

14 July 2022

**To: The Chair and Members of the
Development Control and Regulation
Committee**

Update Sheet

DEVELOPMENT CONTROL AND REGULATION COMMITTEE

Please find attached, the Update Sheet for the meeting of the Development Control and Regulation Committee to be held as follows:

Date: Friday 15 July 2022
Time: 10.00 am
Place: Council Chamber - County Offices, Kendal, LA9 4RQ

Simon Higgins
Assistant Director – Customer and Community Services

Enquiries and requests for supporting papers to: Nicola Harrison
Direct Line: 07825 832 545
Email: nicola.harrison@cumbria.gov.uk

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Serving the People of Cumbria

MEMBERSHIP

Labour (6)

Mr A McGuckin (Vice-Chair)
Mr F Cassidy
Mr KR Hamilton
Mr W McEwan
Mr FI Morgan
Mr MH Worth

Conservative (8)

Mr RK Bingham
Mr A Bowness
Mrs HF Carrick
Mr D English
Mr AJ Markley
Mr J Mallinson
Mr CP Turner
Mr D Wilson

Liberal Democrat (3)

Mr GD Cook (Chair)
Mr N Cotton
Mr P McSweeney

Independent (1)

ACCESS TO INFORMATION

Agenda and Reports

Copies of the agenda and Part I reports are available for members of the public to inspect prior to the meeting. Copies will also be available at the meeting.

The agenda and Part I reports are also available on the County Council's website – <http://councilportal.cumbria.gov.uk/ieListMeetings.aspx?CIId=124&Year=0>

Background Papers

Requests for the background papers to the Part I reports, excluding those papers that contain exempt information, can be made to the Legal and Democratic Services Unit at the address overleaf between the hours of 9.00 am and 4.30 pm, Monday to Friday.

A G E N D A

PART 1: ITEMS LIKELY TO BE CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

21 UPDATE SHEET

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TO: The Chair and Members of the [Development Control & Regulation Committee](#)

FROM: The Executive Director - Economy and Infrastructure

REGISTER OF COMMON LAND

Reference & Applicant	Proposal Description / Site Location	Agenda Item & Pages
CA13/36	Application to correct mistaken registration; CI155, land either side of the A591, South of Waterhead, Ambleside	Item 6 Pages 19-92

The Local County Council Member (representing Lakes Electoral Division), Cllr Will Clark, will provide a verbal statement in respect of “How the A591 splits the common and whilst development has quite clearly taken place on the West/Lakeside the piece of land to the East should remain as Common”.

PLANNING APPLICATIONS

Reference & Applicant	Proposal Description / Site Location	Agenda Item & Pages
1/21/9004 Cumbria Waste Management Ltd	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. Hespin Wood Waste Management Park, Rockcliffe, Carlisle, CA6 4BJ	Item 10 Pages 117-178

UPDATES RE 1/21/9004

Consultation Responses

Paragraph 6.3 – re CCC Local Plan Officer Consultation Response (across pages 123 – 124) is replaced with:

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. Paragraph 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 a). 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

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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.

Representations

Eight representations, plus Mr Mudge's additional comments to be read out, have been received since the publication of this report:

Mr Mudge [To be read out as part of his objection].

"I strongly object to the retrospective permission that the Council is proposing to grant. CRAIN also strongly objects to the planned retrospective permission.

The planning application that was made is as described on the application form and is for a water tank. The Council consulted on an application for a water tank but plans to grant retrospective permission for a Refuse Derived Fuel facility.

In 2018, the RDF planning application was very controversial. There were 159 objections. The committee's decision to approve the application was not unanimous. Committee member objections included that the application was not in accordance with the local plan. It still isn't in accordance with the local plan. Hespian Wood is not an allocated site for new waste development, the Hespian Wood site is full, and this plant is on land that should be boundary woodland; woodland that the local plan says is a "main concern". In 2018, members were also concerned about the HGV increases.

If the Council is to grant permission for the RDF plant again, it should consider all the objections it received in 2018 including the 156 page document it received detailing numerous material planning objections. I do not believe the Council has considered the objections and I request that it does. Important questions about the extraction efficiency of recyclable material were never answered in 2018. They remain unanswered today. Furthermore, the Council's intentions to grant retrospective permission only became clear when the Officer's report was published last week. Now that the Council's intentions are clear, the Council must give time for the public to update the objections it received in 2018, because the case against this plant is now significantly stronger than it was then. I believe the case for the plant is also significantly weaker. It is clearer now that:

1. The more RDF Cumbria makes, the less waste Cumbria will recycle.
2. The more RDF Cumbria makes, especially RDF made from plastics from fossil fuels, the more climate-harm Cumbria will cause.
3. The more RDF Cumbria makes, the more impact on air quality there will be.

The Officer's report says the Council intends to grant permission that doesn't include a water tank. How can the Council grant permission which does not include the very thing that the application was for? If the water tank is to be included, why have the representations about the water tank materials not been considered? The Officer's previous report seems to be saying that the water tank had been constructed, yet the existing site diagrams do not include the water tank. The Council's proposed retrospective permission is not going to sort this mess out.

The Council's company has constructed a building without compliance to planning conditions. If retrospective permission is to be the proposed way forward, there should be a clear application for retrospective permission that correctly describes the site. The current situation and the proposed retrospective permission would then be clear to everyone. Anyone could then comment or object if they wish to do so. It seems to me that the Council is attempting to "hide" retrospective permission behind an application for a water tank and avoid proper consultation. ***(Formal approval of the applicant was obtained on 21 March 2022 to change the description, prior to the latest consultation round)***

The original planning application for the RDF plant "anticipated" that this plant would feed the Carlisle incinerator. This committee will be aware of the independent report into the Council's handling of the incinerator planning process that found multiple errors and failings. Now, and without adequate consultation, the Council is planning to grant its own company retrospective permission for a facility that shouldn't have been built, that is contrary to the local plan, and that is anticipated to feed an incinerator that shouldn't have been permitted. Has the Council really learnt so little?

There are many more reasons why I oppose this application, but there is not time to list them.

The public wants the Council to do better. There must be full, transparent and open consultation. A Council-owned company should be leading the way in waste reduction, better recycling, lowering emissions and moving towards a circular economy. This plant, which is primarily to prepare waste to be

burnt, will not do that and should not be approved in 2022. Cumbria deserves better. If you approve this permission, you will add to the public perception that the Council is out of control, ignores its own planning conditions, does whatever it wishes regardless of regulations, proper practice, public objections and environmental objectives. As Councillors, your reputation will be tarnished along with Cumbria County Council's. Do not make this your legacy.

Mr McPhail

I object to proposal 1/21/9004 for the following reasons:

1. The original permission has expired but development has commenced. The Officer's report considers the application as a whole and the Council proposes to grant retrospective planning permission. This is very different from, and goes far beyond, the planning amendment that the Council has consulted on. **The Council has not adequately consulted if it grants retrospective permission whilst only consulting on the applicant's proposed amendments.** The Council has not been clear to consultees about the nature of the matters that are material planning considerations because these now include all those that relate to the original 1/18/9006 permission. Sufficient time must be given to all consultees, including the public, to properly consider what the Council is proposing and comment on the whole proposal if they wish to do so.
2. The Council's ownership of Cumbria Waste Management Limited, and the **conflict of interest** this causes, surely requires the Council to be especially diligent about its consultation and consideration of this proposal. An independent review of the Council's handling of the incinerator planning process found multiple errors and failures (<https://www.newsandstar.co.uk/news/19552090.findings-review-cumbria-county-councils-handling-incinerator-application-confirms-error/>). It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, especially when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted (<https://www.newsandstar.co.uk/news/19252056.cumbria-county-council-admit-error-plans-incinerator-kingmoor-park-carlisle/>).
3. The proposal intends to create RDF for incineration. Whilst the proposal is not, of course, an incinerator, it is part of an approach to handling waste that considers incineration to be a good way of dealing with waste. The Officer refers to the application as an Energy from Waste facility (section 7.8 of the recent Officer's report). **However, the situation regarding incineration of waste, and therefore of plants that make RDF for incineration, is now very different than it was when the permission was granted.** It is very clear that there is a move away from incineration. Wales has a moratorium on new waste incinerator capacity as has Scotland. Member of the House of Lords, Baroness Jones of Moulsecoomb, Jenny Jones, recently called for a Moratorium on Incinerators on 7 July 2022 and the response from the Department for Environment, Food and Rural Affairs (Defra), Parliamentary Under Secretary of State (Minister for Rural Affairs, access to nature and Biosecurity), The Rt Hon Lord Benyon - "I'm not sure whether there are any incinerators being planned at the moment but I'll take her point away because I actually agree with it." GreenJJNews on Twitter: "Another positive today. Minister agrees that a rise in incineration (now 48% household waste) leads to a decline in recycling (44%). Will look at moratorium on incineration - there are a lot of Energy from Waste plants in the planning pipeline. <https://t.co/NDs3FvORsE> " / Twitter.
4. **The proposal lacks important information about the effectiveness of the waste sorting/separation and how that compares with the best waste sorting/separation facilities available.** It is highly doubtful that a plant, whose primary purpose is to make RDF for incineration, will achieve the best possible extraction of recyclable material. It can be expected that the more RDF we make out of waste, the lower our recycling rate will be (see the link on point 3 above). The original planning application even says that the plant will divert material away from the Materials Recovery Facility (section 3.7 of Appendix 2 Transport Statement of 1/18/9006). Since the purpose of the Materials Recovery Facility is to recover materials for recycling, diverting materials away from the Materials Recovery Facility, as this proposal expects to do, can be expected to result in the handling of materials further *down* not *up* the waste hierarchy. In my opinion, the evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.
5. The importance and urgency of the climate crisis has grown since the original planning permission was granted. **Putting all fossil-carbon from waste plastics into the atmosphere is not acceptable but the proposal does not separate out waste plastics for alternative processing.** The evidence does not support the Officer's assertion that the "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel". As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas (<https://ukwin.org.uk/files/pdf/UKWIN-2018-Incineration-Climate-Change-Report.pdf>).

6. Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037 (<https://cumbria.gov.uk/planning-environment/climatechange.asp>). **This proposal appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill.**

7. The local plan does not consider Hespun Wood an appropriate site for further waste development. It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says:

"The application site is on an existing waste management site, associated with the Hespun Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e)."

The proposal does not meet the criteria for DC9 e). DC9 e) says, in relation to existing non-inert landfill sites, "Non-inert landfill sites where required for pre-treatment, or for treatment of leachate". The proposal is not for pre-treatment of treatment of leachate. The proposal is also not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is contrary to the local plan.

8. The development is on an important 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. 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. The proposal is contrary to the local plan. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.

9. Construction on the building on land that should be kept as important boundary woodland is because Hespun Wood is full. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development (see paragraph 7.28 of the Officer's 19 January 2022 report on 1/21/9004).

10. The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour. These changes have not been adequately consulted on (the amendment consulted on was a water tank). The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.

11. This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

12. The proposal will increase HGV movements in the area.

13. There have been recent fires at Carlisle waste sites - most recently in June 2022 at Hespun Wood. The month-long fire at the Rockcliffe industrial estate waste site even shut a school for a time. **Current planning assessments and regulations are clearly unable to prevent such uncontrolled fires. The proposal lacks information that it will not be a fire risk.**

Dr McDowell

I wish to object to this planning application for a variety of reasons as listed below, please acknowledge receipt of this email and that the objections will be considered at the planning meeting in Kendal on 15th July 2022.

I object to proposal 1/21/9004 for the following reasons:

1. The water tank that is the very purpose of the application has not been adequately consulted on and retrospective permission should not be granted.

The Council has not been clear to consultees about the nature of the matters that are material planning considerations because these now include all those that relate to the original 1/18/9006 permission. Sufficient time must be given to all consultees, including the public, to properly consider what the Council is proposing and comment on the whole proposal if they wish to do so. The situation now, in 2022, is different from 2018 when 1/18/9006 was considered.

2. The permission that the Council is proposing to grant does not appear to match the application requested nor the facility that is understood to have been constructed. The Officer in the report dated 19 January 2022 indicated that the water tank has been constructed; if retrospective permission is to be granted, it should include the water tank. Why does the "Hespun Wood Proposed Co-mingled and RDF Facility – Site Plan Existing" referenced in the draft planning conditions in appendix 3 not include the water tank?

If the water tank has been removed from this consideration, why do the proposed plans referenced in the draft planning conditions in appendix 3 include the water tank?

3. The Council's ownership of Cumbria Waste Management Limited, and the **conflict of interest** this causes, surely requires the Council to be especially diligent about its consultation and consideration of this proposal. An independent review of the Council's handling of the incinerator planning process found multiple errors and failures. It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, especially when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted.
4. **The situation regarding incineration of waste, and therefore of plants that make RDF for incineration, is now very different than it was when the permission was granted.** It is very clear that there is a move away from incineration. Wales has a moratorium on new waste incinerator capacity as has Scotland. Member of the House of Lords, Baroness Jones of Moulsecoomb, Jenny Jones, recently called for a Moratorium on Incinerators on 7 July 2022 and the response from the Department for Environment, Food and Rural Affairs (Defra), Parliamentary Under Secretary of State (Minister for Rural Affairs, access to nature and Biosecurity), The Rt Hon Lord Benyon - "I'm not sure whether there are any incinerators being planned at the moment but I'll take her point away because I actually agree with it".
5. **The proposal lacks important information about the effectiveness of the waste sorting/separation and how that compares with the best waste sorting/separation facilities available.** A plant, whose primary purpose is to make RDF for incineration, will not achieve the best possible extraction of recyclable material. It can be expected that the more RDF we make out of waste, the lower our recycling rate will be. The original planning application even says that the plant will divert material away from the Materials Recovery Facility whose purpose is to recover materials for recycling, evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.
6. **Putting all fossil-carbon from waste plastics into the atmosphere is not acceptable but the proposal does not separate out waste plastics for alternative processing.** The importance and urgency of the climate crisis has grown since the original planning permission was granted. As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas.
7. **This proposal appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill.**
Cumbria County Council is part of the Zero Carbon Cumbria Partnership working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037.
8. **The local plan does not consider Hespian Wood an appropriate site for further waste development.** It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says: *"The application site is on an existing waste management site, associated with the Hespian Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e)."*
The proposal is not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is contrary to the local plan.
9. **The development is on an important woodland area.** The Cumbria Minerals and Waste Local Plan says the woodland area should be maintained and enhanced as a main concern yet the applicant has removed some of this woodland. The applicant has not acted in accordance with CMWLP 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. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.
10. **Hespian Wood is full** and the land should be kept as important boundary woodland. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development.
11. **The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour.** These changes have not been adequately consulted on (the amendment consulted on was a water tank).
12. **This proposal is not sustainable because it prepares materials for their destruction,** it therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

Mr Wernham

I write as a private resident of Carlisle.

I object to proposal 1/21/9004 for the following reasons:

1. The original permission has expired but development has commenced. The Officer's report considers the application as a whole and the Council proposes to grant retrospective planning permission. This is very different from, and goes far beyond, the planning amendment that the Council has consulted on. The Council has not adequately consulted if it grants retrospective permission whilst only consulting on the applicant's proposed amendments. The Council has not been clear to consultees about the nature of the matters that are material planning considerations because these now include all those that relate to the original 1/18/9006 permission. Sufficient time must be given to all consultees, including the public, to properly consider what the Council is proposing and comment on the whole proposal if they wish to do so.
2. The Council's ownership of Cumbria Waste Management Limited, and the conflict of interest this causes, surely requires the Council to be especially diligent about its consultation and consideration of this proposal. An independent review of the Council's handling of the incinerator planning process found multiple errors and failures (<https://www.newsandstar.co.uk/.../19552090.findings.../>). It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, especially when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted (<https://www.newsandstar.co.uk/.../19252056.cumbria.../>).
3. The proposal intends to create RDF for incineration. Whilst the proposal is not, of course, an incinerator, it is part of an approach to handling waste that considers incineration to be a good way of dealing with waste. The Officer refers to the application as an Energy from Waste facility (section 7.8 of the recent Officer's report). However, the situation regarding incineration of waste, and therefore of plants that make RDF for incineration, is now very different than it was when the permission was granted. It is very clear that there is a move away from incineration. Wales has a moratorium on new waste incinerator capacity as has Scotland. Member of the House of Lords, Baroness Jones of Moulsecoomb, Jenny Jones, recently called for a Moratorium on Incinerators on 7 July 2022 and the response from the Department for Environment, Food and Rural Affairs (Defra), Parliamentary Under Secretary of State (Minister for Rural Affairs, access to nature and Biosecurity), The Rt Hon Lord Benyon - "I'm not sure whether there are any incinerators being planned at the moment but I'll take her point away because I actually agree with it." GreenJJNews on Twitter: "Another positive today. Minister agrees that a rise in incineration (now 48% household waste) leads to a decline in recycling (44%). Will look at moratorium on incineration - there are a lot of Energy from Waste plants in the planning pipeline. <https://t.co/NDs3FvORsE> " / Twitter.
4. The proposal lacks important information about the effectiveness of the waste sorting/separation and how that compares with the best waste sorting/separation facilities available. It is highly doubtful that a plant, whose primary purpose is to make RDF for incineration, will achieve the best possible extraction of recyclable material. It can be expected that the more RDF we make out of waste, the lower our recycling rate will be (see the link on point 3 above). The original planning application even says that the plant will divert material away from the Materials Recovery Facility (section 3.7 of Appendix 2 Transport Statement of 1/18/9006). Since the purpose of the Materials Recovery Facility is to recover materials for recycling, diverting materials away from the Materials Recovery Facility, as this proposal expects to do, can be expected to result in the handling of materials further down not up the waste hierarchy. In my opinion, the evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.
5. The importance and urgency of the climate crisis has grown since the original planning permission was granted. Putting all fossil-carbon from waste plastics into the atmosphere is not acceptable but the proposal does not separate out waste plastics for alternative processing. The evidence does not support the Officer's assertion that the "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel". As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas (<https://ukwin.org.uk/.../UKWIN-2018-Incineration-Climate...>).
6. Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037 (<https://cumbria.gov.uk/planning.../climatechange.asp>). This proposal appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill.
7. The local plan does not consider Hespian Wood an appropriate site for further waste development. It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says:
"The application site is on an existing waste management site, associated with the Hespian Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e)."

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The proposal does not meet the criteria for DC9 e). DC9 e) says, in relation to existing non-inert landfill sites, "Non-inert landfill sites where required for pre-treatment, or for treatment of leachate". The proposal is not for pre-treatment of treatment of leachate. The proposal is also not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is contrary to the local plan.

8. The development is on an important 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. 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. The proposal is contrary to the local plan. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.

9. Construction on the building on land that should be kept as important boundary woodland is because Hespian Wood is full. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development (see paragraph 7.28 of the Officer's 19 January 2022 report on 1/21/9004).

10. The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour. These changes have not been adequately consulted on (the amendment consulted on was a water tank). The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.

11. This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

12. The proposal will increase HGV movements in the area. There are already too many HGV movements.

13. There have been recent fires at Carlisle waste sites - most recently in June 2022 at Hespian Wood. The month-long fire at the Rockcliffe industrial estate waste site even shut a school for a time. Current planning assessments and regulations are clearly unable to prevent such uncontrolled fires. The proposal lacks information that it will not be an unacceptable fire risk.

Mr Stow

I wish to register my objection to the above planning proposal 1/21/9004 for the following reasons:-

1. The original permission has expired but development has commenced. The Officer's report considers the application as a whole and the Council proposes to grant retrospective planning permission. This is very different from, and goes far beyond, the planning amendment that the Council has consulted on. **The Council has not adequately consulted if it grants retrospective permission whilst only consulting on the applicant's proposed amendments.** The Council has not been clear to consultees about the nature of the matters that are material planning considerations because these now include all those that relate to the original 1/18/9006 permission. Sufficient time must be given to all consultees, including the public, to properly consider what the Council is proposing and comment on the whole proposal if they wish to do so.

2. The Council's ownership of Cumbria Waste Management Limited, and the **conflict of interest** this causes, surely requires the Council to be especially diligent about its consultation and consideration of this proposal. An independent review of the Council's handling of the incinerator planning process found multiple errors and failures (<https://www.newsandstar.co.uk/news/19552090.findings-review-cumbria-county-councils-handling-incinerator-application-confirms-error/>). It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, especially when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted (<https://www.newsandstar.co.uk/news/19252056.cumbria-county-council-admit-error-plans-incinerator-kingmoor-park-carlisle/>).

3. The proposal intends to create RDF for incineration. Whilst the proposal is not, of course, an incinerator, it is part of an approach to handling waste that considers incineration to be a good way of dealing with waste. The Officer refers to the application as an Energy from Waste facility (section 7.8 of the recent Officer's report). **However, the situation regarding incineration of waste, and therefore of plants that make RDF for incineration, is now very different than it was when the permission was granted.** It is very clear that there is a move away from incineration. Wales has a moratorium on new waste incinerator capacity as has Scotland. Member of the House of Lords, Baroness Jones of

Moulsecomb, Jenny Jones, recently called for a Moratorium on Incinerators on 7 July 2022 and the response from the Department for Environment, Food and Rural Affairs (Defra), Parliamentary Under Secretary of State (Minister for Rural Affairs, access to nature and Biosecurity), The Rt Hon Lord Benyon - "I'm not sure whether there are any incinerators being planned at the moment but I'll take her point away because I actually agree with it." GreenJJNews on Twitter: "Another positive today. Minister agrees that a rise in incineration (now 48% household waste) leads to a decline in recycling (44%). Will look at moratorium on incineration - there are a lot of Energy from Waste plants in the planning pipeline. <https://t.co/NDs3FvORsE> " / Twitter.

4. **The proposal lacks important information about the effectiveness of the waste sorting/separation and how that compares with the best waste sorting/separation facilities available.** It is highly doubtful that a plant, whose primary purpose is to make RDF for incineration, will achieve the best possible extraction of recyclable material. It can be expected that the more RDF we make out of waste, the lower our recycling rate will be (see the link on point 3 above). The original planning application even says that the plant will divert material away from the Materials Recovery Facility (section 3.7 of Appendix 2 Transport Statement of 1/18/9006). Since the purpose of the Materials Recovery Facility is to recover materials for recycling, diverting materials away from the Materials Recovery Facility, as this proposal expects to do, can be expected to result in the handling of materials further *down* not *up* the waste hierarchy. In my opinion, the evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.
5. The importance and urgency of the climate crisis has grown since the original planning permission was granted. **Putting all fossil-carbon from waste plastics into the atmosphere is not acceptable but the proposal does not separate out waste plastics for alternative processing.** The evidence does not support the Officer's assertion that the "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel". As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas (<https://ukwin.org.uk/files/pdf/UKWIN-2018-Incineration-Climate-Change-Report.pdf>).
6. Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037 ([Environment, Planning - Climate Change | Cumbria County Council](#)). **This proposal appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill.**
7. **The local plan does not consider Hespian Wood an appropriate site for further waste development.** It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says:
"The application site is on an existing waste management site, associated with the Hespian Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e)."
The proposal does not meet the criteria for DC9 e). DC9 e) says, in relation to existing non-inert landfill sites, "Non-inert landfill sites where required for pre-treatment, or for treatment of leachate". The proposal is not for pre-treatment or treatment of leachate. The proposal is also not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is contrary to the local plan.
8. **The development is on an important 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. 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. The proposal is contrary to the local plan. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.
9. Construction on the building on land that should be kept as important boundary woodland is because **Hespian Wood is full**. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development (see paragraph 7.28 of the Officer's 19 January 2022 report on 1/21/9004).
10. **The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour.** These changes have not been adequately consulted on (the amendment consulted on was a water tank). The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.
11. **This proposal is not sustainable because it prepares materials for their destruction.** It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

12. **The proposal will increase HGV movements in the area.** There are already too many HGV movements.

13. There have been recent fires at Carlisle waste sites - most recently in June 2022 at Hespian Wood. The month-long fire at the Rockcliffe industrial estate waste site even shut a school for a time. **Current planning assessments and regulations are clearly unable to prevent such uncontrolled fires. The proposal lacks information that it will not be an unacceptable fire risk.**

Mr Adams

I am writing as a resident living in the Carlisle and District area to object to the retrospective planning permission being sought for a Refuse Derived Fuel (RDF) plant at Hespian Wood on 15 July 2022. I am using email rather than the Council's planning website as I have encountered problems with this service before.

My principal objections relate to the application as an 'Energy from Waste' facility (section 7.8 of the recent Officer's report,) as well as the conflict this creates with the Council's own net zero targets. Over and above this, the time for consultation with the public has been severely limited, and with a development like this, with far reaching implications for the local community and the environment as a whole, a longer period should be provided for all interested parties to contribute.

With reference to the planned facility as an RDF plant, I would draw your attention to the scientific landscape that has emerged since the original (expired) application was made. More is now understood about the emissions produced by such processes and how this approach to waste management distracts from a more effective agenda of reducing and removing plastic from the consumer cycle as a whole. It has been increasingly acknowledged (even at ministerial level) that a rise in incineration leads to a decline in recycling within a community.

As this development relates to the plan for an incinerator in Carlisle, it should be noted that Wales and Scotland have sensibly issued a moratorium on new waste incinerator capacity. These approaches by devolved governments arise from research carried out by bodies such as Clientearth which show that emissions from incinerators are a more carbon-intensive process than even landfill (<https://www.clientearth.org/latest/documents/greenhouse-gas-and-air-quality-impacts-of-incineration-and-landfill/>)

The above point links directly to Cumbria County Council's own legal obligations to achieve net zero carbon emissions by 2037 (<https://cumbria.gov.uk/planning-environment/climatechange.asp>). The available evidence (for example, <https://ukwin.org.uk/files/pdf/UKWIN-2018-Incineration-Climate-Change-Report.pdf>) does not support the Officer's assertion that "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel"

In conclusion, the planned RDF plant, together with the assumption that the processed waste will be used for an incinerator, is not in the interests of the local community, reducing plastic consumption or mitigating carbon emissions.

Mr Cross

Cumbria County Council intends to grant retrospective planning permission for a Refuse Derived Fuel (RDF) plant at Hespian Wood on 15 July 2022. This is a Cumbria Waste Management Limited (CWM) Refuse Derived Fuel (RDF) plant that "anticipates" sending waste to the proposed Carlisle incinerator. Cumbria Waste Management Limited is ultimately owned by Cumbria County Council. CWM started construction of the building without meeting the Council's own planning conditions. The permission the Council granted itself has expired so the Council now owns a building (via CWM) without planning permission and the Council intends to grant itself retrospective permission.

My reasons for objecting to the Hespian wood RDF plant permission planning Ref: 1/21/9004

I object to proposal 1/21/9004 for the following reasons:

1. The original permission has expired but development has commenced. The Officer's report considers the application as a whole and the Council proposes to grant retrospective planning permission. This is very different from, and goes far beyond, the planning amendment that the Council has consulted on. The Council has not adequately consulted if it grants retrospective permission whilst only consulting on the applicant's proposed amendments. The Council has not been clear to consultees about the nature of the matters that are material planning considerations because these now include all those that relate to the original 1/18/9006 permission. Sufficient time must be given to all consultees, including the public, to properly consider what the Council is proposing and comment on the whole proposal if they wish to do so.

2. The Council's ownership of Cumbria Waste Management Limited, and the conflict of interest this causes, surely requires the Council to be especially diligent about its consultation and consideration of this proposal. An independent review of the Council's handling of the incinerator planning process found multiple errors and failures (<https://www.newsandstar.co.uk/news/19552090.findings-review-cumbria-county-councils-handling-incinerator-application-confirms-error/>). It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, especially when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted (<https://www.newsandstar.co.uk/news/19252056.cumbria-county-council-admit-error-plans-incinerator-kingmoor-park-carlisle/>).

3. The proposal intends to create RDF for incineration. Whilst the proposal is not, of course, an incinerator, it is part of an approach to handling waste that considers incineration to be a good way of dealing with waste. The Officer refers to the application as an Energy from Waste facility (section 7.8 of the recent Officer's report). However, the situation regarding incineration of waste, and therefore of plants that make RDF for incineration, is now very different than it was when the permission was granted. It is very clear that there is a move away from incineration. Wales has a moratorium on new waste incinerator capacity as has Scotland. Member of the House of Lords, Baroness Jones of Moulsecoomb, Jenny Jones, recently called for a Moratorium on Incinerators on 7 July 2022 and the response from the Department for Environment, Food and Rural Affairs (Defra), Parliamentary Under Secretary of State (Minister for Rural Affairs, access to nature and Biosecurity), The Rt Hon Lord Benyon - "I'm not sure whether there are any incinerators being planned at the moment but I'll take her point away because I actually agree with it." GreenJJNews on Twitter: "Another positive today. Minister agrees that a rise in incineration (now 48% household waste) leads to a decline in recycling (44%). Will look at moratorium on incineration - there are a lot of Energy from Waste plants in the planning pipeline. <https://smex-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2ft.co%2fNDs3FvORsE&umid=e4392dd8-b947-4366-9aac-e51ca2191a49&auth=438558d5329f5814a0a31cfd8e89073841978136-64ba58039b20e15f044ea13cf3e4f9475110ac05> " / Twitter.

4. The proposal lacks important information about the effectiveness of the waste sorting/separation and how that compares with the best waste sorting/separation facilities available. It is highly doubtful that a plant, whose primary purpose is to make RDF for incineration, will achieve the best possible extraction of recyclable material. It can be expected that the more RDF we make out of waste, the lower our recycling rate will be (see the link on point 3 above). The original planning application even says that the plant will divert material away from the Materials Recovery Facility (section 3.7 of Appendix 2 Transport Statement of 1/18/9006). Since the purpose of the Materials Recovery Facility is to recover materials for recycling, diverting materials away from the Materials Recovery Facility, as this proposal expects to do, can be expected to result in the handling of materials further down not up the waste hierarchy. In my opinion, the evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.

5. The importance and urgency of the climate crisis has grown since the original planning permission was granted. Putting all fossil-carbon from waste plastics into the atmosphere is not acceptable but the proposal does not separate out waste plastics for alternative processing. The evidence does not support the Officer's assertion that the "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel". As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas (<https://smex-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=https%3a%2f%2fukwin.org.uk%2ffiles%2fpdf%2fUKWIN%2d2018%2dIncineration%2dClimate%2dChange%2dReport.pdf&umid=e4392dd8-b947-4366-9aac-e51ca2191a49&auth=438558d5329f5814a0a31cfd8e89073841978136-5955325d19476ee787fa4dfcc09a1e34a9c2d274>).

6. Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037 (<https://cumbria.gov.uk/planning-environment/climatechange.asp>). This proposal appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill.

7. The local plan does not consider Hespian Wood an appropriate site for further waste development. It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says:

"The application site is on an existing waste management site, associated with the Hespian Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e)."

The proposal does not meet the criteria for DC9 e). DC9 e) says, in relation to existing non-inert landfill sites, "Non-inert landfill sites where required for pre-treatment, or for treatment of leachate". The proposal is not for pre-treatment of treatment of leachate. The proposal is also not in accordance with DC9 a)

because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is contrary to the local plan.

8. The development is on an important 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. 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. The proposal is contrary to the local plan. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.

9. Construction on the building on land that should be kept as important boundary woodland is because Hespian Wood is full. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development (see paragraph 7.28 of the Officer's 19 January 2022 report on 1/21/9004).

10. The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour. These changes have not been adequately consulted on (the amendment consulted on was a water tank). The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.

11. This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

12. The proposal will increase HGV movements in the area. There are already too many HGV movements.

13. There have been recent fires at Carlisle waste sites - most recently in June 2022 at Hespian Wood. The month-long fire at the Rockcliffe industrial estate waste site even shut a school for a time. Current planning assessments and regulations are clearly unable to prevent such uncontrolled fires. The proposal lacks information that it will not be an unacceptable fire risk.

Mr Goodwin

I am writing to object to the proposal that the county council give itself retrospective planning permission for a Refuse Derived Fuel plant at Hespian Wood. I am directing this objection here as I have experienced problems with the Council's planning website.

First of all, the evidence brought together by the IPCC on the Climate Crisis shows us we need radical changes to rapidly reduce the amount of CO₂ we release into the atmosphere as well as to drastically reduce the amount of waste we are producing. The proposed plant along with the proposed Carlisle incinerator, which it is to help feed, do nothing to tackle either of these problems but in fact worsen the situation by releasing vast quantities of CO₂ through burning and setting up a system that depends on continued waste availability. This is totally incompatible with the growing evidence, our international and national commitments to fight climate change and Cumbria's commitment to reach net zero working on the Zero Carbon Cumbria Partnership. It is unconscionable that we should be pursuing such a path instead of focusing on reduction of waste at source and more effective recycling systems.

Secondly, it appears to be the case that the Council's own rules and procedures are being ignored as the council is proposing to grant permission that does not include the water tank, that was specifically requested by the applicant, instead granting permission without the adequate consultation. This is a further reflection on the attempts to push through the development of the Carlisle incinerator despite an independent report showing multiple mistakes, flaws and errors in how the process was conducted. Where is the Council's integrity if it continues to, seemingly wilfully, ignore and break its own rules and procedures and avoid proper real public consultation on such important matters.

It should go without saying but the Council exists to support, protect and represent the public and has a duty to fully explain its decisions especially when they can have such an impact on both local health (pollution escaping from the plant, the potential of fires as recently happened at Rockcliffe, the destruction of local woodland which the council has committed to protect in its local planning, etc) as well as the the health of the plant and current and future populations. The potential to affect local people's physical and mental health through the likes of heavier HGV traffic, uncontrollable fires and unacceptable odours (I have personal experience of all these as a local resident) needs to be given much more weight and consideration.

All in all, while other parts of the UK (Scotland, Wales) are following the evidence and refusing further permissions to such developments, the Council seems hellbent on denialism and delayism in the face of an urgent need to find real solutions to the climate crisis. The council seem to disregard their own rules and

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procedures when they don't suit their purposes, push through unilateral decisions despite being part of a wider zero carbon partnership and avoid true, open consultation with a public that is increasingly concerned about the climate challenges we face.

This is incompatible with being true representatives of the people.

I object firmly to the proposal.

Mr Lowe

I object to proposal 1/21/9004 for the following reasons:

First, I object because Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared, and noble, aim of making Cumbria the first carbon neutral county in the UK, by 2037. This proposal seems completely contrary to the Zero Carbon Cumbria Partnership aim which the Council is saying it is pursuing.

Secondly, I object because there is an apparent conflict of interest in the Council's ownership of Cumbria Waste Management Limited, when it is anticipated that the development will send waste to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) and when the Council granted permission for the incinerator that it should not have granted (<https://www.newsandstar.co.uk/news/19252056.cumbria-county-council-admit-error-plans-incinerator-kingmoor-park-carlisle/>).

Thirdly, I object because the development is on an important 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. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.

Fourthly, I object because This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

Officer response to the above representations:

Whilst this is **eight** different objectors, the representations appear to be a circular of the same wording and therefore each point below addresses the substantive content of each representation. One representees comment's relate solely to point 6 (Climate Change).

Point 1 (Consultation Stages) -

Paragraph 6.9 of the report clearly lists the consultations stages of when this proposal has been out to consultation.

- **4 August 2021** - Section 73 planning application to vary condition 2 of planning permission 1/18/9006 to amend drawing no H-52-2C (site plan) and H-52-8 (proposed plans and elevations) with revised drawing no H-52-2E (site plan) and drawing no H-52-8A (plans and elevations) to include the siting of a water tank.
- **11 October 2021** - Section 73A planning application to vary condition 2 of planning permission 1/18/9006 to amend drawing no H-52-2C (site plan) and H-52-8 (proposed plans and elevations) with revised drawing no H-52-2F (site plan) and drawing no H-52-8A (plans and elevations) to include the siting of a water tank and approval of details for conditions 7, 8, 9, 10 and 13
- **30 March 2022** - Section 73 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

Point 2 – The Town and Country Planning Act 1990 and subsequent regulations allows for a County Council to determine planning applications for Waste developments and for their own development proposals. The relevant regulations and their articles are:-

[The Town and Country Planning \(Prescription of County Matters\) \(England\) Regulations 2003](#)

Operations and uses prescribed as County Matters - Waste

2. The following classes of operations and uses of land are prescribed for the purposes of paragraph 1(1)(j) of Schedule 1 to the Town and Country Planning Act 1990:—

- (i) the use of land;
- (ii) the carrying out of building, engineering or other operations; or
- (iii) the erection of plant or machinery used or proposed to be used,

wholly or mainly for the purposes of recovering, treating, storing, processing, sorting, transferring or depositing of waste;

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(b) the use of land or the carrying out of operations for any purposes ancillary to any use or operations specified in paragraph (a) above, including the formation, laying out, construction or alteration of a vehicular access to any public highway.

[The Town and Country Planning General Regulations 1992](#) sets out the framework for determination of planning applications in relation to the “Land of interested planning authorities and development by them”.

Applications for planning permission

3. Subject to regulation 4, an application for planning permission by an interested planning authority to develop any land of that authority, or for development of any land by an interested planning authority or by an interested planning authority jointly with any other person, shall be determined by the authority concerned, unless the application is referred to the Secretary of State under section 77 of the 1990 Act for determination by him.

Point 3 – The proposal is for RDF, whilst this is mentioned it could go for incineration or for use in cement kilns or other alternative operations. The onward sale is a matter for the applicant/operator to decide based on open market competition and cannot be controlled through the planning system.

Point 4 – The production of RDF moves waste up the waste hierarchy as it reduces the amount of waste going to landfill.

Point 5 – The facility is producing a product not incinerating any material, it is therefore removing this waste from landfill into a reusable product.

Point 6 (Climate Change) – These concerns are noted. It is considered the proposal complies with Cumbria MWLP SP13 as this reduces minerals and waste road miles as the material is already brought to the site for landfill purposes, the material is diverted from landfill to make an alternative end product.

Point 7 – The Local Plan Officer’s response is reproduced at paragraph 6.3 of the report which supports the use of Hespín Wood for Waste Management operations. Paragraph 6.3 has been updated on the update sheet

Point 8 – The woodland was removed in 2017/18 prior to submission of this planning application. The remaining woodland would be retained. The removal of the woodland did not require any form of planning permission or related planning consent as it is not within the grounds of a Listed Building or within a Conservation Area. It is also noted that it does not appear on the Ancient Woodland inventory. There is a band of the woodland which screens the site.

Point 9 - The Local Plan Officer’s response is reproduced at paragraph 6.3 of the report which supports the use of Hespín Wood for Waste Management operations. This update contains an update to their originally submitted response.

Point 10 – The increase in size and location of the doors has been considered in paragraph 8.17 of the report. Paragraph 6.9 clearly states the consultation process, the changes to the doors was submitted as part of planning application 1/21/9004 which was submitted on 20 July 2021.

Point 11 – The proposal creates a product which removes waste from landfill and for an alternative use which could be used also in cement kilns.

Point 12 – Hespín Wood is accessed by roads that were designed for HGV traffic. Highways have raised no objection to the use of HGVs on the public highway. Paragraphs 6.4, and 8.20-8.23 address highway impacts.

Point 13 – This will be addressed in a future planning application for the construction of a water tank. The use of the building has been assessed and constructed in association with the Fire Safety Officer.

Mr Mudge and CRAIN additional comments received 12 July 2022:

On behalf of myself and CRAIN, I request that the Council consider the following objections to the granting of 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:

1. My statement in the message which will be read out to members at the Development Control and Regulation Committee meeting on 15 July 2022 (see the email to Nicola Harrison below).

2. The Council consulted on the applicant's proposed amendments for a water tank and not on its plans to grant retrospective permission for an RDF plant. The Council has not adequately consulted on its plans to grant retrospective permission for an RDF plant.
3. The material planning objections that the Council received to the proposed plant in 2018 including the objection from CRAIN. With only a week between the Council declaring its intention to grant retrospective permission and its consideration of that proposed retrospective permission at the Development Control and Regulation Committee, the Council should consider that it has not given sufficient time for the material objections it received in 2018 to be updated nor sufficient time for further additional comments to be made. CRAIN would have submitted more material objections, in greater detail, with more references, if the Council had properly consulted on its intention to grant retrospective permission for the whole development.
4. The Officer's report says: "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." Whilst the Council has power under section 73A to grant retrospective permission, section 73A does not negate the Council's obligation to properly consult. If the RDF facility had been built as required by 1/18/9006 followed by the construction of a water tank and then followed by an application for a section 73 amendment for the water tank, the Council would have consulted on a water tank and granted permission for a water tank under section 73A. However, in the case under consideration, the Council has an application for a water tank, has consulted on an application for a water tank, but it is now intending to grant permission under section 73A for a RDF facility which it has not consulted on.
5. The Council's proposed planning permission may not include a water tank but clearly the application is for a water tank. The Officer's report is incorrect to say the application does not include the water tank. The information provided to the committee in the Officer's report is confused, preventing proper consideration of the proposal.
6. The Council's apparent intention to grant retrospective permission without adequate consultation, even though the Council is aware that there is opposition to the facility, raises questions about whether the Council is able to objectively assess the application because of the Council's ownership of Cumbria Waste Management Limited.
7. The Council's ownership of Cumbria Waste Management Limited, and the conflict of interest this causes, surely require the Council to be especially diligent about its consultation and consideration of this proposal. The PAS review of the Council's handling of the incinerator planning process found multiple errors and failures. It would bring the Council's already severely tarnished planning reputation even further into disrepute if it is perceived to grant retrospective permission to a company that it owns, for a development that it shouldn't have commenced, when the development anticipates sending RDF to the Carlisle incinerator (Appendix 2 of the 1/18/9006 planning application) that the Council shouldn't have approved.
8. The Council should not assume that the situation now is the same as 2018. For example, it is now accepted that a rise in incineration leads to a decrease in recycling (<https://hansard.parliament.uk/Lords/2022-07-07/debates/EEBB6484-A67A-469E-9CC7-C8A0D59E9A7C/HouseholdWasteRecycling> shows a recognition of this by The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs). It follows that creating more RDF for waste incineration will result in decreased recycling.
9. Preparing waste for incineration is highly likely to result in almost 100% of the carbon in the waste being released into the atmosphere. If the waste includes plastics made from fossil-fuels, then the plastic component of those matters is essentially just a fossil fuel. When burnt in an incinerator, that fossil fuel typically has efficiency levels that are less than other fossil fuels such as natural gas (<https://ukwin.org.uk/files/pdf/UKWIN-2018-Incineration-Climate-Change-Report.pdf>).
10. The use of these waste-plastic fossil fuels may also displace the use of renewable energy. This is increasingly likely as the UK rapidly moves to renewable energy generation. The use of waste-plastic fossil fuels may also delay the uptake of renewables. The proposal's climate impact deserves thorough consideration.
11. The duration of any development at Hespian Wood is tied to the lifetime of landfill operations at the site (see Cumbria Minerals and Waste Local Plan paragraph 14.11 and policy DC22). This limits the useful life of the development. Landfill operations at Hespian Wood have been extended to 2039 (permission 1/17/9001) but that is only 17 years away. With the drive to reduce landfill, operations at the site may cease even earlier. This would be a very short lifetime for such a development made from high-carbon materials, such as concrete and steel. It is not consistent with the Council's climate objectives.

12. When the now-expired 2018 planning application for the RDF plant was being considered, the applicant was asked "what level of recyclates will be removed prior to conversion to RDF and how does this rate compare with the best performing RDF production facilities (in the interests of the Waste Hierarchy and environmental performance)?" No answer was received and this question remains unanswered. An unknown efficiency at removing recyclable materials could be a very low efficiency indeed. In my opinion, the evidence does not support the planning Officer's assertion that the proposal will help achieve the EU Waste Directive targets for recycling. Cumbria can, and must, do better.

13. The original proposal said that the facility was expected to divert materials presently received by a Materials Recovery Facility (Section 3.7 of Appendix 2 Transport Statement of 1/18/9006). A plant with the intention of creating RDF cannot be expected to have the same efficiency at removing materials than a MRF, so it is very possible, perhaps likely, that this plant will result in some materials being handled further *down* the waste hierarchy than they are at the moment.

14. The importance and urgency of the climate crisis has grown since the original planning permission was granted. Putting all fossil-carbon from waste plastics into the atmosphere should not be considered acceptable, but the proposal does not separate out waste plastics for alternative processing. The evidence does not support the Officer's assertion that the "production of RDF from waste will help to reduce CO2 emissions by providing an alternative form of non-fossil fuel". As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas (<https://ukwin.org.uk/files/pdf/UKWIN-2018-Incineration-Climate-Change-Report.pdf>). At the very least, the urgency and extreme importance of the climate crisis, which has been declared a "code red for humanity", requires a much more thorough analysis of the climate impacts than the grossly simplistic assessment in the Officer's report.

15. Cumbria County Council is part of the Zero Carbon Cumbria Partnership that is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037 (<https://cumbria.gov.uk/planning-environment/climatechange.asp>). ZCCP did not exist when the Council made its decision in 2018. Granting this permission appears incompatible with the Zero Carbon Cumbria Partnership objective which the Council is saying it is seeking to fulfill. ZCCP aims to be a role-model for other UK counties, so if the Council's approval of the permission causes the ZCCP to fail to reach its objectives, the consequences of the Council's decision can be expected to extend far beyond Cumbria. The Officer's report makes no assessment of the proposal against ZCCP aims.

16. The local plan does not consider Hespian Wood an appropriate site for further waste development. It is not an allocated site under policy SAP2 on the Cumbria Minerals and Waste Local Plan. The Officer's report says: "*The application site is on an existing waste management site, associated with the Hespian Wood non-inert landfill site. It is therefore a suitable location having regard to Policies SAP2 and also DC9 - criterion e).*" The proposal does not meet the criteria for DC9 e). DC9 e) says, in relation to existing non-inert landfill sites, "Non-inert landfill sites where required for pre-treatment, or for treatment of leachate". The proposal is not for pre-treatment or treatment of leachate. The proposal is also not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a). The proposal is not compliant with policy DC9 and is contrary to the local plan.

17. The development is on an important 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. 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. The proposal is contrary to the local plan. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.

18. Construction of the building on land that should be kept as important boundary woodland is because Hespian Wood is fully developed. This is one of the reasons why the site is not included in policy SAP2 in the Cumbria Minerals and Waste Local Plan as a site for further waste development (see paragraph 7.28 of the Officer's 19 January 2022 report on 1/21/9004).

19. The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour. These changes have not been adequately consulted on (the amendment consulted on was a water tank). The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.

20. This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.

21. The proposal will increase HGV movements in the area. There are already too many HGV movements and the committee heard impassioned objections from local residents on HGV grounds when the 1/18/9006 permission was considered. The Council's consultation on a water tank has not given residents the opportunity to make further representations regarding the traffic impacts of the whole plant.

22. There have been recent fires at Carlisle waste sites - most recently in June 2022 at Hespin Wood. The month-long fire at the Rockcliffe industrial estate waste site even shut a school for a time. Previous planning assessments and the regulations as implemented are clearly unable to prevent such uncontrolled fires. No information has been provided in relation to this proposal to demonstrate that the fire risk at this facility will be any lower than these other Carlisle waste facilities. The Officer's report says the water tank "was required to store water for fire regulations" yet the Officer now considers that "The water tank does not form part of this planning application". Not only does the Council appear to have given little consideration to fire risk, the Council also appears to be proposing granting permission that it knows to be inadequate for fire regulations. The Council should not grant such permission.

23. Under the heading "The Proposal", the Officer's report says "RDF can be used for a number purposes including replacing fossil fuels and can also be used in cement kilns." This is misleading because the applicant's proposal as described in 1/18/9006 anticipates the RDF going to the proposed Carlisle incinerator, not the use of RDF for cement kilns.

24. A revised traffic assessment should be made. The assessment should consider the applicant's anticipated RDF destination and the Council's suggestion that the RDF may be used for cement kilns. The traffic situation now is different from 2018 so an updated assessment should be provided. The assessment should also consider the impact on the Parkhouse Road roundabout because this proposal anticipates RDF to be sent to the proposed Carlisle incinerator via the Parkhouse Road roundabout, and because the incinerator planning application modelled the traffic lights incorrectly. The proposal may therefore result in unacceptable traffic impacts on that roundabout.

Officer response to Mr Mudge and CRAIN:

Point 1 – This will be read out to Members.

Point 2 – Consultation was undertaken on the original proposal as submitted under 1/18/9006 on 30 March 2022. The water tank is subject to a separate planning application. This was also advertised on site and in the local press on all three occasions.

- **4 August 2021** - Section 73 planning application to vary condition 2 of planning permission 1/18/9006 to amend drawing no H-52-2C (site plan) and H-52-8 (proposed plans and elevations) with revised drawing no H-52-2E (site plan) and drawing no H-52-8A (plans and elevations) to include the siting of a water tank.
- **11 October 2021** - Section 73A planning application to vary condition 2 of planning permission 1/18/9006 to amend drawing no H-52-2C (site plan) and H-52-8 (proposed plans and elevations) with revised drawing no H-52-2F (site plan) and drawing no H-52-8A (plans and elevations) to include the siting of a water tank and approval of details for conditions 7, 8, 9, 10 and 13
- **30 March 2022** - Section 73 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

Point 3 – This is a statutory timescale set out by Local Government on the publication of committee reports. This is outside this Committee's control. The application was originally submitted on 20 July 2021. This represents a nearly 12 month period for the public to make comments on the application. Paragraph 6.9 of the report clearly states the consultation process. Consultees were duly informed of the planning application this has also been advertised on site and in the local press on all three occasions. The substantive planning permission which this relates to (Ref. 1/18/9006) received 158 objections which was a standard pro-forma with some individual representation received.

This development is classed as a "major" development. Article 15 of the [Development Management Procedure Order \(DMPO\) \(England\)](#) sets out the minimum statutory requirements relating to publicity for planning applications, beyond which local planning authorities have discretion about how they inform communities and other interested parties about planning applications.

For planning applications qualifying as a major development and not subject to EIA, representing a departure from the development plan or affecting a public right of way, a local planning authority must:

- (a) display a site notice for not less than 21 days or notify adjoining owners/occupiers by letter,
- (b) advertise in a newspaper circulating in the vicinity of the site,
- (c) post information about the application on the planning authority website.

All three of the above have been carried out in this instance.

Point 4 – The scheme before Members does not include the water tank, this is subject to a separate planning application to be submitted in the future.

Point 5 – The scheme before Members does not include the water tank, this is subject to a separate planning application to be submitted in the future.

Point 6 – This relates to point 2 above and the consultation process.

Point 7 – The Town and Country Planning Act 1990 and subsequent regulations allows for a County Council to determine planning applications for Waste developments and for their own development proposals. The relevant regulations and their articles are:-

[The Town and Country Planning \(Prescription of County Matters\) \(England\) Regulations 2003](#)

Operations and uses prescribed as County Matters - Waste

2. The following classes of operations and uses of land are prescribed for the purposes of paragraph 1(1)(j) of Schedule 1 to the Town and Country Planning Act 1990:—

- (i) the use of land;
- (ii) the carrying out of building, engineering or other operations; or
- (iii) the erection of plant or machinery used or proposed to be used,

wholly or mainly for the purposes of recovering, treating, storing, processing, sorting, transferring or depositing of waste;

(b) the use of land or the carrying out of operations for any purposes ancillary to any use or operations specified in paragraph (a) above, including the formation, laying out, construction or alteration of a vehicular access to any public highway.

[The Town and Country Planning General Regulations 1992](#) sets out the framework for determination of planning applications in relation to the “Land of interested planning authorities and development by them”.

Applications for planning permission

3. Subject to regulation 4, an application for planning permission by an interested planning authority to develop any land of that authority, or for development of any land by an interested planning authority or by an interested planning authority jointly with any other person, shall be determined by the authority concerned, unless the application is referred to the Secretary of State under section 77 of the 1990 Act for determination by him.

Point 8 – The proposal is not for an incineration plant it is a plant which produces an end product for an alternative use.

Point 9 – The distribution of the end product is one for the applicant to determine on the competitive open market.

Point 10 – Comments noted.

Point 11 - Comments noted.

Point 12 – Comments noted.

Point 13 – Comments noted.

Point 14 – Comments noted.

Point 15 – Comments noted.

Point 16 – This is explained in the report at paragraphs 8.7 to 8.13

Point 17 – Part of the woodland was removed prior to the submission of planning application 1/18/9006. The removal of the woodland did not require any form of planning permission or related planning consent as it is not within the grounds of a Listed Building or within a Conservation Area. It is also noted that it does not appear on the Ancient Woodland inventory. There is a band of the woodland which screens the site.

Point 18 – This is explained in the report at paragraphs 8.7 to 8.13

Point 19 – This is explained in the report at paragraphs 8.14 to 8.19

Point 20 – Comments noted.

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Point 21 - This is explained in the report at paragraphs 8.20 to 8.23

Point 22 – The building has been designed to be compliant with Fire Safety Regulations. Building Regulations deal with Fire Safety

Point 23 – RDF can be used for a multiple of purposes and its up to the applicant to determine the onward sales of the product.

Point 24 – Comments from Highways are reproduced in the report at paragraph 6.4.

Reference / Applicant	Proposal Description / Site Location	Agenda Item & Pages
4/22/9001 Cumbria County Council	Demolition of Buildings within a Conservation Area Former Brackenthwaite Elderly Persons Home, Senhouse Street, Whitehaven, CA28 7ES	Item 15 Pages 239-254

UPDATES re 4/22/9001

Since the committee report was completed further discussions have been held with the applicant's agent which have introduced doubt that the additional tree pruning works proposed under the auspices of this application to facilitate the undertaking of the demolition operations is the absolute minimum required. These discussions have also clarified that the applicant intends to grub-up the on-site car parking area and internal paths that were associated with the care home and establish wildflower grassland on these as well. In light of these it is proposed to adjust a number of the proposed planning conditions and introduce an additional planning condition securing a scheme for tree pruning works as follows:

Textual Amendments/Additions to the Main Body of Existing Proposed Conditions
Additions in *italics and underlined*; Deletions demoted with ~~strikethrough~~

Condition 2 (Approved Scheme)

The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:

- The submitted Application Form – dated 6 April 2022;
- Method Statement for Demolition – Rev.0 – dated March 2022 by A L Daines & Partners LLP;
- Supporting Statement as revised and updated 14 ~~June~~ July 2022;
- Site Plan with Outline of Buildings to be Demolished Marked-Up – Drawing No.001;
- Arboricultural Method Statement for the Demolition Phase (including its associated appendices) – dated 22 June 2022 *[in so far as it relates to Tree Protection Measures]*
- Demolition Footprint and Restoration Area Drawing No. 5312/158-04-Rev.A
- Site Sections – Existing and Proposed showing Restoration Levels – Drawing No. 5312/158-002

The details or schemes approved in accordance with the conditions attached to this permission.

Condition 4 (Tree Works)

No demolition work or temporary compound set-up shall take place on site until the tree works allowed for by Tree Works Consent Ref. 4/22/2178/TPO ~~and those specified within the Arboricultural Method Statement for the Demolition Phase~~ have been undertaken as required by a suitably qualified tree surgeon or arborist.

Condition 6 (Wildflower Grassland Specification, Establishment and Management)

No demolition operations shall take place until details of the Specification, Cultivation and Management of the proposed Wildflower Grassland have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the following details shall be included:

- the depth and characteristics of soil stratas to be provided for;*
- the wildflower grassland seed mix proposed and reasons for its selection;
- application rate and method of application of the seed mix (including any soil preparation);
- any interventions to promote cultivation;
- a timetable for review of vegetation establishment;
- provision for spot re-seeding of bare earth areas after set times;
- frequency of mows/cuts per year;
- frequency of visits per year to remove noxious weeds.

The approved details shall be implemented in full and the land subsequently managed in line with the approved details.

Condition 10 (Site Restoration)

The footprint of the buildings *area of land shown in green on Demolition Footprint and Restoration Area Drawing No. 5312/158-04-Rev.A* shall be topsoiled and sown with the agreed wildflower grassland mix (as approved in connection with Condition 6) within six months of the completion of demolition operations.

Proposed Additional Condition

Proposed Additional Condition (Tree Pruning Works Scheme)

No demolition, temporary compound set-up or tree pruning works, except for the tree works identified in Consent Ref. 4/22/2178/TPO, shall take place until a scheme for further tree pruning works to facilitate demolition operations has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall take into account the recommendations of the Arboricultural Method Statement for the Demolition Phase– dated 22 June 2022 and provide clear demonstration that the extent of pruning is the minimum practically required taking into account all possible reasonable demolition methodologies. The scheme shall be produced by a suitably qualified tree surgeon or arborist following a site meeting with the appointed demolition contractor. The scheme shall include plans and photos to illustrate the extent of the pruning work proposed.

The pruning works shall be undertaken in close accordance with the approved scheme by a suitably qualified tree surgeon or arborist prior to the establishment of any temporary compound or the commencement of any demolition works.

Reason: To minimise works to trees in a Conservation Area which make a positive contribution to its character and appearance.

Reference / Applicant	Proposal Description / Site Location	Agenda Item & Pages
5/22/9004 Stephenson Halliday	Section 73 application to vary conditions 1, 2, 3, 4 and 12 of planning permission 5/19/9005 Land at Winder Moor, Flookburgh	Item 16 Pages 255-272

UPDATES re 5/22/9004

Proposed **Condition 2** (approved documents) to be amended to add in the following documents;

- Application form dated 25 March 2022
- Planning statement dated March 2022

Proposed **Condition 6** to be amended from:

The access road shall be surfaced with bituminous or cement bound materials, and completed prior to the deposit of material on site. This surfacing shall extend for a distance of at least 10 metres inside the site, as measured from the carriageway edge of the highway.

To instead read as follows;

'The access road shall **remain** surfaced with bituminous or cement bound materials. This surfacing shall **remain** for a distance of at least 10 metres inside the site, as measured from the carriageway edge of the highway'.

This is to reflect that operations have already begun on the site.

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