HIGHWAYS

7. Measures outlined within the Southmoor Energy Centre Pre-commencement Construction Environmental Management Plan, Appendix 4 – "March 2019", (revised version 'July update') shall be undertaken on site to ensure the surrounding public highways are kept free from mud and debris arising from the construction activities on site unless updated measures are submitted and approved in writing by the council.

Reason: To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

HIGHWAYS (OPERATIONAL HGV NUMBERS LIMIT)

8. During operation of the Energy Centre, there shall be no more than 146 daily HGV movements at the site (73 in, 73 out).

Reason: In the interests of highway safety.

HIGHWAYS (NEW ACCESS)

9. During operation, access to the Energy Centre shall only be via the new proposed access from Weeland Road as shown on approved Drawing no. 11015-PL06 Rev L titled: Proposed Circulation and Access Plan, Dated: March 2013 and no other access shall be used for any purpose connected with the development hereby permitted except in the case of emergency.

Reason: In the interests of highway safety and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

LANDSCAPING

10. The development shall be constructed and completed in accordance with the following approved landscaping details:
    - Landscape Design General Arrangement Drawing No. 2472-01-01 (Rev D)
    - Landscape Design Detail 1 Drawing No. 2472-01-02 (Rev C)
    - Landscape Design Detail 2 Drawing No. 2472-01-03 (Rev B)
    - Tree Protection Plan General Arrangements Drawing No. 2472-01-04 (Rev A)

Reason: To safeguard the character of the application site in the interests of visual amenity and to secure compliance with policy.

WOODLAND MANAGEMENT

11. The existing woodland on site shall be managed in accordance with the details outlined in the Landscape Proposals report dated March 2019 revision C.

Reason: In the interest of nature conservation and enhancement.

LIGHTING

12. All on site lighting shall be undertaken in accordance with drawing number SEC-BWB-00-XX-DR-E-0301 Rev P3 – Proposed Lighting Layout Plan dated 29th November 2018. Other than the lighting identified on the approved plans, no other lighting will be allowed at the site.

Reason: In the interest of visual amenity.

BAT MITIGATION

13. The development shall be undertaken in accordance with Section 4.1 to 4.5 (inclusive) and Plan 1 of the AES Condition Compliance document dated March 2019. All bat boxes to be installed on site shall be installed or overseen by an appropriately qualified IEEM registered ecologist.

Reason: To mitigate against the minor adverse impacts on bats resulting from the development.

AMPHIBIAN SPECIES

14. The development shall be undertaken in accordance with Sections 4.6 to 4.16 (inclusive) and Plan 2 of the AES Condition Compliance document dated March 2019.

Reason: To protect common amphibian species and the protected species of Great Crested Newt.

EXISTING WATER BODIES

15. The development shall be undertaken in accordance with Section 4.17 to 4.19 (inclusive) and Plan 2 of the AES Condition Compliance document dated March 2019.

Reason: To mitigate against the minor adverse impacts resulting from the development.

BREEDING BIRDS

16. The development shall be undertaken in accordance with Section 4.20 to 4.27 (inclusive) of the AES Condition Compliance document dated March 2019.

Reason: In order to prevent disturbance to nesting birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

PROVISION OF NEST BOXES

17. The development shall be undertaken in accordance with Section 4.28 to 4.29 (inclusive) and Plan 3 of the AES Condition Compliance document dated March 2019.

Reason: In the interest of enhancing the biodiversity value of the site.

SURFACE WATER DRAINAGE

18. The development shall be undertaken in accordance with the following approved drainage drawings produced by ARUP:
    - SK-C-002 Issue 03 (Surface Water Drainage Network)
    - SK-C-003 Issue 03 (Foul Drainage Network Layout)
    - SK-C-011 Issue 03 (Proposed Levels Layout)
    - SK-C-021 Issue 03 (Surface Finishes Layout)
    - SK-C-022 Issue 03 (Kerbs Layout)
    - SK-C-031 Issue 02 (Details Sheet 1)
    - SK0C-032 Issue 02 (Details Sheet 2)

Reason: To minimise flood risk and to prevent pollution of the water environment.

DETAILS OF DRAINAGE MEASURES

19. The proposed new access from the A645 Weeland Road shall not be brought into use until full details of any measures required to prevent surface water from non-

highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason: In the interest of highway safety.

SURFACE WATER DRAINAGE – PARKING AREAS

20. Prior to being discharged into any watercourse, surface water sewer or soak away system, all surface water drainage from parking areas shall be passed through an oil interceptor installed in accordance with a Scheme previously submitted and approved in writing by the County Planning Authority. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

SURFACE WATER DRAINAGE – NON PARKING AREAS

21. Surface water draining from all other areas of hardstanding not used for parking shall be passed through a trapped gully or series of trapped gullies, prior to being discharged into any watercourse, soakaway or surface water sewer. The gully/gullies shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the gully/gullies.

Reason: To reduce the risk of pollution to the water environment.

RAIN WATER DISCHARGE

22. All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the occupation of the development. The sealed construction shall thereafter be retained throughout the lifetime of the development.

Reason: To prevent the contamination of clean surface water run-off.

DRAINAGE AFFECTING RAILWAY

23. Storm or surface water must not be discharged towards Network Rail property. Suitable drainage or other works must be provided and maintained by the developer to prevent surface flows or run-off affecting the railway.

Reason: To prevent flooding of railway infrastructure or land.

PLANT AND MACHINERY AFFECTING RAILWAY

24. Cranes and jibbed machines, used in connection with the works, must be so positioned that the jib or suspended load does not swing over the Network Rail railway infrastructure or within 3 metres of the nearest rail if the boundary is closer than 3 metres. All cranes, machinery and constructional plant must be so positioned and used to prevent the accidental entry onto Network Rail railway property of such plant, or loads attached thereto, in the event of failure.

Reason: To maintain the safety of railway operations.

FENCING

25. The development shall be constructed and completed in accordance with approved Drawing number 11015-PL19 Rev G – Boundary Treatment details dated January 2019.

Reason: In the interests of security and visual amenity.

FLOOD RISK

26. The development shall be carried in complete accordance with the Flood Risk Assessment Report 50600483 dated 24/05/2013, prepared by WSP and the Flood Risk Addendum dated 03/06/2014.

Reason: To prevent any increase in flood risk in the interest of satisfactory and sustainable drainage.

POLLUTION PREVENTION

27. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compounds shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank or the combined capacity of the inter-connected tanks plus 10%. All filling points, vents and gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

LAND CONTAMINATION

28. The development shall be undertaken in accordance with the Southmoor Energy Centre Contaminated Land Risk Assessment (May 2019). If, during construction works any unsuspected contamination is identified that has not been considered in the Remediation Statement, then remediation proposals for this material should be submitted to and agreed in writing by the County Planning Authority. Construction shall cease until a scheme for dealing with this unsuspected contamination has been approved by the County Planning Authority.

Reason: To protect the environment and ensure that the remediated site is reclaimed to an appropriate standard.

ACOUSTIC BUND

29. The development shall be constructed in accordance with the approved Acoustic Bund Design report (May 2019). Prior to the commissioning of the Southmoor Energy Centre development, a 2 metre high acoustic fence shall be erected on the bund as shown on approved drawings Boundary Treatment Details, Ref: 11015-PL19 Rev G and 11015_SK055 B - Proposed Acoustic Bund (dated 1 April 2014, received 6 June 2014) to a specification to be approved in writing with the County Planning Authority prior to installation.

Reason: To minimise the adverse impact of noise generated by operations in the interests of amenity in accordance with 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan).

DECOMMISSIONING AND REMOVAL OF BUND

30. In the event that the Southmoor Energy Centre is to be decommissioned, a scheme for the demolition and removal of the screening bund, as shown on approved drawings Proposed GA Elevations Sheet 1, Ref: 11015-PL15 Rev K and 11015_SK055 B - Proposed Acoustic Bund (dated 1 April 2014, received 6 June 2014) and acoustic fence as shown on approved drawings Boundary Treatment Details, Ref: 11015- PL19 Rev G and 11015_SK055 B - Proposed Acoustic Bund (dated 1 April 2014, received 6 June 2014) shall be submitted to and agreed in writing with the County Planning Authority. The scheme shall include timescales for

removal of the bund. The screening bund will thereafter be removed in accordance with the approved scheme.

Reason: In the interest of visual amenity.

DUST MANAGEMENT

31. The operations hereby approved shall only be carried out in accordance with the approved Dust Management Plan submitted with the application (Peel Environmental Ltd – Southmoor Energy Centre – Dust and Particulate Emissions Management Plan' dated January 2019 and prepared by Fichtner Consulting Engineers Limited), or any variations to this Plan as approved by the Environment Agency.

Reason: In the interest of dust control and to protect residential amenity.

WASTE IMPORTS

32. The proposed facility shall not accept more than 350,000 tonnes of residual non-hazardous waste per year.

Reason: To ensure that the facility meets the identified need to deal with residual waste arisings (which are defined as waste which cannot be beneficially recycled or reused for economic, environmental or practical reasons) only, in the interests of satisfying the requirements of the Waste Hierarchy the interest of dust control and to protect residential amenity.

CYCLE PARKING

33. The development shall include the provision of 12 Sheffield bike stands for cycle parking.

Reason: To ensure appropriate levels of cycle parking provision are to the satisfaction of the County Planning Authority.

NOISE

34. The noise rating level from the all fixed plant and equipment associated with the energy centre shall not exceed the following rating noise level limits, as defined in *BS 4142:2014: Methods for Rating and Assessing Industrial and Commercial Sound*:

Receptor Location	**Daytime 07:00 to 23:00**	**Night-time 23:00 to 07:00**
	LArTr (dB) (free-field)	**LArTr (dB) (free-field)**
Properties on Turvers Lane	41	36
Calder Grange Farm	48	43

Should any complaints be received regarding noise levels, additional monitoring shall be undertaken in agreement with the County Planning Authority to confirm the source of the noise and outline any mitigation measures required to reduce this noise, where the limits in the above table are demonstrated to be being exceeded. Any required mitigation measures shall then be implemented in full in accordance with the agreed timescale and shall be retained thereafter.

Reason: To protect local amenity.

HIGHWAYS (CONSTRUCTION PERIOD)

35. The construction phase of the development shall be undertaken in accordance with Construction Traffic Management Plan Document Reference: 2472-01-CTMP06 (dated 29th March 2019).

Reason: in the interests of highway safety.

HIGHWAYS (CONSTRUCTION HOURS OF OPERATION)

36. Construction activity shall only take place between 07:00 and 19:00 Monday to Friday and 07:00 to 13:00 on Saturdays. No construction activity shall take place on Sundays or Bank and Public Holidays. During construction works no:

(a) Light Goods Vehicles exceeding 3.5 tonnes;
(b) Medium Goods Vehicles up to 7.5 tonnes; and
(c) Heavy Goods Vehicles exceeding 7.5 tonnes.

Are permitted to arrive, depart, be loaded or unloaded outside of the permitted hours, except in emergency circumstances.

Reason: In the interests of amenity.

CAR PARKING

37. The development shall be constructed and completed in accordance with the approved staff car parking details contained within Section 2.6 of the Construction Traffic Management Plan (dated 29th March 2019).

Reason: In the interests of highway safety.

HIGHWAYS (OPERATIONAL PERIOD)

38. The operation of the development shall take place in accordance with approved Operational Traffic Management Plan Document Reference: 2472-01-OTMP04 dated 26th March 2019.

Reason: To provide for appropriate on-site vehicle parking with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

DETAILS OF PILING

39. No piling activity shall take place until details of the proposed piling locations and piling methods have been submitted to, and approved in writing by, the County Planning Authority.

Reason: Due to the historical use of the site, there is the potential for contaminants to be present on this previously worked site and to protect the water environment.

MATERIALS

40. Prior to the commencement of construction of the Energy Centre building super structure, samples of all materials to be used, including colours and finishes, shall be submitted to and approved in writing by the County Planning Authority.

Reason: In order to safeguard the character of the site in the interests of visual amenity.

ODOUR

41. Precautions shall be taken to avoid smell nuisance and gaseous pollution. In particular, all vehicles transporting waste to and from the site shall be covered in a manner which shall prevent odorous emissions, and waste shall be transported by rail only in sealed containers.

Reason: In the interest of residential amenity.

UNLOADING OF WASTE

42. With the exception of short-term storage of waste contained in enclosed rail containers, all unloading of waste must be undertaken within the confines of the process building identified as the Reception Hall on the approved drawings Proposed GA Floor Plans +5 and +10, Ref: 11015-PL10 Rev A, Proposed GA Floor Plans +15 and +20, Ref: 11015-PL11 Rev A and Proposed GA Floor Plans +25 and +35, Ref: 11015-PL12 Rev A.

Reason: to ensure a satisfactory form of development.

DECOMMISSIONING AND RESTORATION

43. Six months prior to the decommissioning of the Energy Centre, a detailed scheme of restoration and landscaping, including a review procedure shall be submitted to the County Planning Authority for written approval. The approved scheme shall be implemented in accordance with an agreed programme from that scheme.

Reason: To ensure appropriate restoration is undertaken to safeguard and improve the character and visual appearance of the application site in the interests of visual amenity.

STORAGE

44. Any containers carrying waste which are delivered to the Energy Centre by rail shall only be stacked 2 containers high at any one time.

Reason: In the interests of residential amenity.

STACK HEIGHT

45. The proposed Energy Centre stack shall be no greater than 80 metres in height, as shown on approved drawing Proposed GA Sections, Ref: 11015-PL17 Rev D.

Reason: In the interests of visual amenity.

ENERGY GENERATION

46. Until a grid connection to the substation has been installed and is capable of transmitting electricity generated, no combustion of waste shall take place at the Energy Centre apart from testing during commissioning until a grid connection to a substation has been installed and is capable of transmitting electricity generated, except where relevant for periods of grid and/or grid connection fault, maintenance, inspection or repair.

Reason: To ensure the provision of low carbon energy generation.

WORKING HOURS

47. No waste deliveries to the Energy Centre or exports from it shall take place except between 07:00 and 19:00 Monday to Friday and 07:00 to 13:00 on Saturdays. No deliveries or exports shall take place on Sundays or Bank and Public Holidays.

Reason*: In the interests of residential amenity.*

DECOMMISSIONING

48. No later than 6 months following the permanent cessation of electricity generation at the site and prior to the decommissioning of the development, a Decommissioning Environmental Management Plan (DEMP) to address the removal of the development shall be submitted to and approved in writing by the County Planning

Authority. The DEMP shall be implemented as approved. The DEMP shall include the following details:

- the demolition/dismantling and removal of the plant and buildings;
- site waste management including measures to recycle materials on the site;
- hours of working;
- car parking arrangements;
- traffic management;
- details of site offices;
- access arrangements to the site;

Reason: To ensure the effective decommissioning of the site in the interests of residential amenity and pollution control

Statement of Compliance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

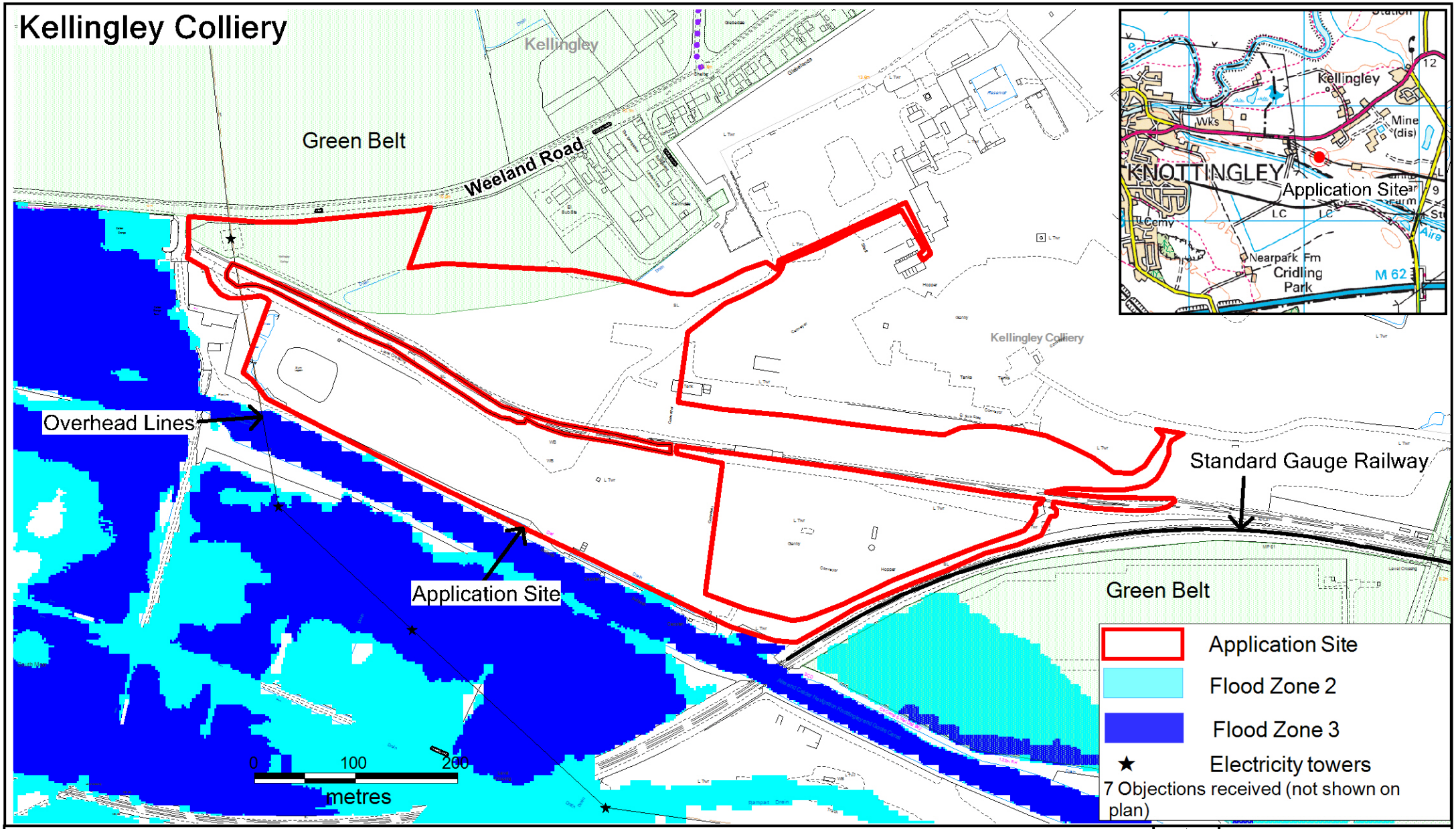
DAVID BOWE
Corporate Director, Business and Environmental Services

Background Documents to this Report:

1. Planning Application Ref Number: C8/2019/0194/CPO (NY/2019/0005/73) registered as valid on 16.01.2019. Application documents can be found on the County Council's Online Planning Register by using the following web link: https://onlineplanningregister.northyorks.gov.uk/register/
2. Consultation responses received.
3. Representations received.

Author of report: Felicity Hart

Kellingley Colliery



Application No : C8/2019/0194/CPO

TitlePlanning application accompanied by an Environmental Statement for the purposes of the variation of condition no's 2, 3, 4, 5, 6, 9, 11, 13, 14, 15, 26, 37, 38, 39, 42, 43, 54, 55, 56, 57, 58 & 62 of planning permission ref. no. C8/2013/0677/CPO 'The relocation of colliery activities and construction of an energy centre to recover energy from waste with ancillary development including offices and utility uses (e.g. workshops and electrical rooms); parking; a new access point and improvements to the existing access; internal roads; railway sidings; a weighbridge and gatehouse; a substation and transformer compound; a national grid connection; private wire connection to the colliery; sustainable urban drainage systems; lighting; CCTV; landscaping and fencing on land at Kellingley Colliery, Turver's Lane, Knottingley, West Yorkshire, WF11 8DT

Business & Environmental Services, North Yorkshire County Council
County Hall, Northallerton, North Yorkshire. DL7 8AH

Scale : 1:5,000
Date : Sep 2019
Filename : Southmoor
Compilation & Analysis : NR/JB