

DEVELOPMENT CONTROL AND REGULATION COMMITTEE
15 July 2022
A report by the Executive Director - Economy and Infrastructure

Application Reference No. 1/21/9004

Application Type: Section 73 Planning Application

Proposal: Application to amend condition 2 of planning permission 1/18/9006 and to approve further details subsequently submitted for the construction and operation of a building for the processing of waste to produce Refuse Derived Fuel, and processing of co-mingled recyclable material, which it is proposed to determine under Section 73A of the Town and Country Planning Act 1990 for retrospective permission for the construction and operation of a building for the processing of waste to produce Refused Derived Fuel, and the processing of co-mingled recyclable material. This is fully explained in Section 2 of this report.

Location: Hespian Wood Waste Management Park, Rockcliffe, Carlisle, CA6 4BJ

Applicant: Cumbria Waste Management Ltd

Date Valid: 20 July 2021

Reason for Committee Level Decision: Objections received from representees

1.0 RECOMMENDATION

1.1 That it would not be expedient in the public interest to take enforcement action to remove the building already constructed, because it is substantially in accordance with recently expired planning permission 1/18/9006 (Appendix 1) and is acceptable in regard to policies of the development plan, national planning and waste policies.

That this planning application, submitted under section 73 to vary conditions on planning permission 1/18/9006, be considered as an application for retrospective planning permission under section 73A of the Town and Country Planning Act.

1.2 That retrospective planning permission is granted for the construction of a building for the processing of waste to produce Refuse Derived Fuel (RDF) and processing of co-mingled recyclable material, subject to conditions in Appendix 3.

2.0 BACKGROUND INFORMATION

2.1 In October 2018, planning permission was granted for a building to store and process refuse derived waste (1/18/9006). This planning permission had an expiry date of 8th October 2021. This report is reproduced at Appendix 1.

2.2 In July 2021, a Section 73 application was received which included a minor change to the approved 2018 scheme under planning permission 1/18/9006 (to vary condition 2 of the planning permission which contained the approved scheme documents and plans), whereby it was proposed to include a water storage tank within the site in addition to the building already approved – no other changes were proposed to the approved scheme. The water tank was required to store water for fire regulations.

- 2.3 The section 73 application was amended in September 2021 to include details in relation to the outstanding conditions 7,8,9,10 and 13 of planning permission 1/18/9006 with information on the proposed drainage details and construction management plan. These amendments were subject to additional publicity initiated on 8 October 2021.
- 2.4 Construction work began on the approved scheme in August 2021, the applicant did not inform the planning authority that work had commenced on site, this only came to light when queried over the outstanding conditions. Unfortunately, not all of the conditions imposed on this planning permission were agreed and discharged before the works began. Some of these conditions required details to be submitted and agreed before any works or development started on site – these are known as pre-commencement conditions. The works were significantly underway when we were advised that commencement had taken place. The applicant was asked to submit the details under condition as a matter of urgency.
- 2.5 This application was placed on the agenda for the Development Control and Regulation Committee meeting of 19 January 2022. However, just prior to the meeting an objection was received which suggested the Council would be acting ultra vires to proceed as proposed, because construction work had already begun on site before all the planning conditions had been agreed. (Some of these conditions required details to be submitted and agreed before any works or development started.) As a result the objector argued that the development was unauthorised; there was a risk of judicial review, the Council could be perceived as acting with favouritism and the Council should consider whether enforcement action should be taken against the development as the planning permission had not been lawfully implemented.
- 2.6 In the light of this late representation, Committee agreed to defer consideration of the application to a future meeting in order for the content of the representation to be fully considered and addressed in the report.

Analysis of pre-commencement conditions not complied with on planning permission 1/18/9006

- 2.7 A total of five pre-commencement conditions were not complied with before development began at the site (conditions 7, 8, 9, 10 and 13 of planning permission 1/18/9006). The planning permission 1/18/9006 was for the construction and operation of a building for the processing of waste to produce refuse derived fuel and processing of co-mingled recyclable material. Four of these conditions related to approval of drainage details with the remaining condition requiring the submission of a construction management plan. the conditions are reproduced below;

Condition 7: *Prior to the commencement of development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Waste Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include:*

a) Arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a resident's management company; and

b) Arrangements for inspection and ongoing maintenance of all elements of

the sustainable drainage system to secure the operation of the surface water drainage system throughout its lifetime

The development subsequently be completed, maintained and managed in accordance with the approved scheme.

Condition 8: *No development shall commence until full details of the surface water system demonstrating that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 40% to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc) have been agreed in writing with the local planning authority.*

Condition 9: *Prior to the commencement of any development, a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The proposed scheme should meet the requirements of Sustainable drainage systems: non-statutory technical standards (March 2015).*

The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall be discharged to the public sewerage system either directly or indirectly.

Condition 10: *No development shall commence until details of future maintenance and operations of drainage in relation to the building and operation have been agreed in writing with the Waste Planning Authority.*

Condition 13: *No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Waste Planning Authority. The CMP shall include details of:*

- *Hours of operation for construction activities;*
 - *Contractors compound/parking provision including a plan reserving adequate land for the parking of vehicles engaged in construction operations;*
 - *Storage of construction materials;*
 - *The location and design of wheel cleaning facilities including the provision for cleaning of the site entrance to ensure debris do not get deposited by vehicles upon the public highway;*
 - *Identification of potential sources and measures to control;*
- Noise*
- Dust*
- Vibration*
- *Storage of fuels during construction works including spill mats;*
 - *Details of temporary lighting during construction works;*
 - *Provision for facilities of manoeuvring, loading and unloading of vehicles;*
 - *Construction vehicle routing including scheduling and timing of movements, details of escorts for abnormal loads and temporary warning signs;*

The development shall be thereafter be carried out in accordance with the approved construction Management Plan.

- 2.8 It is important to note that a planning permission can only be implemented in accordance with the terms of the planning permission. This can create a problem when the permission is subject to planning conditions that require something to be done before the development authorised by the planning permission can begin. These are referred to as pre-commencement conditions or sometimes Grampian conditions. The Courts have held that if such a condition goes to the heart of the permission, the planning permission cannot be implemented until the condition or conditions has/have been discharged. However, not every condition drafted as a pre-commencement condition prevents a planning permission from being lawfully implemented in the absence of full compliance. It is necessary to consider the importance of each condition and whether the condition goes to the heart of the permission. Further, it is necessary for the condition to be expressly prohibitive of commencement of development. The analysis of whether a condition goes to the heart of the permission is a fact sensitive judgment dependent upon the facts of the case, the subject matter of the condition and its significance to the development.
- 2.9 One of the pre-commencement conditions attached to the planning permission, condition 13, required the submission of a construction management plan which was designed to control impacts during the construction of the building such as traffic impacts, noise, dust etc. This condition is considered to be limited to one aspect of the development and is not seen as fundamental to the grant of planning permission. On balance it is considered this condition does not go to the heart of the permission and non-compliance with it would not prevent the permission being implemented.
- 2.10 The other four pre-commencement conditions controlled drainage. Though there were details submitted within the 2018 planning application, the local lead flood authority response to the application raised concerns that the details included did not show a satisfactory drainage strategy. The flood risk assessment confirmed surface water drainage would be directed straight to a ditch to the west of the site, but would not undergo any form of filtering or treatment. This approach was considered unacceptable as surface water must first be attenuated and treated before being discharged to a suitable water course at a controlled rate.
- 2.11 For these reasons, the development was only supported if satisfactory details were submitted and approved before the development commenced. For that reason the drainage conditions nos. 7-10 were imposed on the planning permission. In the light of this, after consulting our development management flood officer, and having regard to the reasons for imposing the conditions, it was considered these conditions were significant and fundamental, the details required to comply with them were necessary to make the development acceptable in planning terms and, therefore, the conditions did go to the heart of the permission. That being the case it is considered that, though the development commenced on site purportedly in accordance with the planning permission, such implementation was in breach of the planning permission and is unauthorised development.
- 2.12 As with any unauthorised development, the local planning authority must investigate it and consider whether or not it is acceptable. A breach of planning control does not always result in enforcement action; the local planning authority must consider whether or not it would be expedient to take enforcement action. If

development is unauthorised but acceptable in planning terms, it would be unreasonable to take enforcement action simply because it was unauthorised. The response of the local planning authority is subject to the usual public law principles. The issue of enforcement is dealt with in paragraphs 9.2 to 9.3 below.

The procedure to be followed to determine this application

- 2.13 There are several ways available to regularise development. The applicant can submit a new full application or leave it to the Local Planning Authority to decide whether it is expedient to take enforcement action or not, or alternatively, submit a Section 73A application to agree the works retrospectively. This planning application was originally submitted under Section 73 of the Town and County Planning Act 1990, to vary the conditions to the existing planning permission. However, planning permission must not be granted under Section 73 to the extent it has the effect of extending the time within which the development must be started. The development was commenced but as the four pre-commencement conditions referred to above had not been discharged, approving the application under Section 73 could not be acted upon post 8 October 2021 because the effect would be to extend the life of the original planning permission. Nevertheless, under the 1990 Act, there is provision under Section 73A of the Act to consider retrospective development. Section 73A provides that on an application made to the Local Planning Authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application. Our Solicitor has confirmed that case law has established that in appropriate circumstances it is permissible to consider an application made under Section 73 as an application under Section 73A. In the circumstances it is proposed to consider the development that has been carried out, the extent to which it complies with the original permission, whether it is acceptable in planning terms, whether it would be appropriate to take enforcement action and whether it would be appropriate to grant planning permission under Section 73A of the Act to regularise the development.

3.0 THE DEVELOPMENT

- 3.1 The development comprises a building for the processing of waste to produce Refuse Derived Fuel (RDF) and processing of co-mingled recyclable material, creation of two lagoons and car park.
- 3.2 The building measures 114m (l) x 36m (w) x 11m (h) and is a portal frame construction. The walls are predominately profiled steel sheeting with an olive green plastisol coating, however, there is in place at the lower level pre-stressed concrete panels. The concrete walls are push walls where loose material would be handled by mobile plant; these need to be a concrete wall for safety reasons. The roof is constructed of profiled steel sheeting with an olive green plastisol coating interspersed with roof lights, this makes up 20% of the roof area.
- 3.3 The RDF component of the building area provides for the receipt, initial pre-sorting and storage of commercial and industrial wastes. From this area material would go through a series of processing stages:
- Pre-shredding to reduce material to a size capable of being processed;
 - Trommel to remove fines;
 - Overband magnet to remove ferrous metals;
 - Air separator to remove the light fraction of material;

- Picking station to remove any remaining unsuitable material/recyclables; and
 - Final shredding.
- 3.4 This process removes recyclable material and any material which would be suitable for use as RDF. The shredded RDF would be baled awaiting transportation to an appropriate facility. RDF can be used for a number of purposes including replacing fossil fuels and can be used in cement kilns.
- 3.5 The dual stream recyclables element (co-mingled) is similar to that in the RDF facility in that the material would be delivered and deposited in the reception area then processed through a series of stages. The stages reflect the material from one of the streams of the kerbside collections – glass, metal and plastic:
- Glass breaker and screen to remove glass;
 - Picking station to remove contaminants;
 - Overband magnet to remove ferrous metals; and
 - Eddy current separator to remove non-ferrous metals.
- 3.6 The process results in the separation of aluminium, ferrous, metals, plastic and contaminants. The separated recyclate would be sorted in bays before onward transportation to processors and the residual materials processed to produce RDF.
- 3.7 It is anticipated that up to 100,000 tonnes per annum could be processed (1,923 tonnes per week). There is currently around 50,000 tonnes of material imported to Hespin Wood which could be diverted to the RDF facility and thereby moving waste up the waste hierarchy and reducing waste road miles, as it is already on site.
- 3.8 The building is located between the green waste composting area and the Materials Recovery Facility (MRF) building. The area was previously a woodland area which was cleared to allow development. A triangular area of trees, measuring approximately 107m x 60m, has been removed. There have been a large number of trees removed from the site since 2003, but there is still a large woodland area remaining. The trees removed in 2018 were assessed by an Arboriculturist who identified the trees were of low individual value. Hespin Wood Waste Management Park is not located within a Conservation Area or Listed Building, thereby no formal consent is required to remove the said trees.
- 3.9 Members undertook a site visit on 23 February 2022.

4.0 SITE DESCRIPTION

- 4.1 Hespin Wood Waste Resource Park is a mixed use Sui Generis site which operates as a landfill site, Material Recovery Facility (MRF), Green Waste Composting, aggregates recycling, location of the northern Mechanical Biological Treatment Plant (MBT) and more recently a concrete batching plant. Hespin Wood Resource Park (leased to CWM) covers an overall site area of 51ha of which 29ha is operational land and 22ha is green (undeveloped) areas.
- 4.2 Hespin Wood Waste Resource Park is located to the north of Carlisle close to the M6 motorway. Access to the site is from the All Purpose Road (APR), the C1022

and links to A689 at Parkhouse roundabout, which connects to the strategic road networks of the M6 and A595(T).

4.3 Hespín Wood Waste Resource Park occupies a rural location approximately 7km north from Carlisle City Centre. Hespín Wood Waste Management Park is enclosed by trees plantations to all sides:

- To the east of the site is a woodland strip, ARP road, M6 and the settlement of Todhills beyond. There is an acoustic noise barrier along the U1070 which reduces traffic noise from the M6 motorway and other noise which is generated to the west and protects residents of Todhills from noise impacts;
- to the south is the U1070, which links Todhills and Rockcliffe, which forms the access road to the site and the strategic road network. This is a single track road once past the entrance of Hespín Wood Resource Park, all vehicles must turn left when coming out of the entrance. There is a woodland area which separates the site from the highway. Blackrigg bungalow is 200m south west of the site;
- to the west of the site is the west coast railway line and a woodland area; and
- to the north of the site is a woodland area and agricultural fields.

4.4 The nearest residential receptor's are Blackrigg Bungalow 200m south west and the village of Todhills is 180m south east.

5.0 SITE PLANNING HISTORY

5.1 Hespín Wood Waste Resource Park was established in the mid 1970's, originally at Hell's Hole for the disposal of controlled tipping of domestic, trade and industrial waste (Ref: 1/76/0989, approved 16 January 1979). The main landfill activities received permission in 1979, for controlled tipping (Ref: 1/79/0113, approved 18 May 1979). The main landfill activities are for continuation of waste disposal and amendment of treatment, phasing, levels, reclamation and after-uses and operates under planning permission 1/17/9001 (approved 19 July 2017), which allows operations until 31 October 2039 with restoration to be completed by 31 October 2041.

5.2 Hespín Wood Waste Resource Park has established itself into a Waste Resource Park, which has a number of different elements namely Mechanical Biological Treatment Plant (MBT), Material Recovery Facility (MRF), green waste composting, aggregate recycling, electricity generation compound, leachate plant and asphalt plant. There are extensive planning permissions relating to the activities on Hespín Wood Waste Resource Park.

5.3 Planning permission 1/18/9006 was granted for Construction and operation of a building for the processing of waste to produce Refuse Derived Fuel (RDF), and processing of co-mingled recyclable material on 8 October 2018.

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 **Carlisle City Council Planning Department:** No objection.

6.2 **Carlisle City Council Environmental Health:** No objection.

6.3 **CCC Local Plan Officer:** The CMWLP identifies a need for additional waste treatment and management facilities to be brought forward within the Plan period in order to achieve required rates of waste recycling and recovery and so reduce

the amount of waste being disposed to landfill. Some sites are allocated in Policy SAP2 as well as some Broad Areas which have potential to support further waste management provision but this policy is not intended to be used restrictively.

Proposals for new facilities on unallocated sites will be considered in accordance with other relevant policies and if they would meet an identified need in a timely manner. It was also recognised that proposals for developments requiring smaller sites, extensions to existing waste management sites and proposals to treat or manage waste arising at commercial and industrial premises are likely to come forward during the Plan period. Para. 18.7 suggests the location criteria used for identifying the allocated sites and Broad Areas would be suitable for considering such proposals. This includes siting smaller scale waste management developments in industrial areas where other waste uses already exist.

The application site is on an existing waste management site, associated with the Hespín Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e). However, as required by DC9, we should be satisfied that the introduction of additional waste processing facilities reliant on importing waste from landfill sites at Hespín Wood, Flusco and Distington does not prejudice the satisfactory restoration of those sites.

The principle of providing a facility to increase capacity for recovery and recycling of waste, thereby reducing the amount of collected waste that goes to landfill, is supported by the council's Waste Management Strategy. It will also help achieve the EU Waste Directive targets for recycling which the Government has committed the UK to achieving post-Brexit.

The production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel.

- 6.4 **CCC Highways:** The first matter to address is the changes to the parking area. As far as we are aware the only difference between the 2018 plan and the plan submitted with this application is the annotation to the plan. It used to read HGV manoeuvring and parking, but on the current application is merely states " HGV manoeuvring area". This annotation is omitted from some drawings. This change to my mind is immaterial. The area remains the same size and will be utilised by the applicant as per their operational needs. It will therefore not have a severe impact on the highway in capacity terms nor will it have an unacceptable impact on highway safety.
- 6.5 **CCC Lead Local Flood Authority:** The issue of flood risk is the slightly different methodologies for dealing with storage of water. We were consulted on the original FRA in 2018 and sought to impose drainage conditions on the original application. We have considered the amendments and have no concerns with the revisions proposed. The discrepancy between the floor areas for the 2018 and 2021 is noted. I can confirm that the current application was assessed on the most up to date information, i.e. this current application, and we are content that this proposal will not increase the flood risk either on site or elsewhere.
- 6.6 **Environment Agency:** No objection. The site is regulated by the Environment Agency, the environmental permit will need to be varied to include the proposed Refuse Derived Fuel activities, to increase the annual tonnage and extend the

permitted boundary to include the area of proposed development. The activity involves the pre-treatment of waste and may also fall into being A(1) listed activity and require an Industrial Emissions Directive (IED) permit if the amount of waste throughput exceeds 75 tons a day then an A(1) IED permit will be required.

6.7 **Rockcliffe Parish Council:** No response received.

6.8 **Local Member Longtown:** Is currently vacant.

6.9 Planning permission 1/21/9004 has been out to consultation on three occasions. The first was on 4 August 2021, where four representations were received. A second consultation was issued on 8 October 2021, when two representations were received and a third consultation on the 29 March 2022, when one representation was received. The concerns raised with the most recent consultation round relates to elements of previous reports, rather than the merits of the proposal which was out to consultation for retrospective permission for “the construction and operation of a building for the processing of waste to produce Refuse Derived Fuel, and processing of co-mingled recyclable material”. These comments are in paragraphs 8.56 to 8.71 below and fully reproduced as Appendix 2.

7.0 PLANNING POLICY

7.1 [Section 38\(6\)](#) of the [Planning & Compulsory Purchase Act 2004](#) provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

7.2 The [Cumbria Minerals and Waste Local Plan 2015-2030](#) was formally adopted on 6 September 2017. The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 - Presumption in Favour of Sustainable Development
- Policy SP2 - Provision for Waste
- Policy DC1 - Traffic and Transport
- Policy DC2 - General Criteria
- Policy DC3 - Noise
- Policy DC6 - Cumulative Environmental Impacts
- Policy DC9 – Criteria for Waste Management Facilities
- Policy DC18 – Landscape and visual Impact

7.3 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 - Sustainable Development
- Policy SP6 – Securing Good Design

7.4 The National Planning Policy Framework [NPPF], which was published July 2021, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 7- 10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Section 4 – Decision making
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment.
- Paragraph: 047 Reference ID: 28-047-20141016 – Should existing waste facilities be expanded/extended?
- Paragraph: 050 Reference ID: 28-050-20141016 – Regulatory regimes
- Paragraph: 046 Reference ID: 28-046-20141016 – When can unallocated sites be used?

- 7.5 National Planning Policy for Waste (October 2014) sets out the Government's ambition to work towards more sustainable and efficient approach to resource use and management. Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy. The National Planning Policy for Waste should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste.
- 7.6 The Waste Framework Directive 2018/851 makes amendments to Directive 2008/98/EC on waste (The Waste Framework Directive) which provides the legislative framework for the collection, transport, recovery and disposal of waste.
- 7.7 The Waste (England and Wales) Regulations 2011 requires everyone involved in waste management to take all reasonable measures to apply the waste hierarchy in the transfer of waste.
- 7.8 Government Review on Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. . There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for Energy from Waste facilities such as this development, not only in the context of waste management but also having regard to low carbon/renewable energy provision and climate change.
- 7.9 Waste Management Plan for England (2021) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.

8.0 PLANNING ASSESSMENT

- 8.1 Although the principle of development was established by the original grant of planning permission, the fact that the development is unauthorised means that we have to consider the planning merits of the case again. These revolve around the following issues:

Is there a need for the development?

Is the RDF building acceptable on Hespin Wood Waste Resource Park and does it comply with Cumbria Minerals and Waste Local Plan Policies?

Is the design of the RDF building acceptable on Hespín Wood Waste Resource Park?

Would the development have any additional impact on traffic and transport in the area?

Does the RDF building operations have any additional landscape and visual amenity impact?

Is the height of the RDF building acceptable?

Does the development have any ecological impacts?

Would the development have any additional impacts on flooding and surface water drainage to Hespín Wood?

Would the facility have any impact on environmental or other impacts in the area?

What are the concerns of the representation received?

Is there a need for the development?

- 8.2 Cumbria MWLP Policy SP2 (Provision for waste) requires provision to be made for the management of all of Cumbria's wastes within the County, with the acceptance of limited cross boundary movements. This will be achieved by allocating sufficient sites to meet objectively identified needs for additional facilities; SP3 (Waste capacity). Preference will be given to sites that contribute to an integrated network of waste facilities by accommodating several types of facility, or by being well located in relation to the source, or to the destination of, the waste stream being managed. Hespín Wood Waste Resource Park provides a combined facility for waste management, thereby contributing to providing for the management of the County's waste needs, the RDF facility moves waste up the hierarchy by recycling thereby reducing the need to landfill.
- 8.3 During the last four year waste collected has been 61,434 tonnes (2017/18); 58,965 tonnes (2018/19); 57,494 tonnes (2019/20) and 63,696 tonnes (2020/21 – this is result of increased volumes of household waste collected during the pandemic) of non-household waste collected by Local Authorities, and processed by the MBT plants (located in Barrow and Carlisle).
- 8.4 The management/disposal or "waste fates" of this type of household element is collected through Local Authority Collected Waste (LACW), previously the majority of RDF was not treated within Cumbria but was shipped to Europe for use in appropriate facilities.
- 8.5 Some RDF is sent to facilities in Lancashire (namely Lancashire Waste and Envirofuels) for further refinement, this refined RDF can then be sent for use in cement kilns.
- 8.6 Also, the North West waste planning authorities have discussed the position regarding landfill capacity, and there is a trend emerging of a drop in landfill capacity with sites closing early before completion due to more waste being diverted to MBT plants, including for production of RDF. The general consensus

was that this trend is acceptable as we are supposed to be driving waste up the hierarchy and that it is not a problem for authorities to be showing reduced landfill capacity provided there is sufficient provision being planned for recovery and recycling and energy from waste etc. to accommodate the waste that would otherwise have gone to landfill. The proposed RDF facility is considered to comply with CMWLP 2015-2030 policies SP2 and SP3, as it moves waste away from landfill and up the waste hierarchy.

Is the RDF building acceptable on Hespin Wood Waste Resource Park and does it comply with Cumbria Minerals and Waste Local Plan Policies?

- 8.7 Cumbria MWLP Policy SAP2 states the following sites are identified as suitable, in principle, for waste management facilities, in line with the waste facility types listed in Table 18.1. Proposals on the allocated sites for other facility types, not listed within the table, shall be assessed against Policy DC9. AL3 Oldside, Workington AL8 Lillyhall Waste Treatment Centre, Workington AL18 Port of Workington CA11 Willowholme, Carlisle CA30 Kingmoor Road recycling centre, Carlisle CA31 Kingmoor Park East, Carlisle CO11 Bridge End Industrial Estate, Egremont ...
- 8.8 Cumbria MWLP Policy DC9 states proposals for waste management facilities for all waste streams excluding radioactive, will be permitted subject to the locational and other criteria set out in the table below. Proposals on other locations, or those that do not meet the key criteria, would need to be justified under policy SP1. Key Criteria a. Scrapyards, vehicle dismantlers, materials recovery facilities or waste transfer facilities. Suitable existing or planned industrial estates; or If no unacceptable impacts on housing, business uses or other sensitive land uses, and no unacceptable impacts on landscape ...

	Facility Type	Locations	Key Criteria
a.	Scrapyards, vehicle dismantlers, materials recovery facilities or waste transfer facilities	Suitable existing or planned industrial estates; or Existing waste management sites	If no unacceptable impacts on housing, business uses or other sensitive land uses, and no unacceptable impacts on landscape

- 8.9 The wording of Cumbria MWLP Policy SAP2 is clear and it is not intended to be used restrictively and the list of sites referenced in Cumbria MWLP Policy SAP2 is not exhaustive, this is further commented on in the preamble text to Cumbria MWLP Policy SAP2. Opportunities for additional or improved waste management provision may come forward at other new or existing, employment or industrial estates. Any proposals on unallocated sites will be considered against all other relevant policies in the Plan. Therefore, the fact that Hespin Wood is not listed as a site in Cumbria MWLP Policy SAP2 does not make this proposal inconsistent with Cumbria MWLP Policy SAP2.
- 8.10 Hespin Wood Waste Resource Park is a purposely managed waste management park which consists of landfill and recycling operations. The site is well established and the addition of the RDF building is considered acceptable with the existing uses and activities already undertaken on Hespin Wood Waste

Resource Park. 50% of the source of material is already on site at Hespín Wood, thereby playing a major role in moving waste up the waste hierarchy and reducing waste road miles.

- 8.11 Hespín Wood Landfill Site was identified at the early stages in the plan preparation of the site allocations document as site CA24 - Hespín Wood Landfill Complex, Todhills, Carlisle. The Site Assessment document included details of this and other sites that had been considered. Hespín Wood Landfill Site was withdrawn from the process as it was considered unsuitable for waste management operations and no further landfill sites were needed to be identified. The existing site wasn't need for the existing waste operations to continue on the site. The reason for withdrawal states:

“The Local Plan, informed by the 2014 Cumbria Waste Needs Assessment, proposes that no further inert or non-inert landfill sites be identified for use in the Plan period, but that this is kept under review. No site allocation is needed for the current waste operations, including landfill, to continue on the site.”

As the wording clearly states “No site allocation is needed for the current waste operations”. Hespín Wood Waste Resource Park is not a new site, it is an existing well established waste management operation which operates as a much needed facility for the North Cumbria.

- 8.12 There is clearly an identified need for the RDF facility as this is diverting 50,000 tons of waste per annum, which would have previously been directed to the landfill site, thereby moving waste up the waste hierarchy.
- 8.13 The development is considered to comply with local planning policy. Each element has been considered against the relevant policies SAP2 and DC9 of Cumbria MWLP.

Is the design of the RDF building acceptable on Hespín Wood Waste Resource Park?

- 8.14 Carlisle Local Plan Policy SP6 states development proposals will be assessed against the following design principles. Proposals should: respond to the local context and the form of surrounding buildings in relation to density, height, scale, massing and established street patterns and by making use of appropriate materials and detailing and take into consideration any important landscape or topographical features and respect local landscape character ...
- 8.15 Hespín Wood Waste Resource Park has an already established design of existing industrial buildings on site, which are heavy industrial designed to fulfil the requirements of the operations, these are predominately concrete parapet walls with profile sheeting walls and roofs, green in colour. The design of the RDF building is considered acceptable within Hespín Wood Waste Resource Park. This is a typically designed industrial building which measures 114m (l) x 36m (w) x 11m (h). It is an industrial building set within the existing industrial buildings. The design of the RDF building is considered acceptable within Hespín Wood Waste Resource Park.
- 8.16 The design and size of the RDF building is designed to have concrete walls which are push walls where loose material would be handled by mobile plant. The upper half of the building is profile sheeting. The building has to be capable

of intense internal working where heavy machinery is in operation. The concrete lower panels provide a safe working environment for heavy machinery.

- 8.17 Planning permission 1/18/9006 Drawing No H52-8 shows indicative door openings on the building. Since this time the internal layout of the building and machinery to be used has been amended. Drawing No H52-8A now shows the revised internal layout of the building, which includes repositioning of doorways. There are no doors on the eastern elevation of the building which faces towards Todhills. The repositioning of the doors is considered acceptable as these are mainly on the western and southern boundaries ensuring the flow of vehicles through the building in a safe manner.
- 8.18 Carlisle City Local Plan Policy SP6 requires design to be in scale with the local context and the form of surrounding building with regards to density, height scale and massing and that appropriate use of materials in the landscape. In this instance the unit is located within existing industrial buildings and is considered appropriate development in terms of scale, massing, height and compatible use with other operations on Hesperin Wood Resource Park.
- 8.19 The design of the RDF building is considered to be acceptable within Hesperin Wood Waste Resource Park, as its design is similar to existing industrial structures already in place. The design is considered to comply with Carlisle CC Local Plan Policy SP6.

Does the development have any additional impact on traffic and transport in the area?

- 8.20 CMWLP policy DC1 (Traffic and Transport) requires developments to be located close to the strategic highway network and to minimise minerals and waste road miles. Hesperin Wood Waste Resource Park is strategically located close to major transport routes of the A689, A595 and M6 motorway and provides a much needed facility close to the source of waste. The All Purpose Road (APR) provides an alternative link between Carlisle and Gretna when the M6 is closed, thereby the road is constructed for use by HGV's and provides a strategic link to the highway network.
- 8.21 It is anticipated that up to 100,000 tonnes of material would be processed through the RDF building each year. There is approximately 50,000 tonnes of waste which would be diverted from existing operations at Hesperin Wood Waste Resource Park; these HGVs are already entering the site. The additional 50,000 tonnes of material would be imported to Hesperin Wood Waste Resource Park. The projected additional vehicle movements for 50,000 tonnes (962 tonnes per week) equates to 2,496 HGV's per year, 44 HGV's per week, 7 HGV's per day.
- 8.22 Access to Hesperin Wood Waste Resource Park is along the U1070, on to the C1022 (All Purpose Road - APR), C1015 and the A689, which connects onto the A595(T) and M6 motorway, a distance of 4.5km. The APR has been designed as a relief road to the M6 to take traffic when it is closed. In terms of location to the strategic highway network Hesperin Wood Waste Resource Park is ideally located. The entrance to Hesperin Wood Waste Resource Park is purposely constructed to allow two HGV's to pass easily. The site is clearly laid out and there is also a large apron, approximately 82m, between the access junction and the weighbridge.

- 8.23 CCC Highways have raised no objection to the increase in HGV's accessing Hespín Wood Waste Resource Park. It is therefore considered that the development complies with Cumbria Minerals and Waste Local Plan 2015-2030 policy DC1.

Does the RDF building operations have any additional landscape and visual amenity impact?

- 8.24 CMWLP Policy DC18 (Landscape and visual impact) requires development to be compatible with the distinctive characteristics and features of Cumbria's landscape. Development should avoid adverse impacts on the natural and historic landscape to ensure that development avoids significant adverse visual impacts. The policy also provides it is necessary to consider the effects on: locally distinctive natural or built features; scale in relation to landscape features; public access and community value of the landscape; ensure high quality design of modern waste facilities to minimise their impact on the landscape, or views from sensitive areas, and to contribute to the built environment and direct minerals and waste developments to less sensitive locations, wherever this is possible, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principal local characteristics of the landscape including views to or from, and the setting of, Areas of Outstanding Natural Beauty, the Heritage Coast, National Parks or World Heritage Sites.
- 8.25 Carlisle District LP Policy G1 (Landscapes) states all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development, particularly those areas less able to accommodate significant change. Where the opportunity arises, measures should be taken to enhance or restore valued landscapes.
- 8.26 Hespín Wood Waste Resource Park is located in Cumbria Landscape Characteristic 2c Coastal Plain. The land is flat coastal plain largely based on fluvial drift, marine alluvium and undulating boulder clay. The land generally lies up to 15m AOD, Hespín Wood Waste Resource Park sits at 10m AOD. The area around Hespín Wood Waste Resource Park is predominately flat and screened by woodland to all sides, with agricultural fields, small hamlets, highway network and railway line.
- 8.27 Hespín Wood Waste Resource Park is screened from public view points from the All Purpose Road (APR) and M6 motorway by a tree belt and due to the low lying nature of the area. There are no raised view points looking into Hespín Wood Waste Resource Park, thereby in terms of looking into Hespín Wood Waste Resource Park the only view into the site would be from the entrance which mainly consist of views of the weighbridge building. A number of trees have been removed to allow development, which are within Hespín Wood Waste Resource Park however, a significant portion of the tree belt would remain and screen Hespín Wood Waste Resource Park from the APR and M6. The trees are not subject to any Tree Preservation Order or located within a Conservation Area thereby they have no protection and could be removed without obtaining permission.
- 8.28 In terms of landscape and visual impact the building does not have any additional impacts on the area due to the remaining tree screen belt, the existing structures and the building being no higher than existing structures on the site. I therefore consider that RDF building complies with CMWLP Policy DC18 and

CDLP Policy G1, as the building does not have any landscape and visual impact outside of Hespín Wood Waste Resource Park.

Is the height of the RDF building acceptable?

- 8.29 The height of the RDF building in comparison with other buildings on Hespín Wood Waste Resource Park is acceptable. The RDF building would be 11m in height. The green waste composting building is 10m; the Mechanical Biological Treatment plant is 11.4m; concrete batching plant is 27m and the Mechanical Recovery Facility building is 9m. In terms of height of buildings and other structures on Hespín Wood Waste Resource Park the height of the RDF building is considered to be acceptable and in keeping and would not have any additional visual impact or prominence on the surrounding area or landscape.

Does the development have any ecological impacts?

- 8.30 CMWLP Policy DC16 requires development to identify any potential impacts on important biodiversity and geological conservation assets, as defined in the Strategic Policies, and on any functional ecological and green infrastructure networks; and their potential to enhance, restore or add to these resources; and to contribute to national and local biodiversity and geodiversity objectives and targets.
- 8.31 Carlisle City Council District Local Plan Policy CP2 (Biodiversity) advises development should not harm the integrity of the biodiversity resources as judged by key nature conservation principles and proposals should seek to conserve and enhance the biodiversity value of the areas which they affect.
- 8.32 Hespín Wood Waste Resource Park is located 7km north of Carlisle City Centre. Hespín Wood Waste Resource Park is not located within any designated European, National or Local protected sites. The development has been assessed on the ecological features of the application site itself and upon designated nature conservation sites within 2 km. Hespín Wood Waste Resource Park does lie 2.4km east of Special Protection Area (SPA) of Upper Solway Flats and Marshes; RAMSAR of Upper Solway Flats and Marshes; Special Area of Conservation (SAC) of Solway Firth and Site of Special Scientific Interest (SSSI) of Upper Solway Flats and Marshes.
- 8.33 A Phase 1 Habitat Survey and Preliminary Arboricultural Appraisal Report accompanied planning permission 1/18/9006, which identified major habitats within the site and immediate vicinity; potential for legally protected and/or notable species present and the need for additional specialist ecological surveys. The report considered Hespín Wood Waste Resource Park to be of Low Ecological Value overall as the characteristics of the land are bare ground poor semi-improved grassland and tall ruderal vegetation. The report also identified that the trees which have now been removed were of low individual value. The remainder of the woodland which has been retained would provide improved foraging for birds and wildlife as this is less dense than previously.
- 8.34 There are no confirmed protected species identified on or close to Hespín Wood Waste Resource Park. Hespín Wood Waste Resource Park is screened by a tree belt which provides foraging habitat for bats and birds. It is not proposed to remove any further trees during operations thereby there would be no impact on bats from the operations.

- 8.35 Natural England concerns relate to any potential impacts on the River Eden SSSI and SAC which will be mitigated in the discharge consent/waste permit, issued by the Environment Agency. NPPF paragraph 188 states “The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively”.
- 8.36 The development would not adversely affect any ecological interests and would comply with Policy DC16 of the CMWLP and Policy CP2 of the Carlisle District Local Plan.

Would the development have any additional impacts on flooding and surface water drainage to Hespian Wood?

- 8.37 Cumbria MWLP Policy DC19 states: All proposed minerals and waste management development should be located, wherever possible, in areas with the lowest probability of flooding (Zone 1). Development proposals will not be considered without a site-specific Flood Risk Assessment, appropriate to the scale, nature and location of the development, for: 1 hectare or greater in Flood Zone 1; or new development (including minor development and change of use) in Flood Zones 2 and 3, or in an area within Flood Zone 1 that has critical drainage problems (as notified to the Local Planning Authority by the Environment Agency); or where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding ...
- 8.38 Carlisle CC Local Plan Policy IP6 states where there are concerns that inadequate foul water treatment and drainage infrastructure exists to serve a proposed development, or where such provision cannot be made within the time constraints of planning permission, it is the responsibility of the developer to demonstrate how foul drainage from the site will be managed. In some circumstances, it may be necessary to co-ordinate the delivery of development with the delivery of infrastructure. In certain circumstances, a new development will be required to discharge foul water to the public sewerage system at an attenuated rate. The first presumption will be for new development to drain to the public sewerage system. Where alternative on-site treatment systems are proposed, it is for the developer to demonstrate that connection to the public sewerage system is not possible in terms of cost and/or practicality and provide details of the responsibility and means of operation and management of the system for its lifetime to ensure the risk to the environment is low.
- 8.39 Carlisle City Council Local Plan Policy CC4 states the Council will seek to ensure that new development does not result in unacceptable flood risk or drainage problems. Most new development should be located in Flood Zone 1 and development within Flood Zones 2, 3a and 3b (with the exception of water compatible uses and key infrastructure (as defined in the PPG)) will only be acceptable when they are compliant with the NPPF and when the sequential test and exception test where applicable have been satisfied.
- 8.40 NPPF paragraph 167 states when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding

where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; (d) any residual risk can be safely managed; and (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

- 8.41 Hespín Wood Waste Management Park lies within Flood Zone 1 in which development is supported as the most appropriate flood zone for development. The area for the RDF building is not subject to surface water flooding. The Flood Risk Assessment has identified that the surface water run off from the building runs off into drains and under the existing internal road into a field drain, which is within the land leased by Cumbria Waste Management.
- 8.42 The existing drainage to the area and Hespín Wood is natural percolation as the area is predominately peat over clay strata, percolation tends to pass through the peat and follow the natural fall of the clay in a westerly direction. The flows are intercepted by existing ditches along the side of Phase1 or Renewii MBT Plant. They collect the migrating runoff from the clay/peat interface and then drain to the west of site into a network of ditches which connect into the River Eden, approximately 1 km west.
- 8.43 Hespín Wood has not been subject to any flooding incidents or caused any flooding outside the site. CCC Lead Local Flood Authority are satisfied that the information submitted would not cause any issues of flooding or impact on drainage to Hespín Wood Waste Management Park. I consider the development complies with CMWLP Policy DC19, Carlisle City Council Local Plan Policies IP6 and CC4.

Would the facility have any impact on environmental or other impacts in the area?

- 8.44 **Noise:** CMWLP Policy DC3 – Noise requires noise attributable to minerals and waste development shall not exceed background noise levels, LAeq 1 hour (free field) by more than 10dB(A) at noise sensitive properties. The nearest noise sensitive properties are Todhills 233m east and Blackrigg Bungalow 300m south west of the RDF building. Ambient background noise levels are 48.4 dB(A) and maximum 69.5 dB(A), it is noted that the acceptable average threshold level is 55 dB(A). Ambient noise levels are mainly generated by road traffic on the M6 and intermittent background noises from frequent movement of trains along the West Coast Mainline. It is recommended that a distance of 200m between operations and residential properties is achieved. In this instance the distance is in excess of this recommendation. The applicant has also agreed to install acoustic fencing to the eastern boundary of the site to help reduce noise impacts and there is already acoustic fencing in place at Todhills to reduce noise impacts from the M6. I therefore consider the proposal complies with CMWLP Policy DC3.
- 8.45 **Dust:** CMWLP Policy DC5 – provides dust will only be permitted where the applicant can provide evidence that the proposed development will not have a demonstrable impact on amenity, human health and air quality. The development

is solely for the production of RDF/sorting of comingled waste, thereby dust would only be an issue during dry or windy weather. A dust suppression system will be required during periods of dry and windy weather. There will be no external operations as sorting and working will be undertaken in the building, thereby there would be no impact of dust from the internal sorting/activities. I therefore consider the development complies with CMWLP Policy DC5.

- 8.46 **Cultural Heritage:** There are no historic buildings in close proximity to Hespín Wood. The nearest Listed Building is Floriston Rigg approximately 1.5km north of the RDF building and given this separation, I consider there to be no adverse effects on its setting or character. I therefore consider the development complies with CMWLP Policy DC17 as there would be no impact on the historic environment.
- 8.47 **Ground Contamination:** The application site was constructed on previously undeveloped land. Planning permission 1/18/9006 condition 21 ground contamination required the applicant to inform the Waste Planning Authority if contamination was found during construction operations. The building is now complete and no ground contamination was found during construction operations.
- 8.48 **Impact on Human Health:** Hespín Wood Waste Resource Park is a mixed waste resource park which either landfills waste where it can't be recycled or reused or it is sorted and packaged for onward disposal or reuse elsewhere - currently this material is sent around the world depending on the nature of the product. Hespín Wood Waste Resource Park is operated under an Environmental Permit, which is issued by the Environment Agency, and as part of this permit an Environmental Safety case is required which ensures the operations comply with legislation and environmental controls in place, which include emissions, pest control, air pollution. NPPF para 188 states "The focus on planning policies and decisions should be on whether proposed development is acceptable use of the land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively". In this instance Hespín Wood Waste Resource Park is processing Refuse Derived Fuel and is therefore not producing any emissions which would impact on human health.
- 8.49 **External Lighting:** Hespín Wood Waste Resource Park occupies a remote location thereby light pollution could be an issue on the dark skies, if not appropriately controlled or considered. CDLP Policy G1 (Landscapes) states "landscapes valued for their intrinsically dark skies such as the area around Kershope Forest in the rural north east of the District, will be protected from adverse impact of artificial light pollution". The preamble text states: "whilst every effort to reduce light pollution should be made across the District, under no circumstances should lights that beam light upwards or which would allow excess light to seep into the night sky be permitted". External lighting is required due to shift working patterns on Hespín Wood Waste Resource Park, these lights are controlled on sensors and are low level lighting, so as not to impact on the rural dark skies. External lighting is more noticeable during the winter months and is significantly reduced in summer months.
- 8.50 **Operational Hours:** It is proposed to operate the facility between 07:00 to 19:00. Other operations on Hespín Wood Waste Resource Park have longer established

working hours. The nearest noise sensitive receptor is 233m east of Hespín Wood Waste Resource Park and noise impacts would not be an issue

- 8.51 **Car Park:** There is existing car parking facilities on site. The new car park would bring car parking around Hespín Wood Resource Park to a designated facility, rather than the adhoc parking which currently takes place. The car park is close to the entrance of Hespín Wood Waste Resource Park and would not encroach on operational activities on Hespín Wood Waste Resource Park.
- 8.52 **Lagoons:** The lagoons have been designed and located to collect and filter water run off from operations. The location of the lagoons does not infringe with operational running of Hespín Wood Waste Resource Park.
- 8.53 The RDF building is an industrial buildings located within other large industrial buildings. The design of the building is in keeping with existing buildings which are large industrial buildings for storage of waste.
- 8.54 The RDF building, car park and lagoons are considered to comply with both local and national planning policy. There has been no changes to policies or legislation since the granting of planning permission 1/18/9006, the development is substantially in accordance with the recently expired permission and the details that should have been submitted under conditions prior to expiration of the planning permission 1/18/9006 have been adopted as part of this planning application. There is no reason to warrant refusal of the RDF building, car park and lagoons as this complies with Local and National Planning Policies. The overall proposal continues to move waste up the waste hierarchy and removes this from being placed in any landfill site.
- 8.55 The RDF building is considered to comply with Cumbria MWLP Policies SP6, DC 1, DC2, DC3, DC5, DC9, DC16, DC17, DC18 and DC19. Carlisle Local Plan Policies SP1 and SP6.

What are the concerns of the representation received?

- 8.56 One new letter of representation has been made during the current round of representations issued on 29 March 2022. This is fully reproduced as Appendix 2.
- 8.57 **Variation of an expired permission:** Section 2 of this report sets out how it is proposed to deal with this planning application.
- 8.58 **Officer proposed use of Section 73A:** Section 2 of this report sets out why this application is considered as a Section 73A. Consideration of representations and publication are considered in section 6.9 and paragraphs 8.56 to 8.71 of this report.
- 8.59 **Section 73 is inappropriate if construction has occurred:** Section 2 of this report explains how and why this is being dealt with as a Section 73A.
- 8.60 **Water Tank Materials:** The water tank does not form part of this planning application and will be considered under a separate planning application at a future date.
- 8.61 **Contrary to a “main concern” of the CMWLP:** Cumbria MWLP Site Allocation document Site CA24 relates to Hespín Wood Landfill Complex, which was

withdrawn from the Site Allocations document. The reason CA24 was withdrawn from the process is not because it was considered unsuitable for waste management operations but that no further landfill sites were needed to be identified and no site allocation was needed for the existing waste operations to continue on the site. Paragraph 18.6 of Cumbria MWLP makes it clear that Policy SAP2 is not intended to be used restrictively and the list of sites referenced in SAP2 is not exhaustive. Opportunities for additional or improved waste management provision may come forward at other new or existing, employment or industrial estates. Any proposals on unallocated sites will be considered against all other relevant policies in the Plan. Therefore the fact that Hespian Wood is not listed as a site in SAP2 does not make this proposal inconsistent with Policy SAP2. This is considered in paragraphs 8.2 to 8.6 above.

- 8.62 **Officer consideration of increased development does not consider all issues:** The issues which relate to this specific planning application as “Section 73A for the construction and operation of a building for the processing of waste to produce Refuse Derived Fuel, and processing of co-mingled recyclable material,” have been duly considered and addressed. This report considers all aspects of the retrospective nature of the RDF building, parking area and lagoons. The material planning considerations are addressed in Section 7 of this report.
- 8.63 **Condition 1:** It is proposed to deal with this as a retrospective application and Condition 1, which was imposed on planning permission 1/18/9006, would not be imposed on the grant of a retrospective planning permission.
- 8.64 **Flood Risk Assessment and drainage inconsistent (and Impact on Condition 6):** This is irrelevant as it is proposed the development be regularised with appropriate conditions attached to a retrospective permission.
- 8.65 **Planning Condition 14:** This is irrelevant as it is proposed the development be regularised with appropriate conditions attached to a retrospective permission.
- 8.66 **Firewater drainage is a planning consideration:** Cumbria CC Lead Local Flood Authority have considered the development and consider the drainage system is acceptable.
- 8.67 **Inconsistent site areas and impact on drainage plans:** The proposal is to consider this as a retrospective development, thereby changes will be necessary to the previously approved planning application 1/18/9006. The development has some changes to the door layouts from 1/18/9004 and these changes are reflected in this current planning application and are for consideration as part of this current planning application. However, these changes are considered to be de-minimus compared to the original scheme. The appropriate statutory consultees have been consulted with regards to the impacts on drainage and capacity, their response is addressed in Section 6 of this report. An appropriately worded condition is recommended on the grant of any planning permission where necessary.
- 8.68 **Changes to doors and potential noise and odour impacts:** The development has some changes to the door layouts from 1/18/9004 and these changes are for consideration as part of this planning application. There would be no impact on the amenities of residents of Todhills caused by the changes as there are no doors proposed on the eastern elevation of the building. Appropriately worded conditions will be imposed on the grant of any planning permission where

necessary. Carlisle City Council Environmental Health have been consulted on the retrospective proposal and have raised no objection.

- 8.69 **Inconsistent diagrams:** This consideration addresses the erection of a building which has been constructed between planning application 1/18/9006 and 1/21/9004. The decision to be made is whether or not the development carried out is acceptable inline with the drawing's submitted with 1/21/9004. This consideration addresses the erection of a building which has been constructed after submission of this application.
- 8.70 **Inaccurately reported representations in officer report:** This is not accepted as all matters have been addressed in this report. The full representation has been reproduced in appendix 1 for the avoidance of any doubt and to prevent a similar allegation.
- 8.71 **Officer report tank size:** The water tank has been removed and does not form part of this consideration.

9.0 CONCLUSION

- 9.1 This is a complicated matter because it involves development carried out in breach of a planning permission which has recently expired and cannot now be implemented. It is regrettable that the drainage details that should have been submitted under the pre-commencement conditions to the planning permission, as set out above, were not submitted in good time to allow the development to be carried out in accordance with the planning permission.
- 9.2 However, notwithstanding the failure to comply with the existing permission by failing to comply with the pre-commencement conditions, the development has been constructed substantially in accordance with both the earlier recently expired permission and the details submitted pursuant to the pre-commencement conditions, that were acceptable but submitted too late to keep the permission alive. The changes that have been made to the development when compared to the expired planning permission (1/18/9006) are very minor and do not materially affect the acceptability of the development. The development is still in compliance with development plan and national planning policy and there are no objections from statutory consultees. There are no material considerations to suggest planning permission should not be granted for the development. In addition, there are benefits to the development in that producing RDF helps to reduce the need for landfill and moves waste further up the waste hierarchy. Cumbria MWLP Policy DC9 supports waste development on established waste facilities. The Local Plan does not preclude new sites coming forward provided that they are suitably located and provided there is a "need". In this case the proximity of other waste recycling uses nearby, together with good links to the strategic road network suggests that the site is appropriate. The Local Plan identifies a need for additional waste treatment plants to be brought forward during the plan period. Further, the RDF can be burned elsewhere as a substitute for fossil fuel. In conclusion, and having regard to the development plan and all material planning considerations, the development is acceptable in planning terms.
- 9.3 In such circumstances, whilst the development has been carried out in breach of the terms of the now expired planning permission, it would not be considered expedient to take enforcement action. It has been pointed out earlier that a breach of planning control must be properly investigated and enforcement action

may be taken when it is expedient, but it is not every breach of planning control that results in enforcement action. A local planning authority must act reasonably and in view of my conclusion in paragraph 9.2 above, it is considered that planning permission should be granted for the development. The concerns of the representation received have been considered carefully but do not alter the conclusion that planning permission should be granted for the development.

- 9.4 Section 73A of the Town & Country Planning Act 1990 provides a mechanism that allows an existing application to be treated as an application for retrospective planning permission and it is considered that on the facts and having regard to all the circumstances, the Council should regularise the development by granting retrospective planning permission with appropriate conditions. To do otherwise would mean the development would be unregulated without the planning conditions that is considered to be necessary. This course of action was discussed with the applicant and re-consultation was carried on the application to seek the views of interested parties so that the views of all interested parties could be considered and nobody would be disadvantaged.
- 9.5 In conclusion, it is considered that the development is in accordance with the development plan and national policy; there are no material considerations that indicate the decision should be made otherwise than in accordance with the development plan; there are no material planning considerations to suggest it would be expedient to take enforcement action against the development or that the development should be removed; there are material benefits to the development; that any potential harm to interests of acknowledged importance is likely to be negligible and can be controlled by appropriately worded conditions. In the circumstances it recommended that retrospective planning permission be granted subject to conditions.

Human Rights

- 9.6 The development would have no material impact on the visual, residential and environmental amenity of the area and any impacts there would be can be satisfactorily controlled by planning conditions. The development is in accordance with the development plan, which regulates the development of land in the public interest. In the circumstances there would be no impact on human rights.

Angela Jones
Executive Director - Economy and Infrastructure

Contact: Mrs Jayne Petersen

Electoral Division Identification: Longtown

DEVELOPMENT CONTROL AND REGULATION COMMITTEE
5 October 2018

A report by the Executive Director – Economy and Infrastructure

Application Reference No. 1/18/9006

Application Type: Full Planning Permission

Proposal: Construction and operation of a building for the processing of waste to produce Refuse Derived Fuel, and processing of co-mingled recyclable material.

Location: Hespín Wood Waste Management Park Rockcliffe Carlisle CA6 4BJ

Applicant: Cumbria Waste Management Ltd

Date Valid: 20 June 2018

Reason for Committee Level Decision: Objections received

1.0 RECOMMENDATION

1.1 That Planning Permission be Granted subject to conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought for the construction and operation of a building for the processing of waste to produce Refuse Derived Fuel (RDF) and processing of co-mingled recyclable material, creation of two lagoons and car park. RDF can be used for a number of purposes including replacing fossil fuels and can also be used in cement kilns.

2.2 The building would measure 114m (l) x 36m (w) x 11m (h). The building would be of a portal frame construction. The wall would be predominately profiled steel sheeting with an olive green plastisol coating, however, there would in places be pre-stressed concrete panels. The concrete walls would be push walls where loose material would be handled by mobile plant. The roof would be constructed of profiled steel sheeting with an olive green plastisol coating interspersed with roof lights, these making up 20% of the roof area.

2.3 The RDF component of the building area would provide for the receipt, initial pre-sorting and storage of commercial and industrial wastes. From this area material would go through a series of processing stages:

- Pre-shredding to reduce material to a size capable of being processed;
- Trommel to remove fines;

- Overband magnet to remove ferrous metals;
 - Air separator to remove the light fraction of material;
 - Picking station to remove any remaining unsuitable material/recyclables; and
 - Final shredding.
- 2.4 This process would remove recyclable material and any material which would be suitable for use as RDF. The shredded RDF would be baled awaiting transportation to an appropriate facility.
- 2.5 The dual stream recyclables element (co-mingled) is similar to that in the RDF facility in that the material would be delivered and deposited in the reception area then processed through a series of stages. The stages reflect the material from one of the streams of the kerbside collections – glass, metal and plastic:
- Glass breaker and screen to remove glass;
 - Picking station to remove contaminants;
 - Overband magnet to remove ferrous metals; and
 - Eddy current separator to remove non-ferrous metals.
- 2.6 The process would result in the separation of aluminium, ferrous, metals, plastic and contaminants. The separated recyclate would be sorted in bays before onward transportation to processors and the residual materials processed to produce RDF.
- 2.7 It is anticipated that up to 100,000 tonnes per annum could be processed (1,923 tonnes per week). There is currently around 50,000 tonnes of material imported to Hespin Wood which could be diverted to RDF.
- 2.8 The building would be located between the green waste composting area and the MRF building. The area is currently a woodland area which would be cleared to allow development.

3.0 SITE DESCRIPTION

- 3.1 Hespin Wood Resource Park is a mixed use Sui Generis site which operates as a landfill site, Mechanical Recycling Facility (MRF), Green Waste Composting, aggregates recycling, location of the northern Mechanical Biological Treatment Plant (MBT) and more recently concrete batching plant.
- 3.2 Hespin Wood is located to the north of Carlisle close to the M6 motorway. Access to the site is from the All Purpose Road (APR), the C1022 and links to A689 at Parkhouse roundabout which connects to the strategic road networks of the M6 and A595(T).
- 3.3 Hespin Wood occupies a rural location approximately 7km from Carlisle City Centre. To the east of the site is a woodland strip, ARP road, M6 and the settlement of Todhills beyond; to the south is the U1070 which links Todhills and Rockcliffe, this forms the access road to the site and the strategic road network. There is a woodland area which separates the site from the highway. Blackrigg bungalow is south west of the site; to the west of the site is west coast railway line and a woodland area; to the north of the site is a woodland area and agricultural fields.

4.0 SITE PLANNING HISTORY

- 4.1 Hespín Wood was established in the mid 1970's originally at Hell's Hole for the disposal of controlled tipping of domestic, trade and industrial waste (Ref: 1/76/0989, approved 16 January 1979). The main landfill operations received permission in 1979 for controlled tipping (Ref: 1/79/0113, approved 18 May 1979). The main landfill activities are for continuation of waste disposal and amendment of treatment, phasing, levels, reclamation and after-uses (Ref: 1/00/9005, approved 6 September 2000).
- 4.2 Hespín Wood has established itself into a Waste Resource Park which has a number of different elements namely Mechanical Biological Treatment Plant (MBT), Mechanical Recycling Facility (MRF), green waste composting, aggregate recycling, electricity generation compound, leachate plant and asphalt plant. There are extensive planning permissions relating to the activities on Hespín Wood.

5.0 CONSULTATIONS AND REPRESENTATIONS

- 5.1 **Carlisle City Council Planning:** No objection subject to there being no objection from the Highway Authority, and a landscaping scheme to mitigate for the loss of the trees that will be removed and adherence to the mitigation measures outlined in the Phase 1 Habitat and Preliminary Appraisal.
- 5.2 **Carlisle City Council Environmental Health:** Currently the type of plant equipment to be utilised inside the building is unknown but bearing in mind the reduction in the adjacent woodland to facilitate the footprint of this new facility a noise impact report and odour abatement plan will be necessary as part of the environmental permit for the site to which the environment agency consultation response refers NO/2018/110939/01-I02.
- 5.3 **CCC Planning Policy:** The CMWLP identifies a need for additional waste treatment and management facilities to be brought forward within the Plan period in order to achieve required rates of waste recycling and recovery and so reduce the amount of waste being disposed to landfill. Some sites are allocated in Policy SAP2 as well as some Broad Areas which have potential to support further waste management provision but this policy is not intended to be used restrictively.

Proposals for new facilities on unallocated sites will be considered in accordance with other relevant policies and if they would meet an identified need in a timely manner. It was also recognised that proposals for developments requiring smaller sites, extensions to existing waste management sites and proposals to treat or manage waste arising at commercial and industrial premises are likely to come forward during the Plan period. Para. 18.7 suggests the location criteria used for identifying the allocated sites and Broad Areas would be suitable for considering such proposals. This includes siting smaller scale waste management developments in industrial areas where other waste uses already exist.

The application site is on an existing waste management site, associated with the

Hespin Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e). However, as required by DC9, we should be satisfied that the introduction of additional waste processing facilities reliant on importing waste from landfill sites at Hespin Wood, Flusco and Distington does not prejudice the satisfactory restoration of those sites.

The principle of providing a facility to increase capacity for recovery and recycling of waste, thereby reducing the amount of collected waste that goes to landfill, is supported by the council's Waste Management Strategy. It will also help achieve the EU Waste Directive targets for recycling which the government has committed the UK to achieving even post-Brexit.

The production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel.

- 5.4 **CCC Highways:** The planning application seeks planning permission for a joint facility for the production of refuse derived fuel (RDF), primarily from commercial and industrial wastes and the processing of commingled waste materials. Both facilities would be housed in a single new building which would have an 'L' shaped footprint.

The site would be accessed from the all-purpose road (APR) which connects the C1015 /C1022 and onto the A689 and the strategic highway network for Cumbria directly links onto the M6 motorway. Currently Hespin Wood has no restrictions on the number of vehicles which can enter and leave the site. All access to the site would continue to be provided via the existing Hespin Wood access and weighbridge. Staff and visitors will utilise the existing car parking provision. Delivery vehicles will be operated by third parties such that no temporary or overnight HGV parking will be required.

It is proposed that the site be operational between the hours of 07:00 and 19:00 each day of the week. It is anticipated that there will be approximately 10 staff based at the site each day, therefore there is sufficient car parking spaces on site to accommodate the development.

As per the existing waste processing operations at Hespin Wood and existing signage, it is proposed that, with the exceptions of any localised waste collections, all delivery vehicles travel to and from the site via the all-purpose road between Carlisle and Gretna and the eastern section of the unclassified lane that provides access to Hespin Wood.

The developments transport plan clearly identifies an increase in the amount of HGV and other traffic to the site. To maintain the local networks low accident frequency rate the routing of this additional traffic must avoid the villages in the area. As such we would be content for a condition to be applied on any permission to require vehicles to enter and leave the site only from the east via the APR.

Therefore to conclude the Highways Authority has no objections with regards to the approval of planning permission subject a condition requiring a traffic

management plan.

- 5.5 **CCC Lead Local Flood Authority:** Within the flood risk assessment submitted as part of this application it is stated that roof water from the two buildings created as part of this development would be collected and drained to a point at the south western corner of the buildings. From this point roof water would be taken under the road access to an existing ditch to the west of the site. At no point is the surface water being collected attenuated and treated before discharge into the ordinary watercourse.

The development should discharge into the ordinary watercourse at the greenfield runoff rate and attenuation provided on site to accommodate a 1 in 100 year plus 40% to account for climate change storm event.

In light of the above the Lead Local Flood Authority have no objections with regards to the proposals for the development in principle; however the drainage arrangements as detailed thus far are unacceptable and will be required to be discharged at a later date in line with the comments above. Therefore subject to conditions being applied relating to surface water flooding and drainage being included.

- 5.6 **CCC Ecology:** It is accepted that on a site such as this, the opportunities to develop facilities in the most appropriate part of the site may result in some impact upon areas, such as this screen planting, which otherwise would be undesirable. It is recommended that conditions be imposed relating to survey of woodland and works are undertaken outside the bird breeding season.
- 5.7 **Environment Agency:** No objection. The proposed development involves activities that will require the current Environmental Permit for the site to be varied, or an additional new environmental permit to be applied for under the Environmental Permitting Regulations (England and Wales) 2016.
- 5.8 **Natural England:** The surface water drainage proposals seem adequate with regards to the proposed storage lagoon and perimeter ditches, which eventually drain to the River Eden SSSI and SAC (beyond the railway line). The Environment Agency will assess the water discharge as part of the Waste Permit that the applicant will need to apply for this type of operation and may require additional information. Our advice therefore is that in terms of the planning application any potential impacts on the River Eden can be mitigated within any subsequent discharge consent/waste permit as required.
- 5.9 **Fire Service:** The site access for fire appliances needs to be taken into account.
- 5.10 **Crime Prevention Officer:** Following a brief search of records I can find no incidents. The presence of non-ferrous metals in quantity could attract criminal activity, but the theft and handling of stolen metal is presently not as wide spread and frequent as previously experienced across the county. It would be prudent for the applicant to incorporate some basic security measures to protect business assets: restricting unauthorised vehicle movements; security lighting; specification of all external doors to resist forced entry; intruder alarm system; CCTV and exterior waste bin management to prevent arson.

- 5.11 **United Utilities:** The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. We request a drainage condition is imposed on the granting of any planning permission
- 5.12 **Electricity North West:** The development could have an impact on our infrastructure. The development is shown to be adjacent or affect operational land distribution assets.
- 5.13 **Rockliffe Parish Council:** We object with the following observations and comments: To remove the woodland in question would increase the amount of noise pollution experienced by residents. The height of the proposed building is higher than the trees which are being removed making it visible from the public highway. The woodland area also help to keep the litter contained within the site. Has any consideration being given to the wildlife that inhabit the area and the wildlife which are in the pond which was in the original construction? Would tall tree stumps be left in situ for the likes of buzzards to use to help with pest control.

Traffic is another major concern. Would a designated route to the site be included in the planning application as indeed a route not to be used? Rockcliffe is a village with one major road running through the center with houses on either side, the entrance to a housing estate and a school. The road its self has a couple of bends which can become a hazard at times. The small road which many would try to use to the site is known locally as the wiggly road for that purpose, narrow, bendy with no room to pass, a small bridge and with the possibility of water logging during periods of heavy rain.

Hespin Wood is not a site designated for a new development. Would this make it an industrial estate and leave it open for further development in the future? Traffic going north would have a huge impact on the National Cycle Route 7. Surface water draining from the site could increase the risk of flooding and drag unpleasant water from the site.

With this project working in tandem with the site on Kingmoor Park would it not be better to construct this building in the same area. Reducing the carbon foot print, health and safety would be better monitored and less impact on the daily lives of residents local to Hespin Wood.

- 5.14 **Stanwix Rural Parish Council:** The application should be determined in accordance with national and local planning policy. Should permission be granted the Parish Council recommends that conditions include : ensuring adequate interception of contaminants including contaminated surface water; enhancements to the highway network that may be required to mitigate the increase in HGV movements, including highway safety, junction treatments and pavement wearing course maintenance; restrict permitted hours of weekend working between 10.00-16.00; prohibit works to trees and hedges during bird breeding season and ensure monitoring of local air quality, to record any deterioration arising from any raised levels of noxious particulates that may be generated by the intensified operation of the site.

- 5.15 159 of representations have been received, this has been in the form of a standard pro-forma, which has been circulated and signed. The concerns relate to allocation within CMWLP; biodiversity; highway and traffic impacts; environmental impacts; flood risk and the distribution of RDF.

6.0 PLANNING POLICY

- 6.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

- 6.2 The Cumbria Minerals and Waste Local Plan 2015-2030 (adopted September 2017). The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 – Presumption in favour of sustainable development
- Policy SP2 – Provision for waste
- Policy SP13 – Climate mitigation and adaptation
- Policy SP14 – Economic benefit
- Policy SP15 – Environmental assets
- Policy DC1 – Traffic and transport
- Policy DC2 – General criteria
- Policy DC3 - Noise
- Policy DC5 - Dust
- Policy DC6 – Cumulative environmental impacts
- Policy DC9 – Criteria for waste management facilities
- Policy DC16 -Biodiversity and geodiversity
- Policy DC17 – Historic environment
- Policy DC18 – Landscape and visual impact
- Policy DC19 – Flood risk

- 6.3 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 - Sustainable Development
- Policy SP6 – Securing Good Design
- Policy G1 - Landscape

- 6.4 The National Planning Policy Framework [NPPF], which was published July 2018, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 7- 10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Section 4 – Decision making
- Section 9 - Promoting sustainable transport
- Section 14 – Meeting the challenge of climate change, flooding and

- coastal change
 - Section 15 – Conserving and enhancing the natural environment.
Paragraph 183 duplication of other regulatory processes or emissions.
- 6.5 National Planning Policy for Waste (October 2014) sets out the Government’s ambition to work towards more sustainable and efficient approach to resource use and management. Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy. The National Planning Policy for Waste should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste.
- 6.6 The Waste Framework Directive 2018/851 makes amendments to Directive 2008/98/EC on waste (The Waste Framework Directive) which provides the legislative framework for the collection, transport, recovery and disposal of waste.
- 6.7 The Waste (England and Wales) Regulations 2011 requires everyone involved in waste management to take in the transfer of waste all reasonable measures to apply the waste hierarchy.
- 6.8 Government Review on Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. There is a clear requirement that materials are re-used, recycled or recovered where possible and only disposed of as a last option. There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for Energy from Waste facilities such as that proposed, not only in the context of waste management but also having regard to low carbon/renewable energy provision and climate change.
- 6.9 Waste Management Plan for England (2013) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.

7.0 PLANNING ASSESSMENT

- 7.1 The key planning issues relevant to the proposed schemes are considered to be: Is there a need for development; is Hespín Wood the appropriate location; traffic and transport impacts; landscape and visual amenity; environmental considerations; concerns of Parish Councils and representees.

Is there a need for the development?

- 7.2 Cumbria MWLP Policy SP2 (Provision for waste) requires provision to be made for the management of all of Cumbria’s wastes within the County, with the acceptance of limited cross boundary movements. This will be achieved by allocating sufficient sites to meet objectively identified needs for additional facilities; SP3 (Waste capacity). Preference will be given to sites that contribute to an integrated network of waste facilities by accommodating several types of facility, or by being well located in relation to the source, or to the destination of, the waste stream being managed. Hespín Wood Resource Park provides a combined facility for waste management, thereby contributing to providing for the

management of the County's waste needs, the RDF facility moves waste up the hierarchy by recycling/reuse thereby reducing the need to landfill.

- 7.3 The production of RDF within Cumbria is as set it in the 2017 Monitoring Report which covers the calendar year 2016.
- 7.4 Approximately 67,517 tonnes of refuse derived fuel (RDF), which included 3,625 tonnes of non-household waste collected by the Local Authorities, was produced from the MBT plants in 2016 (located in Barrow and Carlisle). This is an increase of 20% compared to 56,318 tonnes in 2015. Some of this was the higher specification solid recovered fuel (SRF), which can be burned as a fossil fuel or substitute in cement kilns. Both treatments would be classified as "thermal treatment".
- 7.5 The management/disposal or "waste fates" of the household element of Local Authority Collected Waste (LACW). Previously the majority of RDF was not treated within Cumbria but was shipped to Europe for use in appropriate facilities. However, Shanks has a contract to deliver 200,000tpa of RDF to the Ferrybridge Multi-fuel Facility in West Yorkshire, which would include the RDF from Cumbria MBT plants. Initial deliveries were in March 2015, with the plant becoming fully operational by the end of 2015.
- 7.6 During the first quarter of 2016, most of the RDF continued to be sent to the Ferrybridge Facility. Some RDF was sent to facilities in Lancashire (Lancashire Waste and Envirofuels) for further refinement, and the refined RDF was then sent to cement kilns operated by Hanson's. From Quarter 2 onwards nearly all of the RDF was sent to Lancashire Waste and Envirofuels. Regular deliveries to Ferrybridge ceased, although very occasional loads were still sent there (and also in 2017). Loads are still occasionally sent to other destinations for example, if cement kilns are not operating and the regular outlets temporarily don't have an outlet. However, the regular arrangement is still that RDF is sent to Lancashire Waste and Envirofuels.
- 7.7 Also, the North West waste planning authorities met recently to discuss the position regarding landfill capacity, and there is a trend emerging of a drop in landfill capacity with sites closing early before completion due to more waste being diverted to MBT plants, including for production of RDF. The general consensus was that this trend is acceptable as we are supposed to be driving waste up the hierarchy and that it is not a problem for authorities to be showing reduced landfill capacity provided there is sufficient provision being planned for recovery and recycling and energy from waste etc. to accommodate the waste that would otherwise have gone to landfill. The proposed RDF facility is considered to comply with CMWLP 2015-2030 policies SP2 and SP3, as this moves waste away from landfill and up the waste hierarchy.

How would the proposal impact on traffic and transport in the area?

- 7.8 CMWLP policy DC1 (Traffic and Transport) requires developments to be located close to the strategic highway network and to minimise minerals and waste road miles. Hespin Wood is strategically located close major transport routes of the A689; A595 and M6 motorway and provides a much needed facility close to the source of waste. The All Purpose Road (APR) was constructed as part of the

M6 road widening scheme and provides an alternative link between Carlisle and Gretna, thereby the road is constructed for use of HGV's and provides a strategic link to the highway network.

- 7.9 It is anticipated that up to 100,000 tonnes of material could be processed through the RDF each year. There is approximately 50,000 tonnes of waste which would be diverted from existing operations at Hespín Wood, these HGVs are already entering the site. The additional 50,000 tonnes of material would be imported to Hespín Wood per annum. The projected additional vehicle movements for 50,000 tonnes (962 tonnes per week) equates to 2,496 HGV's per year, 44 HGV's per week (22 in/22 out), 7 vehicles per day.
- 7.10 Access to Hespín Wood is along the U1070, on to the C1022 (APR), C1015 and the A689 which connects onto the A595(T) and M6 motorway, a distance of 4.5km. In terms of location to the strategic highway network Hespín Wood is ideally located. The entrance to Hespín Wood is purposely constructed to allow two HGV's to pass easily, the site is clearly laid out and there is also a large apron between the access junction and the weighbridge, approximately 82m.
- 7.11 The highway authority have raised no objection to the increase in HGV's accessing Hespín Wood. I therefore consider the proposal complies with Cumbria Minerals and Waste Local Plan 2015-2030 policy DC1.

Would the building and operations have any landscape and visual amenity impact?

- 7.12 CMWLP Policy DC18 (Landscape and visual impact) requires development's to be compatible with the distinctive characteristics and features of Cumbria's landscape. Developments should avoid adverse impacts on the natural and historic landscape to ensure that the development proposals avoid significant adverse visual impacts and consider the effects on: locally distinctive natural or built features; scale in relation to landscape features; public access and community value of the landscape; ensure high quality design of modern waste facilities to minimise their impact on the landscape, or views from sensitive areas, and to contribute to the built environment and direct minerals and waste developments to less sensitive locations, wherever this is possible, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principal local characteristics of the landscape including views to or from, and the setting of, Areas of Outstanding Natural Beauty, the Heritage Coast, National Parks or World Heritage Sites.
- 7.13 CDLP Policy G1 (Landscapes) states all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development, particularly those areas less able to accommodate significant change. Where the opportunity arises, measures should be taken to enhance or restore valued landscapes.
- 7.14 Hespín Wood is located in Cumbria Landscape Characteristic 2c Coastal Plain. The land is flat coastal plain largely based on fluvial drift, marine alluvium and undulating boulder clay. The land generally lies up to 15m AOD, Hespín Wood

sits at 10m AOD. The area around Hespín Wood is predominately flat and screened by woodland to all sides, with agricultural fields, small hamlets, highways network and railway line.

- 7.15 Hespín Wood is screened from public view points from the All Purpose Road (APR) and M6 motorway by an extensive tree belt and due to the low lying nature of the area. There are no raised view points looking into Hespín Wood due to the low lying nature of the land, thereby in terms of looking into Hespín Wood the only view into the site would be an aerial view. A number of trees would be removed to allow development, which are within Hespín Wood and would not impact on the tree belt screening Hespín Wood from APR and M6. The trees are not subject to any Tree Preservation Order or located within a Conservation Area thereby they have no protection, and could be removed without obtaining permission.
- 7.16 In terms of landscape and visual impact the proposed building would not have any additional impacts on the area due to the screen belt and the building is no higher than existing structures on the site. I therefore consider that RDF building complies with CMWLP Policy DC18 and CDLP Policy G1, as the building would not have any landscape and visual impact outside of Hespín Wood.

Is the proposed height of the building compatible in height to other buildings on Hespín Wood?

- 7.17 The height of the proposed building in comparison with other buildings on Hespín Wood the RDF building would be 11m, the green waste composting building 10m; the Mechanical Biological Treatment plant is 11.4m; concrete batching plant is 27m and the Mechanical Recovery Facility building is 9m. In terms of height of buildings and other structures on Hespín Wood I consider the height of the RDF building is compatible and would not have any additional visual impact or prominence on the surrounding area or landscape.

How would the facility impact on environmental or other impacts?

- 7.18 The environmental impacts have been considered and where necessary these would be subject to appropriately worded conditions:
- 7.19 **Biodiversity:** CMWLP Policy DC16 –requires developments to identify any potential impacts on important biodiversity and geological conservation assets, as defined in the Strategic Policies, and on any functional ecological and green infrastructure networks; and their potential to enhance, restore or add to these resources; and to contribute to national and local biodiversity and geodiversity objectives and targets.
- 7.20 Carlisle City Council District Local Plan Policy CP2 (Biodiversity) advises developments should not harm the integrity of the biodiversity resources as judged by key nature conservation principles and proposals should seek to conserve and enhance the biodiversity value of the areas which they affect.
- 7.21 Hespín Wood is located 7km north of Carlisle City Centre. Hespín Wood is not located within any designated European, National or Local protected sites. The proposed development has been assessed on the ecological features of the

application site itself and upon designated nature conservation sites within 2 km. Hespín Wood does lie 2.4km east of Special Protection Area (SPA) of Upper Solway Flats and Marshes; RAMSAR of Upper Solway Flats and Marshes; Special Area of Conservation (SAC) of Solway Firth and Site of Special Scientific Interest (SSSI) of Upper Solway Flats and Marshes.

- 7.22 The planning application has been accompanied by a Phase 1 Habitat Survey, which identifies major habitats within the site and immediate vicinity; potential for legally protected and/or notable species present and the need for additional specialist ecological surveys. The report considers Hespín Wood to be of Low Ecological Value overall as the characteristics of the land as bare ground poor semi-improved grassland and tall ruderal vegetation.
- 7.23 There are no confirmed protected species identified on Hespín Wood landfill site. Hespín Wood is screened by a tree belt which provides foraging habitat for bats and birds. It is not proposed to remove any trees during operations thereby there would be no impact on bats from the operations.
- 7.24 Natural England concerns relate to any potential impacts on the River Eden SSSI and SAC which will be mitigated in the discharge consent/waste permit.
- 7.25 The proposed facility would not adversely affect any ecological interests and would comply with Policy DC16 of the CMWLP and Policy CP2 of the Carlisle City Council District Local Plan.
- 7.26 **Arboriculture:** To the east of the site is a tree belt, the proposal does not involve the felling of these trees. A root protection barrier would be installed along the eastern boundary during construction operations to prevent damage to the trees. The trees are not subject to any Tree Preservation Orders nor located in a conservation area
- 7.27 **Noise:** CMWLP Policy DC3 – Noise requires noise attributable to minerals and waste developments shall not exceed background noise levels, LAeq 1 hour (free field) by more than 10dB(A) at noise sensitive properties. Noise from construction activities could be an issue these operations would be temporary for a period of upto 12/18 months. The nearest noise sensitive properties are Todhills 233m east and Blackrigg Bungalow 300m south west of the RDF building. Ambient background noise levels are 48.4 dB(A) and maximum 69.5 dB(A), it is noted that the acceptable average threshold level is 55 dB(A). Ambient noise levels are mainly generated by road traffic on M6 and intermittent background noises from frequent movement of trains along the West Coast Mainline. It is recommended that a distance of 200m between operations and residential properties is achieved, in this instance the distance is in excess of this recommendation. The applicant has also agreed to install acoustic fencing to the eastern boundary of the site to help reduce noise impacts, there is already acoustic fencing in place at Todhill to reduce noise impacts from the M6. I therefore consider the proposal complies with CMWLP Policy DC3, proposed condition 18 relates to noise monitoring.

- 7.28 **Dust:** CMWLP Policy DC5 – Dust will only be permitted where the applicant can provide evidence that the proposed development will not have a demonstrable impact on amenity, human health and air quality. The proposal is solely for the production of RDF/sorting of comingled waste thereby dust would only be an issue during construction operations in dry or windy weather. A dust suppression system would be required during periods of dry and windy weather during construction activities. Once the RDF/comingled building is constructed there would be no external operations as sorting and working would be undertaken in the buildings, thereby there would be no impact of dust from the internal sorting/activities. I therefore consider the proposal complies with CMWLP Policy DC5.
- 7.29 **Vibration:** Vibration may be an issue during construction operations predominately during foundation/construction activities. Consideration of vibration would form part of the Construction Management Plan, which is required. Due to the proximity of the nearest receptors being over 200m away from Hespín Wood there would be no impact on their amenities.
- 7.30 **Cultural Heritage:** Policy DC17 of the CMWLP, states that where necessary, preservation and, where appropriate, enhancement of Cumbria's heritage assets and their settings must be achieved. There are no historic buildings in close proximity to Hespín Wood. The nearest Listed Building is Floriston Rigg approximately 1.5km north of the RDF building and given this separation, I consider there to be no adverse effects on its setting or character. I therefore consider the proposal complies with CMWLP Policy DC17 as there would be no impact on the historic environment.
- 7.31 **Ground Contamination:** The application site is proposed on undeveloped land which has not been previously developed. Should contamination be found during construction activities contamination is found an appropriately worded condition is included to ensure contamination is adequately dealt with.
- 7.32 **Flood Risk:** CMWLP Policy DC18 Proposals for development should be compatible with the distinctive characteristics and features of Cumbria's landscapes should avoid significant adverse impacts on the natural and historic landscape.
- 7.33 Hespín Wood lies within Flood Zone 1, however due to the size of the development a Flood Risk Assessment has been submitted. CCC Lead Local Flood Officer has raised no objections to the proposal, subject to the requirement that the drainage arrangements are agreed by the County Council - this will be appropriately conditioned.
- 7.34 **Staffing:** It is proposed the facility would employ an additional 10 staff Members. There would also be a number of indirect jobs created during construction works. The creation of 10 jobs complies with CMWLP policy SP14 as the development provides economic benefit to the area.
- 7.35 **External Lighting:** External lighting may be an issue during construction operations and once the building is operational. Hespín Wood occupies a remote location thereby light pollution could be an issue on the dark skies, if not appropriately controlled or considered. CDLP Policy G1 (Landscapes) states "landscapes valued for their intrinsically dark skies such as the area around

Kershope Forest in the rural north east of the District, will be protected from adverse impact of artificial light pollution". The preamble text states "whilst every effort to reduce light pollution should be made across the District, under no circumstances should lights that beam light upwards or which would allow excess light to seep into the night sky be permitted".

- 7.36 **Operational Hours:** It is proposed to operate the facility between 07:00 to 19:00. The nearest noise sensitive receptor is 233m east of Hespín Wood thereby operations from noise impacts would not be an issue.
- 7.37 **Impact on Human Health:** Concern has been raised by the processing of waste from Hespín Wood. Hespín Wood is a mixed waste resource park which either landfills waste where it can't be recycled or reused or it is sorted and packaged for onward disposal or reuse elsewhere - currently this material is sent around the world. Hespín Wood is operated under an Environmental Permit which is issued by the Environment Agency and as part of this permit an Environmental Safety case is required which ensure the operations complies with legislation and environmental controls in place which include emissions, pest control, air pollution. NPPF para 183 states "The focus on planning policies and decisions should be on whether proposed development is acceptable use of the land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively". In this instance Hespín Wood is processing Refuse Derived Fuel and is therefore not producing any emissions which would impact on human health.

Concerns raised by the Parish Council's

- 7.38 Rockcliffe Parish Council and Stanwix Parish Council have raised concerns with regards to noise from the RDF plant; removal of woodland; increase in traffic; allocation as a waste management park and potential ground contamination.
- 7.39 The RDF facility would be located approximately 315m from the nearest noise sensitive property. CMWLP Policy DC3 (noise) requires noise attributable to minerals and waste developments shall not exceed background noise levels, LAeq 1hour (free field) by more than 10 dB(A) at noise sensitive properties. Noise from the operations can be controlled by an appropriately worded condition. The applicant has agreed to erect a noise barrier fence to the eastern boundary of the site, which would help alleviate noise from the site. I recommend that a condition is imposed with regard to noise monitoring being undertaken.
- 7.40 The tree belt which runs parallel to the All Purpose Road is to be retained as part of the proposal. The tree belt is 10m in depth and is predominately silver birch, this is to be retained along the whole length of the Hespín Wood Site. There have been some works to the trees within the application site boundary where some were blown down in the high winds over the winter months with the rest being removed to clear the site. The trees were not subject to a Tree Preservation Order or within a Conservation Area, thereby the trees could be removed without obtaining formal permission or any other form of consent.
- 7.41 Increase in traffic; there would be an increase of around 22 HGV's per day, 2

HGV's per hour at the site. In light of the current activities and the creation of the All Purpose Road, this is a minor increase in traffic.

- 7.42 Allocation as a waste management park - Hespian Wood has been established over the course of time into a resource park which hosts a multitude of different waste management operations. The site hosts green waste composting, a Mechanical Biological Treatment Plant, Concrete Batching Plant, landfilling, mechanical recycling facility, baling plant. The landfill operations were recently granted an extension of time until 31 October 2039, thereby the site will be operational until this time.
- 7.43 Potential ground contamination, the application site is undeveloped land, thereby there should be no ground contamination during construction activities. During operational activities the building would be operated under an Environmental Permit issued by the Environment Agency and thereby any potential contamination issues will be addressed under the Environmental Permit. NPPF Paragraph 183 does not allow Local Planning Authorities to duplicate other regulatory processes or emissions.

Consideration of pro-forma submitted by local residents

- 7.44 A standard pro-forma has been submitted by 159 residents in response to the proposed development. The concerns within the pro-forma relate to:
- 7.45 Pro-forma: The foreword in CMWLP states "our quality of life relies on the safe, clean and effective treatment and disposal of waste. By reducing, reusing, recycling and finding other uses for more of our waste, we can help reduce our impact on the environment and benefit future generations". I fail to see how burning RDF can meet any part of the above statement.
- 7.46 LA Response: The development is to produce RDF from the facility, which reduces the need to landfill material, which conforms to local and national planning policy to recycle/reuse and moving waste up the waste hierarchy. The proposal does not include the burning of RDF from this facility. The MBT Plants at Barrow and Carlisle currently produce RDF which is then exported to appropriate facilities for alternative uses which could include as a substitute for fossil fuels e.g. cement plants, lime plants, coal fired power stations or as a reduction agent in steel furnaces.
- 7.47 Pro-Forma: CMWLP site assessment says Hespian Wood has been withdrawn from the list of potential sites for expansion and is not a site for further waste development. "It was felt that there should not be intensified use of the site, it should be used for landfill and restored to agriculture". This conflicts with the proposal for the construction and operation of a plant to process RDF.
- 7.48 LA response: CMWLP site assessment is for sites to be brought forward which have not been previously identified or used for such alternative development. CMWLP Policy DC9a requires waste management facilities to be located on suitable existing or planned industrial estates or existing waste management sites. Hespian Wood is a designated waste resource park and as such the siting of the proposed RDF facility complies with Local Plan Policy DC9.

- 7.49 Pro-Forma: The CMWLP says in relation to why Hespín Wood has been withdrawn that “main concerns are to maintain and enhance woodlands on the site and the management of restoration”. This hardly seems compatible with the proposal that requires the destruction of existing trees where the proposed facility would be located. Also mentioned in the same document are the existence of various species including Red Squirrels, great crested newts, otters and other important bird species.
- 7.50 LA response: This statement is taken from the Site Assessment document, and the comment relates to comments made during the site allocations process these are a summary of the comments received during the consultation process, and is not the Council’s stated position on the suitability of Hespín Wood. The document has been misunderstood as forming policy, whereas the formal policy document comes in the form of Cumbria Minerals and Waste Local Plan 2015-2030 strategic and development control policies, which Policy DC9e supports development on Hespín Wood.
- 7.51 Pro-Forma: CMWLP site assessment says why Hespín Wood has been withdrawn that “The narrow rural roads are unsuitable for the traffic; low bridges and weight restrictions cause lorries to use small unclassified roads, causing irreparable damage to verges and the countryside, and to use private driveways as pass places”. This planning application will inevitably lead to an increase in the number of HGVs on the roads.
- 7.52 LA response: During the local plan process the highway authority considered that future developments should only be progressed on completion of the Carlisle Northern Development Route (CNDR). The CNDR has since been completed along with the recent improvement to All Purpose Road which was upgraded as part of the M6 improvements. The APR road was constructed to a specification with transport movements to Hespín Wood of strategic importance. Transport links to Hespín Wood are therefore acceptable on the highway network. The U1070 (Hespín Wood to Rockcliffe) has a weight restriction over the railway bridge approximately 330m west of the entrance to Hespín Wood, thereby HGV’s need to turn left at the site entrance to ensure they are on the strategic highway network and not putting the weak bridge at risk of collapse, there is also a sign at the junction of Hespín Wood and U1070 which states all HGV’s must turn left.
- 7.53 Pro-Forma: CMWLP states “that the existing composting operation should be moved, as it causes unacceptable smells for residents”. This seems to contradict the proposal for the construction and operation of a plant to process RDF as this will only add to the problem.
- 7.54 LA response: The relocation of composting operation was a summary of the responses received during the local plan process, this is not a statement of the Council. CMWLP Paragraph 3.63 states “ The need for composting sites identified, arises from the potential closure of one 25, 000tpa composting facility adjacent to the Thackwood Landfill Site, and one 75,000tpa facility that is adjacent to Hespín Wood landfill site. The temporary planning consent for the latter development is directly linked to the continued operation of the Hespín Wood landfill site, which has a permission end date of 2020, and would automatically be extended if a time extension for the landfill site were to be granted. Planning permission 1/17/9001 was granted on 19 July 2017 to allow

landfill operations until 31 October 2039. Planning permission 1/05/9006 condition 1 states: The development hereby permitted shall be for a limited period only. Composting operations shall cease when the deposit of waste at Hespín Wood Landfill Site ceases. Thereby the composting operations has planning permission until 31 October 2039.

- 7.55 Pro-Forma: Trees are to be removed which must make flood risk and ground water problems worse, not just at development site but nearby too. Groundwater run-off will end up in the River Eden which is a Special Area of Conservation and Site of Special Scientific Interest. The landfill site is close by which is very toxic so adding additional groundwater run-off will add all sorts of toxins to the River Eden.
- 7.56 LA response: Flood risk and groundwater flooding have been considered by the Lead Local Flood Authority and Natural England, both have confirmed the proposal would not have any impact on increase in flood risk of contamination to the River Eden.
- 7.57 Pro-Forma: Appendix 2, section 3 para 3.2 state "it is anticipated that the produced RDF would supply the approved Energy Recovery Facility at the Kingmoor Park". I do not see how the planning application for Hespín Wood can reasonably be considered in isolation which the Kingmoor Park are inextricably linked.
- 7.58 LA response: All planning applications are dealt with on their own planning merits. NPPF paragraph 47 states: "Planning law requires that planning applications for planning permission be determined in accordance with the development plan, unless other material considerations indicate otherwise". In this instance it is the use of the land and whether this is acceptable for waste related development. In this instance the site complies with CMWLP Policy DC9, as this is an existing waste management site.
- 7.59 In conclusion , and as a response to the points raised in the pro-forma, continued operations at Hespín Wood provide a facility which processes and re-uses waste and drives this up the waste hierarchy, reducing the amount of waste disposed to landfill. This meets the objectives of reduce, recycle, reuse, and finds other uses for our waste. The process of burning any resulting RDF does not form any part of this planning application - the proposal is for the processing of waste only.
- 7.60 However, as an alternative form of non-fossil fuel, use of RDF can help reduce CO2 emissions, which contributes to reducing impacts on the environment and benefits future generations. The destination of any waste is a decision for the municipal waste management contract holder and not the waste planning authority.
- 7.61 The main concerns raised within the pro-forma have been supported by wording taken from the Site Assessment document. This document is a summary of responses received during the CMWLP reviewing process and does not form part of the local plan policy. The current CMWLP policy supports continued operations at Hespín Wood and is supported by Policy DC9 a and e which advises that waste related activities should be located on existing waste

management sites, suitable industrial estates, suitable farms or open countryside.

8.0 CONCLUSION

- 8.1 I have considered carefully the concerns of local residents but I am satisfied that producing RDF helps to reduce the need for landfill and moves waste further up the waste hierarchy. The RDF can be burned elsewhere as a substitute for fossil fuel.
- 8.2 I appreciate that the site has not been allocated for a waste facility. However our Local Plan does not preclude new sites coming forward provided that they are suitably located and provided there is a “need”. In this case the proximity of other waste recycling uses nearby, together with good links to the strategic road network suggests that the site is appropriate. I am also aware that the CMWLP identifies a need for additional waste treatment plant to be brought forward during the plan period.
- 8.3 The concerns expressed about the impact of any increased traffic are understandable. However the Highway Authority is satisfied that the existing road network can deal adequately with the additional 48 HGV movements (per week) and I am proposing a condition to ensure that all HGV traffic is routed via the APR away from Rockcliffe village.
- 8.4 Rockcliffe Parish Council are correct that some trees will be lost to the development. However the tree belt surrounding Hespian Wood will remain. This should ensure that there should be no substantive landscape or visual impact, particularly as the height of the building will be similar to others nearby. I am proposing to control external lighting by condition to minimise any further impact and whilst any additional noise from the plant will not exceed background noise levels, I have agreed a condition for an acoustic fence to be built along the eastern boundary. In my opinion, with these safeguards in place, the amenity of the area should be protected.
- 8.5 The views of local residents are an important material consideration. However the general thrust of planning policy is supportive. Coupled with the economic benefits of 10 number of jobs and investment, and appropriate conditions, I am satisfied that the scheme can be supported.

Human Rights

- 8.5 The Human Rights Act 1998 requires the County Council to take into consideration the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for his private life and home save for interference which is in accordance with the law and necessary in a democratic society in the interests of, amongst other things, public safety, the economic wellbeing of the country or the protection of the rights and freedoms of others. Article 1 of Protocol 1 provides that an individual’s peaceful enjoyment of his property shall not be interfered with save as necessary in the public interest and subject to conditions provided for by law. For any interference with these rights to be justified the interference needs to be proportionate to the aims that are sought to be realised. The County

Council has a duty to consider the policies of the development plan and to protect the amenities of residents as set out in those policies.

- 8.6 The proposal would have a limited impact on the visual, residential and environmental amenity of the area but it is considered that those impacts would be insufficient to interfere with the rights of the applicant and satisfactory controls could be imposed on the proposed development to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be minimal and proportionate to the wider social and economic interests of the community and could be satisfactorily controlled by planning conditions.

Dominic Donnini
Executive Director - Economy and Infrastructure

Contact: Mrs Jayne Petersen

Electoral Division Identification: Longtown

Appendix 1 - PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

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

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

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:
 - a. The submitted Application Form – dated 8 June 2018
 - b. Supporting Statement – dated May 2018
 - c. Transport Statement – dated May 2018
 - d. Phase 1 Habitat Survey - undated
 - e. Plans numbered and named:
 - i) Hespin Wood Proposed Co-mingled and RDF Facility – Site Plan Existing
 - ii) Hespin Wood Proposed Co-mingled and RDF Facility – Site Plan Proposed
 - iii) Hespin Wood Proposed Co-mingled and RDF Facility – Plan and Elevations
 - f. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

3. Notification of the date of commencement of the development shall be made in writing to the Waste Planning Authority within 7 days of such commencement.

Reason: To enable the Waste Planning Authority to monitor the development to ensure compliance with this permission.

Hours of Operation

4. No operations, including the loading, processing or transportation of waste, shall take place on site outside the hours of 07:00 to 19:00 hours daily. This condition shall not operate so as to prevent, outside these hours, the carrying out of essential maintenance to plant and machinery used on the site.

Reason: To ensure that no operations take place outside the permitted working hours in order to protect the amenity of local residents, in accordance with Policy DC2 of the Cumbria MWLP 2015-2030.

Safeguarding of Watercourses and Drainage

5. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment proposing surface water discharging into local ditch. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul water shall be agreed in writing by the Waste Planning Authority. The development shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.

6. Prior to the commencement of development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Waste Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include:
 - a) Arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a resident's management company; and
 - b) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage system throughout its lifetime

The development subsequently be completed, maintained and managed in accordance with the approved scheme.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.

7. No development shall commence until full details of the surface water system demonstrating that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 40% to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc) have been agreed in writing with the local planning authority.

Reason: To manage flood risk within the development that results from surface water to minimise the risk to people and property, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.

8. Prior to the commencement of any development, a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The proposed scheme should meet the

requirements of Sustainable drainage systems: non-statutory technical standards (March 2015).

The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall be discharged to the public sewerage system either directly or indirectly.

Reason: To safeguard against flooding to surrounding sites and to safeguard against pollution of the watercourse running through the site, in accordance with Policy DC19 and DC20 of the Cumbria Minerals and Waste Local Plan 2015-2030.

9. No development shall commence until details of future maintenance and operations of drainage in relation to the building and operation have been agreed in writing with the Waste Planning Authority.

Reason: To ensure the surface water system continues to function as designed, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Traffic Management Plan

10. No development shall commence until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Waste Planning Authority. The TMP shall include details of:

- construction and operation vehicle routing that requires vehicles to enter and leave the site only from the east via the APR;
- ensuring no HGV's await on the U1070;
- detailed parking layout on HGV manoeuvring and parking area;
- HGV manoeuvring plan for the building;

Development shall be carried out in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of highway safety as the local road network is not suitable for large or articulated vehicles, in accordance with Policy DC1 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Construction Management Plan

11. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Waste Planning Authority. The CMP shall include details of:

- Hours of operation for construction activities;
- Contractors compound/parking provision including a plan reserving adequate land for the parking of vehicles engaged in construction operations;
- Storage of construction materials;
- The location and design of wheel cleaning facilities including the provision for cleaning of the site entrance to ensure debris do not get deposited by

- vehicles upon the public highway;
- Identification of potential sources and measures to control;
 - Noise
 - Dust
 - Vibration
- Storage of fuels during construction works including spill mats;
- Details of temporary lighting during construction works;
- Provision for facilities of manoeuvring, loading and unloading of vehicles;
- Construction vehicle routing including scheduling and timing of movements, details of escorts for abnormal loads and temporary warning signs;

The development shall be thereafter be carried out in accordance with the approved construction Management Plan.

Reason: To ensure the construction is carried out in accordance with the approved scheme.

External Storage

12. No materials shall be stocked outside the building shown on the approved plan – Hespian Wood Proposed Co-Mingled and EDF Facility Site Plan: Proposed, sheet 2C, dated 16 May 2018, unless otherwise agreed by the Waste Planning Authority.

Reason: To minimise the visual impact of the development in accordance with Policy DC18 of the Cumbria Minerals and Waste Local Plan 2015-2030.

External Lighting

13. No development shall commence until a lighting scheme has been submitted to the Waste Planning Authority for approval. This shall include any lighting used during the construction period and lighting on the operational plant. When approved the development shall take place only in accordance with the approved scheme.

Reason: To minimise the effects of light pollution.

14. All artificial lighting units installed on the site shall be so sited and shielded as to avoid light pollution in the residential area and to the night sky.

Reason: To minimise the effects of light pollution, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Noise and Dust

15. All plant, machinery and vehicles used on site shall be effectively silenced at all times and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC3 of the Cumbria

Minerals and Waste Local Plan 2015-2030.

16. All vehicles under the site operator's control that are fitted with reversing alarms shall use a white noise type unless otherwise agreed in writing with the Waste Planning Authority.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

17. All vehicles used to transport materials from the site via the public highway shall be sheeted or otherwise covered.

Reason: In the interest of local amenity and highway safety and to prevent release of litter on to neighbouring properties.

18. Prior to commencement of operations within the RDF building a noise monitoring survey shall be undertaken from Blackrigg Cottage and Ash Cottage, Todhills. The noise monitoring survey shall monitor existing noise levels and noise levels once the building is operational. Noise from approved operations at Hespian Wood shall not exceed the background noise level measured from the noise sensitive properties by more than 10dB. The findings shall be submitted to the Waste Planning Authority.

Reason: To ensure that the development is carried out to an appropriate standard of operations from the site are adequately controlled, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Contamination

19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Waste Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from, the Waste Planning Authority for an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the risk of on site contamination is kept to a minimum, in accordance with Policy DC21 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Ecology/Arboriculture

20. No trees, bushes or hedges within the development site shall be removed, lowered or pruned during the bird nesting season between 1 March and 31 July inclusive. If areas cannot be cleared outside this time, they should be checked for breeding birds in accordance with Natural England's Guidance and, if appropriate, an exclusion zone set up around any vegetation to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.

Reason: To protect nesting birds, in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan 2015-2030.

21. No development shall commence until the Construction Exclusion Zone for the protection of trees to be retained on site has been put in place as per Appendix 4 – Recommended Protective Fencing document JN00322/D01.

Reason: To ensure that during the course of development the roots and trees are protected.

Fence

22. No development shall take place until details of the acoustic fencing to the east of the site has been submitted to and approved in writing with the Waste Planning Authority.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Cessation of Operations

23. In the event that the production of Refuse Derived Fuel permanently ceases, as defined by this permission, and such period to have been confirmed in writing to the Waste Planning Authority within 28 days of the commencement of such period or such period as identified by the Waste Planning Authority and advised in writing to the applicant, prior to the full implementation of the approved scheme, a revised scheme to include details of the restoration, aftercare and timescale for the completion of the restoration works, shall be submitted to the Waste Planning Authority, within 3 months of the cessation of working for approval. The site shall thereafter be fully restored and aftercare carried out in accordance with the approved scheme.

Reason: To ensure that the development is carried out to an appropriate standard and to secure the proper restoration of the site should waste disposal at the site ceases prematurely, in accordance with Policy DC22 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Temporary Suspension of Operations - More than one Year

24. In the event that operations are temporarily suspended for a period exceeding one year, the commencement of such period having been first confirmed in writing by the applicant to the Waste Planning Authority or as identified by the Waste Planning Authority and confirmed in writing to the applicant, then within 14 months from the identified time of suspension of waste deposit an interim restoration scheme and timetable for its completion shall be submitted in writing for approval by the Waste Planning Authority. The interim restoration scheme shall then be implemented in its entirety within a further 12 months from the date of approval.

Reason: To ensure that the development is carried out to an appropriate standard

and to secure the proper restoration of the site should operations at the site temporarily cease, in accordance with Policy DC22 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Temporary Suspension of Operations - Four Weeks or More

25. If the operations hereby permitted are suspended for a period of 4 weeks or more, the operator shall give written notification to the Waste Planning Authority of the date upon which the operations were suspended. Written notification shall also be given to the Waste Planning Authority within 7 days of the resumption of operations following a temporary suspension.

Reason: To ensure that the Waste Planning Authority is made aware of the suspension of operations at the site.

Informative:

The applicant should be referred to two relevant documents produced by the Health and Safety Executive, which are available from The Stationery Office Publications Centre and The Stationery Office Bookshops, and advised to follow the guidance given.

The documents are as follows:-

HS(G)47 – Avoiding danger from underground services.

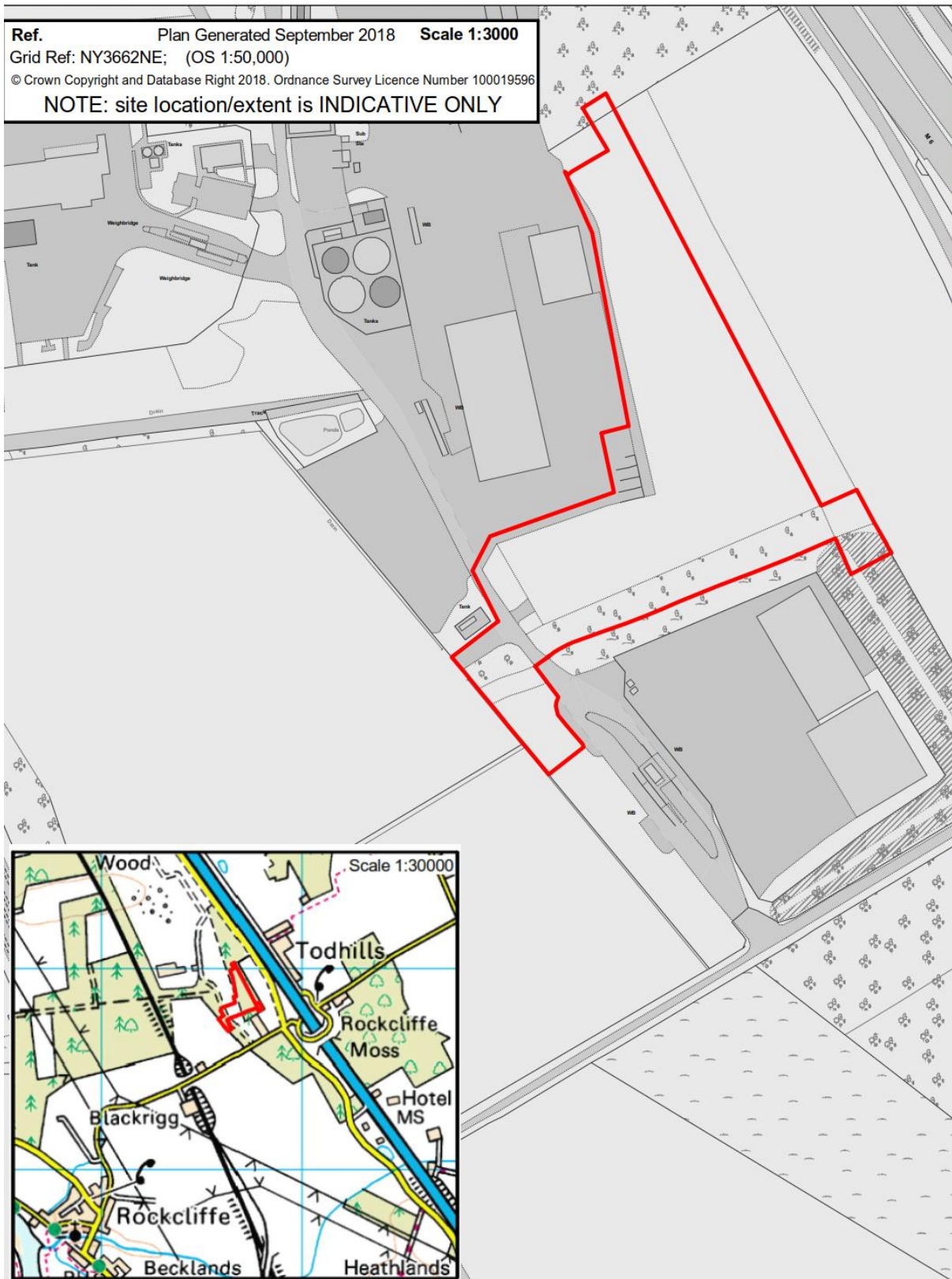
GS6 – Avoidance of danger from overhead electric lines.

Other points, specific to this particular application are:-

- **ENWL Hespian wood 11000volt substation, 632822, within redevelopment site.**
- **ENWL 11000 volt and 400 volt cables within proposed redevelopment site.**
- **ENWL 33000 volt overhead line in close proximity to southern border of redevelopment site.**
- The applicant should also be advised that, should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion would usually be borne by the applicant. The applicant should be aware of our requirements for access to inspect, maintain, adjust, repair, or alter any of our distribution equipment. This includes carrying out works incidental to any of these purposes and this could require works at any time of day or night. Our Electricity Services Desk (Tel No. 0800 195 4141) will advise on any issues regarding diversions or modifications.

Electricity North West offers a fully supported mapping service, at a modest cost, for our electricity assets. This is a service which is constantly updated by our Data Management Team who can be contacted by telephone on 0800 195 4141 or access the website <http://www.enwl.co.uk/our-services/know-before-you-dig!>

Appendix 2 - PLAN OF SITE LOCATION/EXTENT



Objections to Planning Application 1/21/9004

1. Variation of an Expired Permission

The committee report regarding 1/21/9004 says in relation to permission 1/18/9006:

Planning conditions 7, 8, 9, 10 and 13 required details to be submitted prior to commencement of development. Unfortunately, works have commenced and the details required by the conditions have yet to be approved.

The conditions referred to start with the words "No development shall commence ..." and "Prior to the commencement of any development ...". The officer report to the committee acknowledges the conditions have not been met. The officer report dated 19 January 2022 considers that a section 73A (retrospective) permission is required but does not consider that, according to the Whitley principle, no lawful development has commenced.

The reasons for planning conditions 7, 8, 9 and 13 of 1/18/9006 are as follows:

Condition Number	Reason as stated in the 1/18/9006 decision notice
7	To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.
8	To manage flood risk within the development that results from surface water to minimise the risk to people and property, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.
9	To safeguard against flooding to surrounding sites and to safeguard against pollution of the watercourse running through the site, in accordance with Policy DC19 and DC20 of the Cumbria Minerals and Waste Local Plan 2015- 2030.
13	To ensure the construction is carried out in accordance with the approved scheme.

Condition Number Reason as stated in the 1/18/9006 decision notice
 7 To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.
 8 To manage flood risk within the development that results from surface water to minimise the risk to people and property, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan 2015-2030.
 9 To safeguard against flooding to surrounding sites and to safeguard against pollution of the watercourse running through the site, in accordance with Policy DC19 and DC20 of the Cumbria Minerals and Waste

Local Plan 2015- 2030. 13 To ensure the construction is carried out in accordance with the approved scheme.

From the above, the conditions are essential to: ensure that the construction is in accordance with the permission (condition 13); manage flooding risk at all times from commencement of construction (conditions 7 and 9); prevent pollution (conditions 7 and 9) and minimise risk to people and property (condition 8). Such pre-development conditions, which include ensuring construction in accordance with the permission itself, go to the heart of the permission and show that lawful development has not commenced.

It is also unclear whether condition 23 has been satisfied.

The decision date of 1/18/9006 was 8 Oct 2018 and the expiry date of the permission three years from the date of the permission. That date in October 2021 has now passed. Without lawful development commencing before the expiry date, planning permission 1/18/9006 has expired.

An expired planning permission cannot be varied (Town and Country Planning Act section 73(4)) and so must be refused.

2. Officer Proposed Use of Section 73A

The committee report dated 19 January 2022 proposed a retrospective section 73A planning permission to the committee to vary 1/18/9006. A section 73A planning permissions can be used to grant permission for development carried out before the date of the application, but:

- i) this is not what is proposed by the application. Cumbria County Council should not issue a section 73A permission when requested for a section 73 permission.
- ii) this is not now what Cumbria County Council is consulting on. Cumbria County Council should not consult on a section 73 permission and then issue a section 73A permission.
- iii) a section 73A planning permission cannot vary an expired planning permission.
- iv) the description of the section 73A permission in the officer report dated 19 January 2022 is not consistent with the proposed planning conditions in the officer report with more planning condition changes being proposed than those described.

If retrospective permission were to be considered, such permission would need to be requested and considered for the whole development not just an amendment, because there is no extant permission for the facility (see point 1 above).

3. Section 73 Is Inappropriate If Construction Has Occurred

The officer report dated 19 January 2022 says:

The construction of the water tank has been constructed in concrete

The officer's wording "has been constructed" is understood to mean the water tank has already been constructed, or at least partially constructed. No planning permission has

been granted for the water tank. For the reasons given in point 1, 1/18/9006 is considered expired, but, even if 1/18/9006 were extant, a section 73 amendment is not appropriate for granting additional retrospective permission for a water tank not included in 1/18/9006.

4. Water Tank Materials

The officer report dated 19 January 2022 says:

The construction of the water tank has been constructed in concrete as this needs to be of a strength to keep the water secure and prevent any risk of collapse which could occur if constructed in any other material, the tank needs to be adequately sealed and secure to retain water.

Whilst the tank needs to be sufficiently strong to retain the volume of water, it is not the case that “any other material” would cause a “risk of collapse”. There is no list of alternative materials that have been considered and no explanation why alternatives would risk collapse such as steel or polyethylene (using several smaller interlinked tanks if necessary). There is no indication that carbon footprint of such materials has been considered, taking into account that steel could be recycled following decommissioning of the facility. There is a lack of information to show that the previously submitted consultation comments on the use of high carbon concrete materials have been taken seriously and properly addressed.

Both Cumbria County Council and Cumbria Waste Management Ltd (who is ultimately owned by Cumbria County Council) should be acting in accordance with the climate emergency and minimising the carbon footprint (see also policy DC2 d and Box 2.1 of the Cumbria Minerals and Waste Local Plan). Given the "code red for humanity" announced by the UN in light of the IPCC report, minimising greenhouse gas emissions should be given the highest possible weighting in the Council's planning application assessments and Cumbria County Council should be setting, and enforcing, the highest of standards it can regarding the climate emergency.

5. Contrary to a “Main Concern” of the CMWLP

The proposal increases development over and above what was originally approved under planning application 1/18/9006. Since policy SAP2 in the Cumbria Minerals and Waste Local Plan does not list Hespian Wood as a site for new and enhanced waste development, the proposed amendment, which increases the number of structures at the site, is not consistent with SAP2.

The officer’s committee report says “The siting of the water tank is on land which has been prepared for operational development”. Just because the applicant has prepared land for “operational development” does not mean that such development should be permitted. This is not an appropriate planning justification for an additional structure. Such a justification would permit any land owner to build whatever they wished as long as they “prepared” the land accordingly.

The proposed water tank is to be sited on what was a woodland area. The Cumbria Minerals and Waste Local Plan says "Main concerns are to maintain and enhance woodlands on the site ..." CMWLP says the woodland area should be maintained and enhanced as a main concern yet the applicant has removed some of this woodland

area. The applicant has not acted in accordance with the Cumbria Minerals and Waste Local Plan and it is extraordinary that the applicant, who is ultimately owned by Cumbria County Council, should act in such a way and do so prior to seeking planning permission for the development on the cleared land. This is relevant to the 1/21/9004 proposal because the proposed water tank is on the cleared woodland area that was considered by the CMWLP to be an important noise and visual shield.

The proposal therefore cannot be considered consistent with the Cumbria Minerals and Waste Local Plan which surely requires as much of the cleared woodland area to be restored as possible. The committee report considers the council's consultation comments regarding Hespian Wood. The officer appears to consider these consultation comments (which were presumably made in relation to the Cumbria Minerals and Waste Local Plan) to be a valid planning consideration. One of the council's consultation comments (as reported in the officer's 19 January 2022 report) was "The recommendation of the council in the consultation document is that it should not be included on the grounds it is almost entirely within the permitted area of an existing waste management facility". This is understood to mean that the permitted area is almost entirely occupied, i.e. the site is full.

It should also be recognised that the proposal doubles the number of structures of height from one (the RDF building) to two (the RDF building and the water tank). This is a significant increase over and above what was originally consented in the now expired 1/18/9006 planning permission.

In summary:

- the Cumbria Minerals and Waste Local Plan has not allocated Hespian Wood for further waste development (such as the proposed addition of this water tank)
- the Council's consultation comments are understood to imply Hespian Wood has reached its development capacity
- the proposal is contrary to a "main concern" of the Cumbria Minerals and Waste Local Plan with regard to Hespian Wood which is to maintain and enhance the woodland. Woodland that has been cleared should be allowed to regrow and even enhanced in accordance with the Cumbria Minerals and Waste Local Plan.

The officer's report states: Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

The proposal is contrary to the Cumbria Minerals and Waste Local Plan (including a "main concern" regarding the Hespian Wood site) and this should carry considerable weight in the assessment of the proposal.

6. Officer Consideration of Increased Development Does Not Consider All Issues

Paragraph 7.33 of the officer's 19 January 2022 report considers the "Increased development over and above what was originally approved under planning application 1/18/9006". Whilst the "fire water tank is within the planning application site edged red under 1/18/9006" (as stated in paragraph 7.33 of the officer's report) the officer's report

does not adequately address the concern raised regarding this significant increase in development especially in light of the matters considered in point 5 above, namely:

1. the site not being a site for new waste development in the Cumbria Minerals and Waste Local Plan,
2. the site having reached its development capacity,
3. the “main concern” of the Cumbria Minerals and Waste Local Plan regarding the proposed site of the water tank, and
4. the doubling of the number of buildings of height.

7. Parking

The area shown on the 1/18/9006 plans as "HGV Manoeuvring and Parking Area" is shown on 1/21/9004 plans as "HGV Manoeuvring Area". The proposed amendment therefore appears to remove an area allocated partly for parking and it is unclear whether the proposed amended development has adequate parking. The committee report dated 19 January 2022 does not address this change to the "HGV Manoeuvring and Parking Area".

8. Condition 1

The application form for the proposal is to amend condition 2. This is inadequate because, even if it was appropriate to amend a planning permission that has expired, the wording of condition 1 would also need to be amended.

9. Flood Risk Assessment and Drainage Inconsistent (and Impact on Condition 6)

The supplied Flood Risk Assessment (apparently unchanged from 1/18/9006 - see Appendix 3) is not consistent with the drainage information because paragraph 3.4 of the FRA refers to a single water settlement lagoon whereas H-52-2C shows two new lagoons within the site boundary. This apparent discrepancy needs to be explained, and corrected if necessary, for the sake of consistent documents so that the application can be properly controlled. Since condition 6 requires drainage to be in accordance with the principles of the FRA (which considers a single lagoon), and since only condition 2 is to be changed, the drainage information provided should also refer to a single lagoon yet two are shown. The officer's report identifies “conflict of flood report” in paragraph 7.32 but does not address the concerns raised that condition 6 appear to be in conflict with the drainage information provided.

10. Planning Condition 14

Planning condition 14 of 1/18/9006 refers specifically to the plan "Hespin Wood Proposed Co-Mingled and EDF Facility Site Plan: Proposed, sheet 2C, dated 16 May 2018". However, since the amendment is to change this plan, planning condition 14 would also need to be amended. Since the proposal is only to amend condition 2, the application should be refused because, if granted, condition 2 would be inconsistent with condition 14.

11. Firewater Drainage is a Planning Consideration

The proposal lacks sufficient information to show that, in the event of a fire, the drainage

system can cope with the volume of firewater. This is important to avoid the pollution of water courses and surface water from waste materials if the site were to flood. Paragraph 3.2.6 of the Supporting Statement Drainage Conditions says the lagoon has a storage capacity of 675 cubic metres. Paragraph 3.2.3 of the same document says the rainwater tank has a storage capacity of 500 cubic metres. In the event of a fire, during (or following) a period of heavy rain, there is unlikely to be sufficient capacity in the lagoon(s) for the firewater resulting in a significant flood risk.

In response to the public comment regarding the this issue, the officer report dated 19 January 2022 says:

The water storage tank has been requested by the Environment Agency. NPPF paragraph 187 states: The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. The Environment Agency have requested the water tank be included and this will be controlled under the Environmental Permit for Hespian Wood Resource Park.

Water used to extinguish a fire is a drainage and flood management issue and not a “process” or “emissions” issue. Flooding and drainage are planning considerations and considered as such in the officer’s report. If there is a fire at the proposed facility, it should be expected that the firewater in the tank will be used to extinguish a fire – that is the purpose of the water in the proposed tank and the EA consider the tank to be necessary. The EA may “control” this tank in a permit (perhaps to the extent of ensuring that the tank is kept full), but Cumbria County Council should consider the planning issues arising from the tank and surely these planning issues include the drainage/flood implications if/when such a large volume of water is used. It is a planning consideration to consider drainage/flooding issues.

This is a land use issue because some locations will obviously be more able to hold/drain a large quantity of water better than others and because sufficient land needs to be allocated to contain the water and limit flows into ditches/rivers. The risks from contaminated water will also be greater at some locations than others and, for the facility, contaminated water may ultimately drain into the River Eden which is a SAC/SSSI. The risk of contaminated water on the SAC/SSSI should be considered. It is essential that the drainage for a building for the creation of RDF considers all the drainage needs and there is currently a lack of information to show that the location and the proposed drainage arrangements are suitable for the use of the firewater.

Carlisle residents have experience of the consequences of such matters not being adequately considered/controlled. The waste fire at Rockcliffe was left to burn for about a month because there were concerns about firewater drainage if sufficient water was to be used to extinguish the fire. That caused much smoke and a school had to close. If firewater drainage is inadequate, the proximity of the 1/21/2004 development to local residents and the M6 could result in a fire that cannot be extinguished because of flooding and water pollution fears. This is both a risk to health and a traffic risk – matters which are important planning considerations. Adequate firewater drainage is therefore an important planning consideration.

12. Inconsistent Site Areas and Impact on Drainage Plans

In paragraph 7.27 of the officer report dated 19 January 2022 it is written: Planning permission 1/18/9006 site area was 2.3ha. The development hasn't increased the site area, it remains as approved under 1/18/9006. However, the Annex to the Flood Risk Assessment shows the "Total site area (ha)" as 1.7. This difference should be explained/corrected especially given the unanswered questions concerning drainage/flooding should it be necessary to use the firewater.

13. Changes to Doors and Potential Noise and Odour Impacts

The plan and elevations diagram H-52-8A submitted for 1/21/9004 shows more changes than just the water tank and rainwater drainage. There are also changes to doors with what appear to be larger doors on the amended diagram. These changes potentially have other implications such as increased noise and odour yet there is no indication of these other changes in the supporting statement for the amendment, nor any indication that other potential consequences of these changes have been considered by the applicant or the planning officer.

14. Inconsistent Diagrams

The position of the lagoon to the North East on diagram H-52 20B differs from that on H-52 2F. The differences include a lagoon shown towards the South West of the site on diagram 52-2E but not on H-52-20B. The diagrams should be amended for consistency and so the development can be appropriately controlled. Without corrections the proposal should be refused.

15. Drawings Inconsistent with Supporting Information

Page 2 of the Supporting Statement references appendices with documents and drawing numbers that are not consistent with the latest submitted drawings and therefore the proposal documents are inconsistent. The inconsistencies should be corrected so that the documents are consistent.

16. Inaccurately Reported Representations in Officer

Report A list of concerns raised by representation was shown in paragraph 7.24 of the Officer's Report. An analysis of the listed concerns is shown in the following table:

Concern as Expressed in Officer's Report	Analysis
- increasing the size of Hespín Wood Resource Park; the site is not listed in CMWLP; development in a rural area;	None of the representations listed in Appendix 4 of the officer's report refer to "increasing the size of Hespín Wood Resource Park" so this is not an accurate reflection of the representations received. Concerns were raised about the proposed "development change" (notably the water tank) to be outside the Hespín Wood boundary. The issues concern 1/21/9004.
- moving a building closer to the site boundary and removal of trees; the materials chosen to construct the building;	This is not an accurate reflection of the representations received. The relevant statements are: "The proposal would

	increase the buildings near the boundary of the site.” (followed by an explanation). None of the proposals refer to “moving a building”. The issues concern 1/21/9004.
-HGV manoeuvring area; conflict of flood risk report; Condition 6 an 14 need compliance; increased development over and above what was originally approved under planning application 1/18/9006;	The issues concern 1/21/9004.
- the location of the development also extends beyond the boundary of Hespian Wood as defined by Cumbria County Council Minerals and Waste Local Plan;	This representations received refer to the “development change” so concern 1/21/9004.
- the proposal lacks sufficient information to show that, in the event of a fire, the drainage system can cope with the volume of firewater;	This issue concerns 1/21/9004.
- the proposed site plan H-52-2F does not show the whole site (the red boundary of the site area goes off the page); - H-52-2E (as shown in the supporting statement) and H-52-2F ("H-52-2F Site plan proposed.pdf") are both shown as scale 1:1000 @ A3 yet the scales of these maps are different;	This issue concerns 1/21/9004.
- the dates on H-52-2E and H-52-2F are different and Diagram Appendix 2 H-52-20B is not consistent with diagram 52-2E (as found in the Supporting Statement.	This issue concerns 1/21/9004.

Paragraph 7.25 of the committee report dated 19 January 2022 says: The concerns raised in the representations relate primarily to planning application 1/18/9006 which has been implemented and the building is substantially constructed. However, as can be seen from the table, all the issues listed concerned 1/21/9004. It is unclear why the officer considered the concerns primarily relate to 1/18/9006. The committee report should accurately report and consider the concerns raised.

17. Officer Report Tank Size

The committee report dated 19 January 2022 says:

The rainwater tank measures 7.5m in height with a depth of 10m and would be circular design. The tank would store a minimum of 500 litres of water.

A tank of those dimensions is likely to hold considerably more than 500 litres. Should this be 500 m3 ?

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Appendix 1 - PROPOSED PLANNING CONDITIONS

Approved Scheme

1. This permission relates to:
 - a. The submitted Application Form – dated 14 July 2021
 - b. Supporting Statement – dated July 2021
 - c. Supporting Statement Conditions – dated September 2021
 - d. Transport Statement – dated May 2018
 - e. Phase 1 Habitat Survey - undated
 - f. Plans numbered and named:
 - i) Hespun Wood Proposed Co-mingled and RDF Facility – Site Plan Existing
 - ii) Hespun Wood Proposed Co-mingled and RDF Facility – Site Plan Proposed No H-52-2E
 - iii) Hespun Wood Proposed Co-mingled and RDF Facility – Plan and Elevations No H-52-8A
 - f. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Hours of Operation

2. No operations, including the loading, processing or transportation of waste, shall take place on site outside the hours of 07:00 to 19:00 hours daily. This condition shall not operate so as to prevent, outside these hours, the carrying out of essential maintenance to plant and machinery used on the site.

Reason: To ensure that no operations take place outside the permitted working hours in order to protect the amenity of local residents, in accordance with Policy DC2 of the Cumbria MWLP 2015-2030.

Safeguarding of Watercourses and Drainage

3. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment proposing surface water discharging into local ditch. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul water shall be agreed in writing by the Waste Planning Authority. The development shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding, in accordance with Policy DC19 of the Cumbria Minerals and Waste Local Plan

2015-2030.

External Storage

4. No materials shall be stocked outside the building shown on the approved plan – Hespín Wood Proposed Co-Mingled and EDF Facility Site Plan: Proposed, sheet H-52-2E, unless otherwise agreed in writing by the Waste Planning Authority.

Reason: To minimise the visual impact of the development in accordance with Policy DC18 of the Cumbria Minerals and Waste Local Plan 2015-2030.

External Lighting

5. All artificial lighting units installed on the site shall be so sited and shielded as to avoid light pollution in the residential area and to the night sky.

Reason: To minimise the effects of light pollution, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Noise and Dust

6. All plant, machinery and vehicles used on site shall be effectively silenced at all times and maintained in accordance with the manufacturers' recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

7. All vehicles under the site operator's control that are fitted with reversing alarms shall use a white noise type unless otherwise agreed in writing with the Waste Planning Authority.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

8. All vehicles used to transport materials from the site via the public highway shall be sheeted or otherwise covered.

Reason: In the interest of local amenity and highway safety and to prevent release of litter on to neighbouring properties.

9. Prior to commencement of operations within the RDF building a noise monitoring survey shall be undertaken from Blackrigg Cottage and Ash Cottage, Todhills. The noise monitoring survey shall monitor existing noise levels and noise levels once the building is operational. Noise from approved operations at Hespín Wood shall not exceed the background noise level measured from the noise sensitive properties by more than 10dB above the existing LAeq at any noise sensitive premises as assessed in accordance with British Standard 4142:2014+A1:2019. The findings shall be submitted to the Waste Planning

Authority.

Reason: To ensure that the development is carried out to an appropriate standard of operations from the site are adequately controlled, in accordance with Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030.

Informative:

The applicant should be referred to two relevant documents produced by the Health and Safety Executive, which are available from The Stationery Office Publications Centre and The Stationery Office Bookshops, and advised to follow the guidance given.

The documents are as follows:-

HS(G)47 – Avoiding danger from underground services.

GS6 – Avoidance of danger from overhead electric lines.

Other points, specific to this particular application are:-

- **ENWL Hespian wood 11000volt substation, 632822, within redevelopment site.**
- **ENWL 11000 volt and 400 volt cables within proposed redevelopment site.**
- **ENWL 33000 volt overhead line in close proximity to southern border of redevelopment site.**
- The applicant should also be advised that, should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion would usually be borne by the applicant. The applicant should be aware of our requirements for access to inspect, maintain, adjust, repair, or alter any of our distribution equipment. This includes carrying out works incidental to any of these purposes and this could require works at any time of day or night. Our Electricity Services Desk (Tel No. 0800 195 4141) will advise on any issues regarding diversions or modifications.

Electricity North West offers a fully supported mapping service, at a modest cost, for our electricity assets. This is a service which is constantly updated by our Data Management Team who can be contacted by telephone on 0800 195 4141 or access the website <http://www.enwl.co.uk/our-services/know-before-you-dig!>

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