



A100616

Merevale & Blyth Estates

Planning Statement
Merevale Lane, Baxterley

June 2017





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1. Introduction

1.1. Introduction

- 1.1.1. This planning application (the Application) is submitted on behalf of Park Top Ltd and Merevale and Blyth Estates (the Applicant). The Application seeks to vary the approved details set out in Planning Condition 2 of Planning Permission NW57/08CM042 which are associated with the construction of a sustainable resource recovery park comprising renewable energy generation facilities consisting of a biomass plant and anaerobic digestion (AD) plant on land off Merevale Lane, Atherstone.
- 1.1.2. Planning Permission (Reference: NW57/08/CM042) was granted by the Secretary of State on the 24th February 2010, following a public inquiry, for the compaction of former colliery spoil to create a stable landform for the construction of a sustainable resource recovery park together with associated plant and buildings, hard standings, access routes and landscaping on land at Baxterley Shale Tip, Merevale Lane, Warwickshire. (Appendix A).
- 1.1.3. Planning Permission NW57/08/CM042 proposed that the Site would be developed in three phases:
 - 1) Construction of the development platform;
 - 2) Development of Anaerobic Digestion Facility; and,
 - 3) Development of the Biomass Facility.
- 1.1.4. The planning consent has been implemented and the Phase 1 works were completed in 2014. The Phase 2 works (Biogen UK Ltd - Anaerobic Digestion Facility) is now fully operational.
- 1.1.5. Following confirmation that Biogen UK were to be the scheme operators for the Anaerobic Digestion (AD) Facility, a planning permission (NWB/10CM033) to vary the approved layout of the Facility was granted by Warwickshire County Council on 28th March 2011. This amendment only related to the AD facility. A further full Planning Permission (NWB/14CM016) was granted by the County Council on 9th May 2016 to 'sweep up' a number of minor non-material and material amendments to the approved 2011 AD scheme. The AD facility is operating under the 2016 consent.
- 1.1.6. In the intervening period, Park Top Ltd (The Site owner) has been in discussions with a number of potential partners, scheme designers and technology providers to bring forward the approved biomass facility on the Phase 3 Site. The outcome of these discussions means that a number of amendments are proposed to the permitted reception/process building and the layout of



external structures. The proposed changes are driven by the chosen technology solution within the process building which, in turn, will increase the level of renewable energy produced by the facility.

1.1.7. It has been agreed with Warwickshire County Council that as the proposed amendments, taken together, represent a material change to the original proposals approved by the Secretary of State (Reference: NW57/08/CM042) then a Section 73 Planning Application to that consent should be submitted to the Planning Authority. For the avoidance of doubt the amendments relate only to the approved biomass facility.

1.1.8. Condition 2 of Planning Permission NW57/08CM042 states:

'The development hereby permitted shall be carried out in accordance with the details submitted with application Reference No. NW57/08CM042 and in accordance with the approved plans, and any samples or details approved in accordance with the conditions attached to this permission, unless these conditions require or allow otherwise. The approved plans are: Site Plan (Drawing no. 1), Site Location (Drawing no. 2), Existing Site Survey (Drawing no. MER/BA/BAD0612), Soft Landscaping Proposal (Drawing no. AE0718), Plan of finished ground levels (Drawing no. MER/BA/05-08/14224), Plan showing the proposed site layout (Drawing no. MER/BA/04-08/14151rev A), Plan showing the proposed site layout with turning performance diagrams (Drawing no. MER/BA/04-08/14234), Elevations of Biomass facility (Drawing no. ME2921/02), Elevations of Anaerobic Digestion facility (Drawing no. ME2921/04), Elevations of Storage tanks (Drawing no. ME2921/05), Elevations of weighbridge/offices (Drawing no. ME/2359/011), Layout of Biomass facility (Drawing no. ME2921/01), Layout of Anaerobic digestion facility (drawing no. ME2921/03), Cross Sections (Drawing no. MER/BA/05-08/14184 rev C), Indicative Site views – View G (Drawing no. MER/BA/05-08/14310), Indicative Site views – View F (Drawing no. MER/BA/05-08/14309)'.

1.1.9. The proposed amendments to the permitted scheme comprise variations to the following items only:

- Site layout;
- Stack/Building height and elevations; and,
- Throughput and electrical output.

1.1.10 For the avoidance of doubt, we confirm that the proposed amendments will not alter the fundamental technology, approved HGV movements, the application red-line or the use of the land approved by planning decision no NW57/08/CM042 and so the proposed variations do not alter the principle of the development which been established as acceptable on this Site. A more detailed description of each of the proposed amendments has been outlined within the proposed



development section of this report.

- 1.1.11 In common with the approved scheme on the site, the proposed amendments will result in the positive detailed management of the character, function and appearance of the Site and surrounding area while providing essential facilities to meet the modern, sustainable renewable energy generation needs of North Warwickshire. In particular, the facility will help North Warwickshire contribute to the renewable energy target for Warwickshire and meet the local and county level objectives for the recovery and recycling of wood/biomass waste produced within Warwickshire and the local area.
- 1.1.12 The Application Site (the Site) is located at the former Shale Tip, lying to the north east of the junction between The Common and B4116 (Merevale Lane), near Atherstone in Warwickshire. The Site was the location of railway sidings for the coal trains and previously the focus for deposits of granular material comprising colliery shale and some coal fragments associated with historic coal mining activities undertaken at the adjacent Baddesley Colliery Site.
- 1.1.13 All deposition activities on the Site ceased in 1991, since when the Site has been used only for small scale extraction of shale for local use under permitted development rights. The Phase 1 works associated with this scheme consisted on the reworking and levelling of the undulating shale stockpiles to form a stable development platform with associated screening bunds on the boundaries. Phase 2 and 3 works consisted of the construction of a 'sustainable resource recovery park comprising the renewable energy generation facilities of a biomass plant and an anaerobic digestion plant'. The planning consent has been implemented and the Phase 1 works were completed in 2014. The Phase 2 works (Biogen UK Ltd - Anaerobic Digestion Facility) is now fully operational.
- 1.1.14 The key benefits of the overall scheme are unchanged by this application except that the proposed biomass solution will increase the electrical output of the entire Site to 10MWe (sufficient to provide electricity, heat and power to more than 9,500 homes) and increase the total quantum of organic waste and refuse derived biomass fuel treated at the Site to 115,000 tonnes with 90% being diverted away from landfill sites.
- 1.1.15 The other benefits remain:
- The production of approximately 36,000 tonnes per year of nitrate rich bio-fertiliser (from the AD facility) that is being utilised on Merevale and Blyth Estate land and local farms.
 - The development of carbon neutral technologies that are supported by the UK Government, offer significant energy benefits and will contribute in the Government's overall objective of tackling climate change. Compared with generating similar quantities of electricity from the



most efficient fossil fuel powered gas power stations, and after allowing for the carbon used in the transportation of wastes and fuels, it has been estimated that the scheme will save up to 70,000 tonnes of carbon dioxide emissions to the atmosphere every year.

1.1.16. For completeness, this Application is supported by a full Environmental Impact Assessment (EIA), which has considered the potential impact of the revised scheme on the environment. The results of the EIA are set out in the accompanying Environmental Statement (ES) and the Non-Technical Summary (NTS) which summarises the main issues and conclusions. The EIA has been undertaken under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended).

1.1.17. The Application to vary the approved layout drawing is submitted to Warwickshire County Council as the relevant waste planning authority.

1.1.18. In terms of content, the Report is structured as follows:

- Section 2 – includes a description of the Site and the surrounding area;
- Section 3 – provides details of the development of the Scheme and description of the proposed development;
- Section 4 – includes a comprehensive review of national and local planning policies;
- Section 5 – provides an assessment of key planning issues;
- Section 6 – Conclusions

1.1.19. The Planning Statement should be read alongside other supporting information that accompanies the application which includes:-

- Relevant plans and drawings;
- Environmental Statement



2. Site Description

2.1. Site Description

- 2.1.1. The Application site is shown edged red on the attached Site Location Plan which comprises the land associated with planning permission NW57/08/CM042. The Site is located at the corner of The Common and Merevale Lane in the Parish of Baxterley near Atherstone, North Warwickshire. The land forms part of the Merevale and Blyth Estate. The extent of the Phase 3 Site (the site) is shown edged dashed red on the Proposed Site Plan (Drawing No. 3021-02-01 Rev P).
- 2.1.2. The Site consists of a diamond shaped area of previously developed land together with a linear access route. The previously developed land was part of the railhead for Baddesley Colliery and was the subject of shale depositing activities that ceased in 1991, since when the Site has been used only for small scale extraction of shale for local use under permitted development rights. The Phase 1 works associated with the approved scheme consisted on the reworking and levelling of the undulating shale stockpiles to form a stable development platform with associated screening bunds on the boundaries.
- 2.1.3. The extant access route, installed as part of the Phase 1 works, links the Site to Merevale Lane and the main strategic highway network beyond. The operational phases of the scheme are restricted by a routing scheme set out within a Legal Agreement attached to the approved consent. The Legal Agreement requires all HGVs associate with Phases 2 and 3 of the development to access the Site via Merevale Lane and the A5 only.
- 2.1.4. The Site is located approximately 0.25kms to the east of the village of Baxterley and 0.8kms to the south east of the village of Baddesley Ensor. The nearest major town is Atherstone located approximately 1.9kms to the north east of the Site.
- 2.1.5. The diamond shaped area of the Site is defined to the north a grassed screening bund with open countryside beyond. The eastern boundary of the Site is defined by a low bund and existing mature woodland known as Alders Spinney. An unnamed stream flows in a south west to north east direction through the Spinney.
- 2.1.6. The land is bounded to the west by existing landscaping bunds with mature woodland on the top and outer slopes with a local road, known as The Common, beyond. The southern boundary is defined by similar landscaping bund with the B4116 (Merevale Lane) beyond. The emergency vehicular access to the Site is located on The Common.



- 2.1.7. The Common forms a junction with the Coleshill Road at Bentley Common approximately 1 km to the south of the Site. Merevale Lane joins the A5 and the wider strategic highway network at a roundabout approximately 1.5 km to the east of the proposed Site entrance at Colliery Farm.
- 2.1.8. The inner area of the Site has been levelled to from a development platform at 135m AOD. Visually, the inner area of the site is screened by external slopes of the bunds forming a ridge that support a variety of mature trees and provide a visual screen between the Site and the adjacent land uses to the south, west and north east.
- 2.1.9. In the south of the Site, in an area of existing woodland, are the remains of a former quarry dating back to the Imperial Period. The quarry is designated as a Regionally Important Geological/Geomorphological Site (RIGS) by Warwickshire County Council. One statutory designated nature conservation site is located within the 2 km search area of the Site. This is Bentley Park Wood Site of Special Scientific Interest (SSSI) located 1 km south of the site.
- 2.1.10. An unnamed stream crosses the site in a north to north east direction. The Stream was culverted during the Phase 1 work and is located approximately 20m below finished ground levels. The stream is tributary of the River Anker situated approximately 1.8kms to the north east of the Site.
- 2.1.11. The surrounding land use consists of land in agricultural use together with areas of former open cast coal extraction land used for car storage and residential properties generally situated in local villages.
- 2.1.12. The closest residential properties to the Site comprise No 92-87 Merevale Lane located approximately 20m to the south of the woodland boundary of the Site on the road junction at the top of Merevale Lane. To the south of No 87 Merevale Lane is a block of six residential properties (No. 81-86 New Villas) approximately 45m to the same woodland boundary at the south of the Site.
- 2.1.13. To the west, the Site is separated from commercial offices and residential properties on the eastern side of the village of Baxterley by the site of the former Baddesley Colliery. This land is a 25 hectare (60 acre) development site used for car storage by Jaguar Land Rover which lies between the Site and Baxterley Village. The closest residential property in Baxterley village is located approximately 240m from the western boundary of the Site on the far side of the Colliery site from the Shale Tip.



2.1.14. Colliery Farm is located to the east of the access track. The farm complex comprises a vacant farmhouse formerly used as offices associated with the Drift Mine, several cottages for estate workers and tenants and various commercial outbuildings and plant in the ownership of the applicant. Colliery Farm is situated approximately 340m from the Site of the proposed biomass facility.

2.1.15. Folly Lane runs in a west to east direction approximately 500m to the north of the Site. The lane is generally enclosed by existing hedgerows, however, open views of the Site are available from limited sections at the western end of the lane.

2.1.20 No public rights of way cross the site or will be adversely affected by the proposals.

3. Proposed Development

3.1. Introduction

3.1.1. The Approved Scheme comprises three principal elements:

- **Phase 1** - The compaction of previously deposited colliery spoil to create a stable landform for the development of a renewable energy generation facility,
- The development of a renewable energy generation facility,
 - **Phase 2**- Anaerobic digestion plant (AD) for the production of renewable electricity from biogas produced from organic materials and food wastes and the production of nitrate rich bio-fertiliser; and
 - **Phase 3** - A Biomass plant for the production of electricity from refuse derived biomass fuel and low grade aggregate substitute (bottom ash).

3.1.2. The Scheme proposes a comprehensive 'masterplan' approach to the development of the Site to secure the positive enhancement in the character, function and appearance of the site, while providing renewable energy in a manner integrated with the sustainable waste management needs of North Warwickshire. The works associated with the construction of a development platform were completed in 2014 and the Anaerobic Digestion Facility is now fully operational.

3.1.3. This application seeks permission to vary Condition 2 of Planning Permission NW57/08CM042 to modify the approved layout of the structures on the Site in respect of the Biomass facility only. The amendment is based on a detailed design review of the proposed facility by the potential operators of the biomass facility and takes into account improvements in technology and operational efficiency in the intervening period.

3.1.4. The proposed amendment to the biomass facility will not alter the fundamental technology, approved HGV movements, the application red-line or the use of the land approved by planning decision no NW57/08/CM042 and so the proposed variations do not alter the principle of the development which been established as acceptable on this Site.

3.1.5. The proposed amendments consist of:

- Increase in the height of the process building to accommodate the 'vertical' boiler solution;
- Minor changes in the footprint of the biomass reception/process;
- Increase in the stack height by 5 metre to meet latest EA emissions levels;

- Relocation of storage tanks and other external structures to the rear of the main process building to further screen the operations;
- Introduction of a one-way HGV circulation route on the Site;
- Relocation of weighbridge facility; and,
- Lower air pollutant concentration levels compared to the consented scheme.

3.1.6 The Waste Planning Authority has confirmed that the proposals should be the subject of a Section 73 application to vary the existing planning permission. For completeness, we have set out in this section a description of the overall scheme in order that the proposed amendments can be considered in the context of the extant scheme. Moreover, the Environmental Impact Assessment (EIA) that accompanies this planning application considers the environmental effects of the proposed amendments together with the cumulative impacts of the approved scheme. The EIA has been updated and amended to take account of the operational anaerobic digestion facility operated by Biogen UK Ltd.

3.1.7 The revised biomass development is set out on the following plans which form part of this application:

- Proposed Site Plan (Drawing No. 3021-02-01 Rev P)
- Site Plan Planning Overlay (Drawing No. 3021-02-02 Rev L)
- Plan 1 – Lease Plan (Drawing No. 3021-02-03 Rev C)
- Plan 2 - Park Top Ltd (Drawing No. 3021-02-04 Rev C)
- Plan 3 – Access Road (Drawing No. 3021-02-05 Rev C)
- Proposed Plan (Building Layout) (Drawing No. 3021-03-01 Rev M)
- Proposed Plan (Equipment) (Drawing No. 3021-03-02 Rev M)
- Section AA & BB (Drawing No. 3021-04-01 Rev K)
- Site Section/Elevation (Sheet 1) (Drawing No. 3021-04-02 Rev K)
- Site Section/Elevation (Sheet 2) (Drawing No. 3021-04-03 Rev C)
- Proposed Elevations (Drawing No. 3021-05-01 Rev M)
- Roof Plan (Drawing No. 3021-27-01 Rev H)
- OS – Site Plan (Drawing No. 3021-91-01 Rev C)
- Substation Details (Sheet 1) (Drawing No. 3021-05-02)
- Substation Details (Sheet 2) (Drawing No. 3021-05-03)

3.1.8 The following plans, associated with the approved Anaerobic Digestion facility under planning consent NWB/14CM016, are unchanged by this application but are referenced below for completeness:

- Proposed Site Plan (Drawing No. MERE-B-001 Rev G);



- Proposed Elevations and Sections (Drawing no. MERE-B-002 Rev G);
- Indicative Building Elevations and Floor Plan (Drawing no. MERE-B-003 Rev D);
- Indicative Building Floor Plan (Drawing no. MERE-B-004 Rev D); and
- Proposed Site Layout Plan (Drawing no. MERE-B-005 Rev G).

3.1.9 The Phase 1 works were completed in 2014 and the Phase 2 works (Biogen UK Ltd - Anaerobic Digestion Facility) is now fully operational. These elements of the scheme are not considered further in this Statement. The revised biomass development are described below.

Phase 3 – Development of a biomass renewable energy facility

3.1.10 The proposed biomass facility will be located in the Eastern part of the Site. The facility will comprise a main process building and a number of external tanks and structures located to the south of the building. The layout of the Site showing the proposed location of the process building, storage tanks and associated structures is shown on Drawing No. 3021-02-01 Rev P.

3.1.11 The biomass process will be a closed system. The plant will be located within the main process building and within an acoustic enclosure. The combustion chamber has been designed to deal with all forms of biomass fuel and emissions will be to the stack via an air quality and air pollution control system designed to satisfy the stringent requirements of the Industrial Emissions Directive, as regulated by the Environment Agency, for the safe combustion of material. The building will run under negative air pressure, to contain any dust and odour, and that air will be fed into the combustion process.

3.1.12 The through-put of the proposed biomass plant is approximately 70,000 tonnes per annum (dry weight) and is designed to generate approximately 8MWe (net). The electricity produced will be exported directly into the National Grid and will be sufficient to power approximately up to 7500 homes. Electricity will be transmitted into the National grid via an underground 33kv main that will connect directly from the site into the distribution network through the existing sub-station on the Site.

3.1.13 The biomass facility will be located on an impervious concrete base with integrated drainage wells linked to oil and silt interceptors. The proposed surface water drainage system is shown on drawing No. 3021-02-01 Rev P. A rainwater collection system will be incorporated into the building design to enable the sustainable re-use of harvester water in the biomass plant.

Feedstock

3.1.14 The proposed biomass plant is designed to generate approximately 8MWe (net) from refuse derived fuel containing at least 50% from biomass sources including wood products, paper, chipped waste timber, cardboard and compost oversize.



- 3.1.15 There will be no outside storage, fuel preparation or drying operations undertaken on the Site. All fuels will be supplied to the Site under contract and will meet European Waste Classification code 19 12 10 (Refuse Derived Fuel) to ensure a consistent specification for quality, size and moisture content.
- 3.1.16 There will be no direct public access or public delivery of material to the facility. The fuel will be delivered to the Site and deposited in the fuel reception area within the biomass process building. The fuel will be fed into a hopper prior to passing into the biomass plant. The internal layout of the process building including the proposed equipment is set out on drawing no 3021-03-02 Rev M.
- 3.1.17 The biomass process will produce residues in the form of bottom ash, slag and boiler ash, which can be used as a substitute to low grade aggregates, and air pollution control residue (APCr) which will be collected and removed from the Site for further treatment off-site or disposal by landfill. The residues will be stored in separate sealed containers in the south of the Site.

Access and Waste Receipt Facilities

- 3.1.18 The proposed biomass facility will be served by the existing two-way access onto Merevale Lane created as part of the Phase 1 works. The facility will be defined by 2.4 m high palisade fencing situated on the boundary of the biomass site.
- 3.1.19 The Site will be secured through a secure entry system with weighbridge facilities. Incoming fuel vehicles will arrive into the Site and report to the weighbridge where details contained in the Waste Transfer note will be recorded against the vehicle registration number and the load weight. The incoming fuel vehicles will be directed to the process building. The location of the weighbridge is shown on Drawing No 3021-02-01 Rev P.

Site Layout

- 3.1.20 The proposed layout of the Site is shown on drawing no: 3021-02-01 Rev P and a comparison between the approved and proposed site layouts is shown on drawing no: 3021-02-02 Rev L.
- 3.1.21 The proposed process building has been relocated to the centre of the site to provide a circular one way route for all vehicles to enter and leave the Site in a forward direction. The external equipment and structures including storage tanks, back-up generator and cooling facilities will be sited to the south of the process building.



Biomass Process Building

- 3.1.22 As a consequence of the specific operational requirements of the identified operator of the facility a number of changes to the biomass building are proposed. The internal layout of the process building and elevations are set out on drawing no 3021-03-02 Rev M and 3021-05-01 Rev M respectively.
- 3.1.23 The approved biomass building has a ridge height of 14m. The design of the proposed biomass facility incorporates a 'vertical' boiler solution and as a consequence the area above the boiler house will increase to a ridge height of 22m. The building will then 'step-down' to 17m above the reception area, 16m above the turbine hall and 10m at the reception/office area. The consequence of these changes is that the overall floor print of the revised process building remains largely unchanged.
- 3.1.24 The proposed biomass building will be rectangular in design and constructed from profiled powder coated cladding painted olive green (RAL 6003) as approved for the adjacent Biogen Anaerobic Digestion Facility.

Biomass Stack

- 3.1.25 The location of the biomass stack will remain in the south of the Site but the stack will increase from 20m to 25m.
- 3.1.26 As part of the 'operational' design review that has been undertaken since the previous planning permission was granted work has commenced on the detailed air quality modelling of the proposed technology solution. The Applicant is keen to ensure that the contribution of the facility to local air quality is insignificant. As such, following detailed air modelling, the applicant proposes raising the height of the stack to follow Environment Agency ambitions and ensure the impact on air quality is 'insignificant'.
- 3.1.27 The precise height of the stack will be determined following the agreement of the air quality modelling with the Environment Agency as part of the environmental permit application submission. The assessment work undertaken to date has confirmed that a stack height of up to 25m will be required to meet National Air Quality Objectives. The 25m height is considered a 'worse case' option for the stack height and therefore the most appropriate level for the purposes of planning and environmental impact assessment.

Grid Connection

3.1.28 A key benefit of the proposed biomass facility is the generation of up to 8MW (net) of electricity which will be exported to the National Grid via two existing on-site substations. The substations are located in the north of the Site. The details of the sub-stations are shown on drawings ref: 3021-05-02 and 3021-05-03.

Hours of Operation

3.1.29 In line with Condition 18 on planning approval NW57/08/CM042, the proposed biomass facility will operate on a 24 hour basis but deliveries of material to fuel the biomass plant and the removal of materials resulting from those processes shall only be carried out between the following hours

- 0700 to 1900 Monday to Friday
- 0700 to 1300 Saturday

3.1.30 There shall be no deliveries or removals of material on Sundays or Bank or public Holidays.

Landscaping

3.1.31 The landscaping scheme and associated species planting schedule is shown at Drawing No. AE0718 Rev L which accompanied the original planning application. The approved landscaping scheme includes extensive new woodland plantings on land to the north and east of the Site and in the ownership of the applicant. The approved landscaping scheme maximises the ecological benefit of the proposal by the provision of native species that support the bio-diversity objectives of the County Council. The landscaping works have been undertaken as part of the Phase 1 works and will not be amended as a consequence of this application.

Manpower, access and parking

3.1.32 The operations proposed will provide employment for approximately 15 permanent full time staff comprising technicians, weighbridge and plant and machinery operators at the biomass facility working a three shift pattern. The development will support a considerable number of additional jobs in the supply chain.

3.1.33 Employee and visitor access to the facility will continue to utilise the approved entrance point off Merevale Lane. Car parking will be relocated to the western side of the main process building accommodating 10 spaces including disabled spaces. Motorcycle spaces and covered racks will also be accommodated close to the main process building. Provisions for electric car charging will be included in the car parking area.

4. Planning Policy

4.1. Introduction

4.1.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the development plan for the purpose of any determination under the planning act, the determination must be made in accordance with the plan unless material considerations indicate otherwise. For the purposes of this legislation, the relevant Planning Authority is Warwickshire County Council where the statutory 'development plan' includes:

- Saved Policies for the North Warwickshire Local Plan (2006);
- North Warwickshire Core Strategy (Adopted 2014); and,
- The Warwickshire Waste Core Strategy (Adopted 2013).

4.1.2. In addition to the Statutory Development Plan, applications should also be assessed against the National Planning Policy Framework (NPPF or the Framework) and the National Planning Policy for Waste which are material considerations in the determination of a planning application.

4.2. Statutory Development Plan

Saved Policies for the North Warwickshire Local Plan (2006)

4.2.1. The North Warwickshire Local Plan was developed between 2003 and 2006, and adopted on 4 July 2006. This sets out the main suite of policies which govern and manage development across the Borough, including housing, commercial and industrial property, community facilities and services.

4.2.2. A small number of policies were saved under Direction from the Secretary of State, and will be replaced as work progresses on the new Local Plan for North Warwickshire.

4.2.3. The Site is not designated for alternative uses on the Proposals Plan and is not the subject of environmental or other designations with the exception of the Regional Important Geological feature on this Site. A number detailed policies in the Local Plan are relevant to this development.

4.2.4. Policy ENV4 seeks to protect as far as possible existing trees and hedgerows from loss as part of a development and also encourages the provision of new planting as part of planning applications. The implemented proposals were designed to protect all existing woodland planting on the boundary of the Site in order to provide a valuable screening mitigation for the

proposed biomass building.

- 4.2.5. Additional understory planting will be created within the existing woodland planting on the boundary of the Site. The additional planting will enhance the bio-diversity opportunities on the Site by providing wildlife corridors and associated linkages between existing areas of woodland and hedgerows.
- 4.2.6. Policy ENV 9 seeks to safeguard air quality of the North Warwickshire Council area. This issue is dealt with in detail in the ES that accompanies the planning application. The ES concludes that the proposed amendments will not result in an adverse impact on air quality.

North Warwickshire Core Strategy (Adopted 2014)

- 4.2.7. The North Warwickshire Core Strategy was adopted on 9th October 2014 and replaces some of the core policies saved from the Local Plan 2006. The Borough Council are now working on a new Local Plan and when adopted this will replace the saved Policies of the 2006 Local Plan.
- 4.2.8. Policy NW1 (Sustainable Development) states that "Planning applications that accord with the policies in this Core Strategy (and where relevant, with other policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council, will grant permission unless material considerations indicate otherwise - taking into account whether:
- 1. Any adverse impacts of the proposal would significantly and demonstrably outweigh its benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
 - 2. Specific policies in the Framework or other material consideration indicate that development should be restricted."
- 4.2.9 Policy NW2 (Settlement Hierarchy) states that "Development in settlements without a development boundary and except where other policies of the Plan expressly provide, development will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location."
- 4.2.10 Policy NW10 (Development Considerations) states that "Development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to." Part 14 of the policy states that development should "seek to maximise opportunities to encourage re-use and recycling of waste materials, both in construction and operation."

4.2.11 Policy NW11 (Renewable Energy and Energy Efficiency) states that "Renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular, they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy.

New development will be expected to be energy efficient in terms of its fabric and use. Major development will be required to provide a minimum of 10% of its operational energy requirements from a renewable energy source subject to viability. Smaller schemes will be encouraged to seek the introduction of renewable energy and energy efficiency schemes at the outset to avoid costly retrofit.

Viability and suitability will be considered when renewable energy provision is being planned for developments in order to provide the most suitable type."

4.2.12 Policy NW12 (Quality of Development) states that "All development proposals must;

- demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area;
- deter crime;
- sustain, conserve and enhance the historic environment
- provide, conserve and enhance biodiversity; and,
- create linkages between green spaces and wildlife corridors.

Development should protect the existing rights of way network and where possible contribute to its expansion and management."

4.2.13 Policy NW13 (Natural Environment) states that "The quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced. In particular within identified landscape character areas development will conserve, enhance and where appropriate, restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change. Specific landscape, geo-diversity, wildlife and historic features which contribute to local character will be protected and enhanced."

4.2.14 Policy NW16 (Green Infrastructure) states that "Development proposals must where appropriate, demonstrate how they contribute to maintaining and enhancing a comprehensive and strategically planned Green Infrastructure network, where appropriate. With reference to the sub-regional Strategy for Green Infrastructure and the local Green Infrastructure resource development should:



- Identify, maintain and enhance existing Green Infrastructure assets;
- Optimise opportunities to create links between existing Green Infrastructure within the district and to surrounding sub-regional networks;
- Help deliver new Green Infrastructure assets where specific need has been identified.

Where new Green Infrastructure cannot be provided on site, or where an existing asset is lost or adversely affected, contributions will be sought towards wider Green Infrastructure projects and improvements within the district or, where appropriate, in the sub-region.”

The Warwickshire Waste Core Strategy (Adopted July 2013)

- 4.2.15 The Core Strategy of the Waste Development Framework is a Development Plan document which sets out the Spatial Strategy, Vision, Objectives and Policies for managing waste for a 15 year plan period up to 2028.
- 4.2.16 The Waste Core Strategy was adopted at the meeting of Full Council on 9th July 2013. On adoption, the plan formally became part of the statutory development plan. Planning applications have to be determined in line with the Development Plan unless material considerations indicate otherwise.
- 4.2.17 Policy CS1 (Waste Management Capacity) states that the County Council “will seek to ensure that there is sufficient waste management capacity provided to manage the equivalent of waste arising’s in Warwickshire and, as a minimum, achieve the County’s targets for recycling, composting, reuse and landfill diversion. The Council will seek to meet identified capacity gaps (and where applicable, treatment gaps to meet landfill diversion targets) for each waste stream where a shortfall is indicated through the Authority Monitoring Report process. Where it is demonstrated that there is no identified capacity gap, or where the capacity gap has been exceeded, then any planning application will be assessed against the CS and DM policies and the principles of proximity and driving waste up the Waste Hierarchy.”
- 4.2.18 Policy CS2 (The Spatial Waste Planning Strategy for Warwickshire) states that “Preference will be given to proposals for waste management facilities in accordance with the broad locations set out in Fig 7.1 and Core Strategy Policies 3 and 4, where individual sites are well located to sources of waste and the strategic transport infrastructure.

Within these broad locations, new waste developments will be located on the following kind of sites:

- General industrial land (i.e. B2&B8 uses) or industrial estates

- Sites operating under an existing waste management use
- Active mineral sites or landfills
- Previously developed land
- Contaminated or derelict land
- Land within or adjoining a sewage works
- Redundant agricultural or forestry buildings

Proposals should comply with all other relevant Core Strategy and Development Management policies.

- 4.2.19 Policy CS5 (Proposals for reuse, recycling, waste transfer/storage and composting) states that "Proposals for re-use, waste transfer/storage and composting will be encouraged provided that the proposal accords with all other relevant policies.

The Council will seek to meet identified capacity gaps for each waste stream and where applicable treatment gaps to meet landfill diversion targets) where a shortfall is indicated through the Authority's Annual Monitoring Report process."

- 4.2.20 Policy CS6 (Proposals for other types of recovery) states that "Proposals for anaerobic digestion, mechanical biological treatment and other energy or value recovery technologies will be encouraged provided that the development accords with all other policies and:

- Energy or value recovery products are maximised; and
- It is demonstrated that any resulting residues are satisfactorily managed and disposed of.

The Council will seek to meet identified capacity gaps for each waste stream (and where applicable, treatment gaps to meet landfill diversion targets), where a shortfall is indicated through the Authority's Annual Monitoring Report Process."

- 4.2.21 Policy CS8 (Safeguarding of waste management sites) states that "The County Council will seek to safeguard existing waste facilities and sites in suitable locations with a permitted permanent waste management use. The County Council will object to proposals for non-waste development within or adjacent to these sites where they may prevent or unreasonably restrict the use of that site for waste management purposes."

- 4.2.22 Policy DM1 (Protection and enhancement of the natural and built environment) states that "New waste development should conserve, and where possible enhance, the natural and built environment by ensuring that there are no unacceptable adverse impacts upon:

- Natural resources;

- Biodiversity;
- Geodiversity;
- Archaeology;
- Heritage and cultural assets and their settings;
- The quality and character of the landscape;
- Adjacent land uses or occupiers; and
- The distinctive character and setting of the County's settlements

And the development satisfies Green Belt policies.

4.2.23 Policy DM2 (Managing Health, Economic and Amenity Impacts of Waste Development) states that "Planning Permission will not be granted for waste management proposals which have unacceptable adverse impacts on the local environment, economy or communities through any of the following:

- Noise
- Lighting/illumination
- Visual intrusion
- Vibration
- Odour
- Dust
- Emissions
- Contamination
- Water quality
- Water quantity
- Road traffic
- Loss of best and most versatile agricultural land
- Land instability

Either individually or cumulatively with other existing or proposed development.

Proposals will only be permitted where the adverse impacts will be:

- i)* Avoided; or
- ii)* Satisfactorily mitigated where an adverse impact cannot be avoided or the adverse impacts have been avoided as far as possible."

4.2.24 Policy DM6 (Flood Risk and Water Quality) states that "Planning permission will not be granted where waste management proposals would be at risk of flooding or would be likely to increase the risk of flooding elsewhere. Planning permission will not be granted where waste management proposals would have a detrimental effect on water quality or achieving the targets of the Water Framework Directive."

4.3. Material Considerations

National Planning Policy Framework (2012)

4.3.1. The NPPF includes the Government's planning policies for England, highlighting the economic, social and environmental roles of planning, and its contribution to meeting the mutually dependent objectives of a strong, responsive and competitive economy; strong vibrant and healthy communities; and the protection of the natural, built and historic environment.

4.3.2. At the heart of the NPPF is the presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-making (Paragraph 14), and states that:

'For decision-taking, this means:

- '...approving development proposal that accord with the development plan without delay [unless material considerations indicate otherwise (footnote 10)]; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted. [For example those policies relating to... designate heritage assets... (Footnote 10)].'

4.3.3. The NPPF (Paragraph 215) confirms that following March 2013, due weight should be given to the relevant policies in existing plans according to their degree of consistency with the Framework. Where the Local Plan is not up to date the policies of the Framework carry the most significant weight.

4.3.4. Paragraph 216 states that from the day of publication, decision takers may also give weight to relevant policies in emerging plans according to;

- 'The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight than can be given);
- The extent to which there are unresolved objections to relevant policies (the less

significant the unresolved objection, the greater the weight that may be given); and

- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).'

4.3.5. Paragraph 196 confirms that planning law requires that applications be determined in accordance with the Development Plan unless material considerations indicate otherwise, with the Framework identified as a material consideration in making planning decisions. Paragraph 197 states that the presumption in favour of sustainable development should be applied in determining development proposals.

4.3.6. The NPPF establishes that the purpose of planning is to contribute to the achievement of sustainable development (Paragraph 6) and in Paragraph 7 identifies three pillars to sustainable development: economic, social and environmental. These dimensions require the planning system to perform a number of roles:

- 'An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use of natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.'

4.3.7. Paragraph 17 of the Framework establishes 12 core principles, which in summary, confirm that planning should:

- Be plan led;
- Enhance and improve places;
- Drive and support sustainable economic development;

- Seek and secure high quality design;
- Respect the character of areas and protect the green belt;
- Support transition to a low carbon economy;
- Conserve and enhance the natural environment;
- Encourage the use of brownfield land;
- Promote mixed use developments;
- Conserve heritage assets;
- Maximise use of sustainable transport opportunities; and,
- Meet social and cultural community needs.

4.3.8. Paragraph 156 of the NPPF states that "Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver:

- The homes and jobs needed in the area;
- The provision of retail, leisure and other commercial development;
- The provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- The provision of health, security, community and cultural infrastructure and other local facilities; and,
- Climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape."

4.3.9. Paragraph 162 of the NPPF states that "Local planning authorities should work with other authorities and providers to:

- Assess the quality and capacity of infrastructure for transport, water supply, wastewater and its treatment, energy (including heat), telecommunications, utilities, waste, health, social care, education, flood risk and coastal change management, and its ability to meet forecast demands; and,
- Take account of the need for strategic infrastructure including nationally significant infrastructure within their areas.

National Planning Policy for Waste

4.3.10. The National Planning Policy for Waste was published in October 2014 and sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management.

Identifying suitable sites and areas

4.3.11. Waste planning authorities should identify, in their Local Plans, sites and/or areas for new or enhanced waste management facilities in appropriate locations. In preparing their plans, waste planning authorities should:

- "Identify the broad type or types of waste management facility that would be appropriately located on the allocated site or in the allocated area in line with the waste hierarchy, taking care to avoid stifling innovation;
- Plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity in principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant;
- Consider opportunities for on-site management of waste where it arises;
- Consider a broad range of locations including industrial sites, looking for opportunities to co-locate waste management facilities together and with complementary activities. Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers;
- Give priority to the re-use of previously-developed land, sites identified for employment uses, and redundant agricultural and forestry buildings and their curtilages"

4.3.12. When determining waste planning applications, waste planning authorities should:

- "Only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;
- Ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of an the area in which they are located;
- Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution

control regime will be properly applied and enforced;

- Ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.”

4.4 Conclusion

4.4.1 In this section we have reviewed the relevant National, and Local policies that are relevant to this Proposal. Based on this review the following planning aspects of the development are considered 'material' in the determination of this application:

- Principle of Development and Need;
- Air quality;
- Noise and Vibration;
- Landscape;
- Traffic Movements ;
- Ecology;
- Drainage and Hydrology; and
- Other Material Considerations.

4.4.2 These issues are considered in more detail in Section 5.

5. Planning Assessment

5.1. Introduction

5.1.1 Section 4 comprised a review of the relevant National and Local planning policies that are relevant to this Proposal. Based on this review the following planning aspects of the development are considered 'material' and are reviewed below:

- Principle of Development and Need;
- Air quality;
- Noise and Vibration;
- Landscape;
- Traffic Movements;
- Ecology;
- Drainage and Hydrology; and
- Other Material Considerations.

5.2 Principle of Development and Need

5.2.1 The proposed use of the Site for the development of a resource recovery park was granted planning permission (ref: NW57/08/CM042) by the Secretary of State on the 24th February 2010, following a public inquiry.

5.2.2 In the intervening period, Park Top Ltd (The Site owner) has been in discussions with a number of potential partners, scheme designers and technology providers to bring forward the approved biomass facility on the Phase 3 Site. The outcome of these discussions means that a number of amendments are proposed to the permitted reception/process building and the layout of external structures. The proposed changes are driven by the chosen technology solution within the process building which, in turn, will increase the level of renewable energy produced by the facility.

5.2.3 None of the proposed amendments will alter the fundamental technology, approved HGV movements, the application red-line or the use of the land approved by and so the proposed variations do not alter the principle of the development which been established as acceptable on this Site.

- 5.2.4 A detailed assessment of need for the development was considered as part of the original planning submission prepared in support of Planning Permission NW57/08CM042. The original need assessment concluded that the development will make an important contribution in meeting the County's need for a facility that generates energy from renewable resources and makes a notable contribution to sustainable resource management within Warwickshire. The revised proposals, the subject of this application, will mean that the Site has, cumulatively, the potential to achieve a contribution of around 115,000 tonnes annually to the treatment of organic municipal, industrial and commercial food and refused derived biomass and wood waste. This will be a major contribution to the achievement of recycling and recovery rates within the County up to 2021 and will complement the County Council's own waste management objectives.
- 5.2.5 National Planning Policy for Waste states Planning Authorities should "*only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan*". The Warwickshire Waste Local Plan was adopted in 2013 and considered to be 'up to date' in respect of the NPPF.
- 5.2.6 The proposals accord fully with Policy CS2 (Waste Strategy for Warwickshire) and Policy CS6 (Proposals for Other Types of Recovery) of the Warwickshire Core Strategy by bringing forward "*other energy or value recovery technologies*" on previously developed land with extant consent for waste management uses.
- 5.2.7 The revised proposals, the subject of this application, will increase the quantum of waste managed at the Site and the level of renewable energy exported from the Site. On this basis the current proposal will continue to meet the Government's objectives for managing waste as a resource and maximising renewable energy generation in order to reduce carbon dioxide emissions and, thus, contribute to the Government's overall aims in respect of tackling climate change.
- 5.2.8 The Government Inspector who conducted the public inquiry into the original proposals for the Site considered the issue of need. The Inspector concluded that the proposal 'complies with the Key Planning Objectives to (a) deliver sustainable development through driving waste management up the waste hierarchy; and (b) help secure the recovery or disposal of waste without endangering human health and the environment'.
- 5.2.9 The revised proposals meet the Government's objectives for Sustainable development, set out in NPPF, in the following way:
- It contributes to the nation's energy needs, assisting social progress which recognises the needs of everyone;

- It helps with the effective protection of the environment, by helping to reduce emissions of greenhouse gases;
- By prudent use of natural resources, it helps reduce reliance on diminishing supplies of fossil fuels;
- It helps towards the maintenance of high and stable levels of economic growth and employment, by creating jobs and through the development of new technologies. In addition, it has a role in the diversification of the rural economy.

5.2.10 The proposed amendments to the layout of the biomass facility do not materially alter the need case for the Scheme. It is concluded that an acute need for renewable energy facilities remains in North Warwickshire. As such, the proposals accord with Policy CP2 and Policy CP6 of the Warwickshire Waste Core Strategy and Policy NW11 of the North Warwickshire Core Strategy.

5.3 Air Quality

5.3.1 An updated Air Quality Assessment has been undertaken by Entran Limited and this has considered the construction and operational impacts of the proposed amendments, together with the consented scheme, in terms of dust and other emissions.

5.3.2 The scope of the assessment included undertaking a review of the existing baseline conditions as well as the potential impacts of the proposed development during construction and operational phases against recognised standards that apply nationally and locally. Local climatic conditions were also assessed as part of this process.

5.3.3 A generic assessment of the potential impacts during the construction phase has been carried out. This has showed that during this phase of the proposed development, releases of dust and PM₁₀ are likely to occur during site activities. Through good site practice and the implementation of suitable mitigation measures, the impact of dust and PM₁₀ releases will be reduced and excessive releases prevented. The proposed mitigation will employ the following 'best practice' measures:

- ensure effective site planning locating layout machinery and dust causing activities away from sensitive receptors;
- erect solid barriers around the Site boundary and ensure these are kept clean at all times;
- all vehicles should switch off engines when not in use i.e. no idling vehicles should occur on site;
- no site runoff of water or mud should be allowed;
- ensure stockpiles are kept for the shortest time possible and if necessary, the use of sprinklers and hoses for dampening of exposed soil and materials should be employed;

- ensure an adequate supply of water on site if using sprinklers and hoses for dust suppression;
- where possible, enclosed chutes and covered skips should be used;
- observation of wind speed and direction prior to conducting dust-generating activities to determine the potential for dust nuisance to occur, avoiding potentially dust-generating activities during periods when wind direction may carry dust into sensitive areas and avoiding dust-generating operations during periods of high or gusty winds;
- stockpiles of soils and materials should be located as far as possible from sensitive properties, taking account of prevailing wind directions and seasonal variations in the prevailing wind;
- completed earthworks should be covered or vegetated as soon as is practicable;
- regular inspection of local highways and site boundaries to check for dust deposits (and removal if necessary);
- visual inspection of site perimeter to check for dust deposition (evident as soiling and marking) on vegetation, cars and other objects and taking remedial measures if necessary;
- ensure concrete batcher, where used, has a permit to operate and is operated in accordance with Process Guidance Note 3/1 (04);
- use of dust-suppressed tools for all operations;
- ensuring that all construction plant and equipment is maintained in good working order;
- ensure an adequate supply of equipment on site to clean any dry spillages;
- only use registered waste carriers to remove waste from site; and
- no unauthorised burning of any material anywhere on site.

5.3.4 The above mitigation measures will be implemented as part of the construction phase of the development.

5.3.5 A review of trip generation data for the proposed development has confirmed that the proposal will not extend the approved cumulative level of HGV movements at the Site. This potential source can be regarded as insignificant.

5.3.6 Detailed modelling has been undertaken to predict the impacts associated with operation of the proposed facility. The modelling exercise shows that all pollutant concentrations will be well below Air Quality Objectives and will accord with the Industrial Emissions Directives limits.

Actual emissions from the site are anticipated to be significantly lower than those set out in the model.

- 5.3.7 For a proposed stack height of 25m, predicted maximum off-site process concentrations are well within the relevant air quality standards for all pollutants considered. The significance of the impact on human health has been assessed as negligible and therefore residual effects are also considered to be negligible. Based on the findings of the air quality assessment, no additional mitigation measures are proposed.
- 5.3.8 Bentley Woods SSSI is located within 2kms of the Site and therefore the air quality assessment has predicted the process contributions for acidification and eutrophication at the SSSI. The assessment confirms that the predicted process contributions are negligible for these factors compared with the critical levels and critical loads for acidification and eutrophication.
- 5.3.9 On the basis of the foregoing, the air quality consequences of the proposed development are described as negligible and are not predicted to cause a nuisance. As such, the proposals are in accordance with saved Policy ENV9 of the North Warwickshire Local Plan and policies DM1 and DM2 of the Warwickshire Waste Core Strategy.

5.4 Noise and Vibration

- 5.4.1 An update Noise Impact Assessment has been undertaken by WYG Ltd. The effects of noise and vibration from the construction and operational phase of the proposed Biomass facility has been considered. The assessment has been undertaken with reference to British Standards and national and international guidance on noise and vibration impacts as well as comparisons to the previously permitted scheme.
- 5.4.2 The assessment considered that the most notable impacts due to increases in noise were likely to be during the construction phase including earthworks, construction of site infrastructure and the construction of substructures. In addition to on-site sources, increased noise may be caused by HGV movements travelling to and from the development site during construction.
- 5.4.3 Based on the remote nature of the Site and the presence of existing bunds the noise assessment predicted that construction noise levels fall below the BS 5228 'fixed' and 'ABC' method noise thresholds at all receptors. Nevertheless, in accordance with Best Practice, a Construction Environmental Management Plan (CEMP) will be prepared prior to the commencement of construction works. The CEMP will include the following measures:
- Careful selection of working methods and programme;
 - Selection of quietest working equipment available (e.g. electric/battery powered equipment which is generally quieter than petrol/diesel powered equipment);

- Positioning equipment behind physical barriers, i.e. existing features, hoarding, etc., or provision of lined and sealed acoustic covers for equipment that could potentially contribute to a noise nuisance;
- Positioning of noise generating equipment, such as any blending plant in areas which minimise noise as far as practicable;
- Directing noise emissions away from plant including exhausts or engines away from sensitive locations;
- Ensuring that regularly maintained and appropriately silenced equipment is used;
- Shutting down equipment when not in use, i.e. maintain a 'no idling policy';
- Handling all materials in a manner which minimises noise;
- Switch all audible warning systems to the minimum setting required by the Health and Safety Executive;
- Restricting hours of site operation in agreement with the Local Authority. If there is the requirement to undertake work outside of the agreed hours, further consultation should be undertaken with the Local Authority;
- Where processes could give rise to significant levels of noise for sustained periods, noise levels should be monitored regularly by a suitably qualified person. The methodology of any surveys should be agreed with the Local Authority.
- Employ best practices and follow guidance of British Standard 5228 – Part 1.

5.4.4 The operational impact associated with plant installations is considered to be potentially adverse prior to mitigation. However, a proportional level of mitigation measures will ensure that the possibility of noise and vibration impacts is significantly reduced.

5.4.5 The Predicted noise rating levels associated with the operational phase of development, including the proposed fixed building services plant both internal and external, has been compared with the existing measured background noise L_{A90} at the surrounding existing residential receptors. The difference between predicted noise rating level and background noise levels at identified receptors confirms that the predicted noise rating from the plant is lower than the existing background noise levels at all receptors except the night time noise level at 90 Merevale Lane. At this receptor the rating level has increase by 1.

5.4.6 The assessment of the proposed biomass plant noise takes into account the existing levels of noise generated by the operation AD plant which is located adjacent to the Site. The planning consent for the AD plant has a condition that requires the facility to comply with a noise limit of 35 dB(A) at 100m. The Noise Assessment has demonstrated that cumulatively this limit will not

be exceeded by the operation of the biomass facility. No further mitigation is considered necessary or proposed.

- 5.4.7 The predicted noise levels are consistent with the levels permitted by the consented scheme which raised no objections from the relevant statutory consultees, including North Warwickshire Environmental Health Officers, on noise grounds. Given the comparable nature of the current proposals to the consented scheme in terms of noise impacts we consider this view to remain.
- 5.4.8 Based on the above, the proposed development is consistent with guidance contained in the NPPF and in accordance with Policies NW10 and NW11 of the North Warwickshire Core Strategy and Policies DM1 and DM2 of the Warwickshire Waste Core Strategy.

5.5 Landscape

- 5.5.1 An assessment has been undertaken of the likely impacts on the landscape and visual amenities of the surrounding area arising from the proposed amendments. This assessment has been carried out in accordance with the accepted methodology for such assessments, including those set out in the 'Guidelines for Landscape and Visual Assessment' published by the Landscape Institute and 'Visual Impact Assessments'.
- 5.5.2 In terms of baseline, the landscape character is defined as part of the LVIA and the presence of sensitive receptors at and in close proximity to the Site has been identified as part of the original assessment for the consented scheme. The findings of the original assessment have been incorporated as part of the assessment of the proposed amendments.
- 5.5.3 The assessment, informed by baseline studies and the EIA for the adjacent Biogen facility, identified a number of locations from which the proposed development would be visible. Three viewpoints were identified as representative of the range of views available. The visual impacts are assessed as 'negligible – minor adverse' during construction; reducing to 'negligible – minor beneficial' during operation.
- 5.5.4 The biomass site is surrounded by the same level of screening as the approved layout with all the planting originally specified and approved now in place. The amended scheme comprises additional tanks and structures but these are located to the south of the Site and are screened by the proposed process building and the landscaped bunds on the perimeter of the Site. The process building and stack have increased in height but do not extend above the ridge of the landscaped bunds and the established woodland atop. The Assessment confirms that the site of the proposed biomass facility is visually contained and the impact on the visibility of the site would be minimal.

5.5.5 The overall conclusions of the assessment are that the development would not form any significant long term adverse effects on the visual amenity of receptors viewing from the nearby residential properties, valued landscapes, heritage or ecological assets. All adverse effects identified are not significant, are short term, and would be removed once construction is complete and the screening vegetation becomes established. This would also have a minor beneficial impact on these features in the long term. It is considered that the proposals comply with Policies NW10, NW13, NW14, and NW16 of the North Warwickshire Core Strategy and Policies DM1 and DM2 of the Warwickshire Waste Core Strategy.

5.6 Traffic Movements

5.6.1 A transport assessment was undertaken by WYG Ltd in respect of the amendments proposed and the development of a renewable energy facility.

5.6.2 The original planning consent was accompanied by a Section 106 Agreement restricting the number of HGV movements associated with the Application Site (Anaerobic Digestion and Biomass) to an average of 70 movements per day “*measured over a four week period*”. The AD facility is fully operating and complying with an ‘allocated’ 30 HGV movements per day restriction under a landlord agreement with Park Top Ltd. The remaining 40HGV movements per day is available for the Biomass facility.

5.6.3 The revised proposals seek to increase the quantum of waste to be managed at the biomass facility from the consented 40,000 tonnes per annum (dry weight) to approximately 70,000 tonnes per annum (dry weight). This will result in a 69% increase in the renewable energy generated by the proposed biomass facility from 2.5MWe to circa 8MWe (net).

5.6.4 More importantly, the proposed increase of waste intake and/or electrical output will not result in any additional HGV movements per day in comparison to the 40 HGV movements ‘allocated’ for the Biomass facility. Information supplied by the potential operator of the biomass facility confirms that the average monthly fuel deliveries would require 402 HGVs whilst non-fuel deliveries require an average of 151 HGVs. This will result in a total of 553 HGVs per month which corresponds to 18 HGV deliveries per day or 36 two-way HGV movements per day which is within the previously consented 40 HGV movements per day.

5.6.5 The Transport Assessment concludes that the proposed development will result in no additional HGV movements or traffic flows on the surrounding highway network and all cumulative development (i.e. the JLR car storage facility at Baxterley) was taken into account as part of the original ES.

5.6.6 In light of the above, the proposed development will not give rise to any significant adverse impact on the capacity and safety of the local highway network in the vicinity of the Site. The proposed amendments are fully in accordance with 'saved' Policies TPT1 and TPT3 of the North Warwickshire Local Plan.

5.7 Ecology

5.7.1 A literature review and site based habitat survey were undertaken to gather baseline ecological data for the site. A detailed assessment of the proposed development and the surrounding area was undertaken as part of the EIA. The assessment was carried out in accordance with the relevant national guidance including those issued by Natural England.

5.7.2 The Site was previous the subject of a series of ecological surveys/assessments for protected species which were undertaken between March and August 2006 and May 2007. The previous surveys confirmed that the proposed development will not result in an adverse impact on protected species. An ecological walkover survey of the Site was undertaken on 8th December 2016 to record any changes in habitats or species since 2007. The December 2016 survey confirmed the habitat types and dominant vegetation on the proposed site of the biomass facility together with the presence of invasive species and protected/notable species which may be affected by the development of the Site. The result of the survey and the ecological assessment are set out in Section 6 of the ES.

5.7.3 The ecological assessment confirms the Site does not support habitats or protected species albeit badgers and invertebrates are known to be present in the local area. The assessment goes on to set out specific mitigation measures including a restriction of works during the construction phase of works to the period outside the bird breeding season in order to protect potential ground nesting birds. These measures will be set out in the CEMP and will include provisions to:

- Cover pits, trenches and other excavations at night or providing an escape ramp, to avoid wildlife becoming trapped;
- Dampen down of potential sources of dust;
- Adhere to pollution prevention best practise methods of working; and,
- Implement engineering safeguards as part of construction works to control surface water run-off and avoid contaminating adjacent habitats. This could include measures such as the use of a temporary silt trap to form an intercept for silt and other potential pollutants.

- 5.7.4 In addition, to avoid killing or injuring ground-nesting birds, or destroying nests, during the construction phase works to clear the site will take place outside the bird nesting season (March to September inclusive). Where this is not possible, a nesting bird check of these areas will be undertaken by an ecologist no more than 48 hours prior to commencement of work. Six bird nesting boxes will be incorporated within the surrounding woodland on suitable mature trees to provide alternative dwelling opportunities. Three open-fronted boxes and three hole-fronted boxes are proposed to be incorporated on suitable trees within the woodland surrounding the development.
- 5.7.5 A site check for any new mammal burrows, such as badger setts, will be carried out as part of the Site preparation works. Should any burrows be identified within the Site or immediately adjacent to the Site (within 20 m for entrances greater than 250 mm diameter) then Site preparation works will cease and further advice from a suitably qualified ecologist sought.
- 5.7.6 An invertebrate house will be installed on four suitable trees in the surrounding woodland to the south, east and west of the site to increase the suitability of the site and its surrounding habitats for invertebrates.
- 5.7.7 All new landscaping to be incorporated into the development should include native species of tree and shrubs or local provenance and a variety of species should be planted to attract different species of invertebrate, bats and birds.
- 5.7.8 To avoid lighting impacts on bats during the operational phase, a sensitive lighting scheme will be designed with reference to the following principles:
- lighting design targeted to make sure that light spill onto or beyond the eastern, western and southern Site boundaries is minimized to 1 lux or less than existing light levels;
 - Use of low-level lighting, low intensity bulbs, hoods, cowls or other features to prevent light spill outside areas which do not need to be lit;
 - Consider whether there is the need to light the Site boundaries at night. Where necessary, use only the minimum illumination levels required to meet the relevant safety and security standards; and,
 - Where possible, use movement triggered sensors to switch on lights instead of having them permanently illuminated outside working hours (e.g. 19:00 to 06:00).

- 5.7.9 The Site is situated within 2kms of the Bentley Park Wood Site of Special Scientific Interest. The Air Quality assessment for the operational phase of the development, including the extant biomass facility and HGV traffic, considered the change in several airborne chemicals and particulate matter on the SSSI. The modelling work found that there will be **no significant** effects on Bentley Park Wood SSSI from dust and particulate matter, metals, dioxins and furan, volatile organic compounds, hydrogen chloride, hydrogen fluoride and carbon monoxide nor high nitrogen, sulphur and acid deposition.
- 5.7.10 Based on the above, the proposed amendments will not harm the designated Bentley Park Wood SSSI and are in compliance with Policies NW11, NW13, NW15 and NW16 of the North Warwickshire Core Strategy and Policy DM1 of the Warwickshire Waste Core Strategy.

5.8 Drainage and Flooding

- 5.8.1 The surface water and foul water drainage strategy for the development was approved pursuant to Conditions 8, 9 and 10 of planning permission NW57/08CM042 in September 2011 and implemented as part of the Phase 1 Construction Works. The approved drainage strategy seeks to provide a sustainable and integrated surface water management scheme for the site and aims to ensure no increase in downstream flood risk by managing discharges from the development to the local water environment in a controlled manner.
- 5.8.2 The proposed revision to the site layout will not change the previously approved drainage strategy agreed under Conditions 8, 9 and 10 of the extant planning consent and, thus, no additional conditions are considered necessary.
- 5.8.3 The principles for the handling of and storage of waste on site are the same as originally assessed and thus no additional assessment is required to assess risk to ground or surface water quality. It is therefore concluded that, with respect to groundwater and surface water the revised layout would not generate any significant residual impacts. No further impact assessment is considered necessary at this stage and hydrology has been scoped out of this revised application.
- 5.8.4 However, for completeness, the Scoping Opinion has requested that the findings of the previous Flood Risk Assessment is reviewed and updated to take account of the latest Government Guidance on flooding set out in the NPPF. The updated Flood Risk Assessment has considered the risk of flooding associated with the proposal.
- 5.8.5 The Site is not located in the flood plain of the River Anker or its tributaries. The proposed amendments will not increase and, accordingly, it is concluded that there will be no increased off-site flood risk as a result of the development.



5.8.6 The proposed amendments will not result in a significant impact on surface water or flooding as a result of the development of the biomass facility and are in full compliance with Policy NW10 of the North Warwickshire Core Strategy and DM2 of the Warwickshire Waste Core Strategy.

5.9 Other Material Considerations

5.9.1 The main socio economic impacts arising from the Application relate to the effects on the economy and local employment patterns and the provision of local resource recovery.

5.9.2 The existing estate contributes in financial terms to the economy, much of which is spent locally on goods and services including salaries, business rates, service contracting, hire of equipment and capital expenditure. It is estimated that the proposals will support a total of 5 full time employees at the biomass facility. Much of the employment generated is of a skilled and semi skilled nature that is under-represented in the local economy.

5.9.3 These effects will be maintained over the operational life of the development as well as the enhancement of the local environment in the longer term.

5.9.4 The overall socio economic character of the area will therefore be maintained and the proposals will contribute to the creation of a sustainable economy. These employment opportunities are of particular benefit since the rural parts of the north of Warwickshire have lower than average incomes and lower levels of economic activity than much of rural Warwickshire.

5.9.5 In light of the above, the proposals are in compliance with saved policy Core Policy 10 of the North Warwickshire Local Plan and policies NW10 and NW17 of the North Warwickshire Core Strategy.

5.10 Conclusions

5.10.1 The EIA undertaken as part of the development of the Application has considered in a comprehensive and detailed manner the potential environmental effects likely to arise from the proposed development.

5.10.2 The Application has both environmental and economic objectives. The EIA has concluded that likely impacts of the Application meet recognised standards and are therefore acceptable, providing an appropriate balance between the issues considered. The Application would achieve enhancements in sustainability.

5.10.3 Although there are some impacts arising from the development, these are limited and not significant in their effect. Of the shorter term impacts that are identified in the construction period, a number of these will be limited and the positive impacts are considered to outweigh any negative impacts. In addition, the whole concept of the development (i.e. generation of renewable energy) will have immediate benefits.



- 5.10.4 As a consequence, there are no significant residual impacts in either the short or the long term and the Application delivers its objective of maximising renewable energy production without increasing transport movements and while maintaining a balance with other environmental considerations. The Application proposals are therefore, considered acceptable in terms of their likely environmental impact.
- 5.10.5 Each of the environmental topic areas studied in the ES reflects a policy context set within the Development Plan and national planning policy. In each case, the absence of significant impacts ensures that there is no conflict with the prevailing policies, or guidance.
- 5.10.6 In summary, the planning assessment has demonstrated that the scheme is in accordance with the development plan and other relevant material considerations. The minor amendments proposed in this application will not modify the relationship between the recovery facility and current policy context.



6. Summary and Conclusions

- 6.1. This planning is submitted on behalf of Park Top Ltd and Merevale and Blyth Estates. The Application seeks to vary the approved details set out in Planning Condition 2 of Planning Permission NW57/08CM042 which are associated with the construction of a sustainable resource recovery park comprising renewable energy generation facilities consisting of a biomass plant and anaerobic digestion (AD) plant on land off Merevale Lane, Atherstone.
- 6.2. Planning Permission (Reference: NW57/08/CM042) was granted by the Secretary of State on the 24th February 2010, following a public inquiry, for the compaction of former colliery spoil to create a stable landform for the construction of a sustainable resource recovery park together with associated plant and buildings, hard standings, access routes and landscaping on land at Baxterley Shale Tip, Merevale Lane, Warwickshire. (Appendix A).
- 6.3. Planning Permission NW57/08/CM042 proposed that the Site would be developed in three phases:
 - Construction of the development platform;
 - Development of Anaerobic Digestion Facility; and,
 - Development of the Biomass Facility.
- 6.4. The planning consent has been implemented and the Phase 1 works were completed in 2014. The Phase 2 works (Biogen UK Ltd - Anaerobic Digestion Facility) is now fully operational.
- 6.5. In the intervening period, Park Top Ltd (The Site owner) has been in discussions with a number of potential partners, scheme designers and technology providers to bring forward the approved biomass facility on the Phase 3 Site. The outcome of these discussions means that a number of amendments are proposed to the permitted reception/process building and the layout of external structures. The proposed changes are driven by the chosen technology solution within the process building which, in turn, will increase the level of renewable energy produced by the facility. The amendments relate only to the approved biomass facility.
- 6.6. The proposed amendments to the permitted scheme comprise variations to the following items only:
 - Site layout;
 - Stack/Building height and elevations; and,
 - Throughput and electrical output.

- 6.7. For the avoidance of doubt, we confirm that the proposed amendments will not alter the fundamental technology, approved HGV movements, the application red-line or the use of the land approved by planning decision no NW57/08/CM042 and so the proposed variations do not alter the principle of the development which been established as acceptable on this Site. A more detailed description of each of the proposed amendments has been outlined within the proposed development section of this report.
- 6.8. In common with the approved scheme on the site, the proposed amendments will result in the positive detailed management of the character, function and appearance of the Site and surrounding area while providing essential facilities to meet the modern, sustainable renewable energy generation needs of North Warwickshire. In particular, the facility will help North Warwickshire contribute to the renewable energy target for Warwickshire and meet the local and county level objectives for the recovery and recycling of wood/biomass waste produced within Warwickshire and the local area.
- 6.9. The key benefits of the overall scheme are unchanged by this application except that the proposed biomass solution will increase the electrical output of the entire Site to 10MWe (sufficient to provide electricity, heat and power to more than 9,500 homes) and increase the total quantum of organic waste and refuse derived biomass fuel treated at the Site to 115,000 tonnes with 90% being diverted away from landfill sites. The other benefits remain:
- The production of approximately 36,000 tonnes per year of nitrate rich bio-fertiliser (from the AD facility) that is being utilised on Merevale and Blyth Estate land and local farms.
 - The development of carbon neutral technologies that are supported by the UK Government, offer significant energy benefits and will contribute in the Government's overall objective of tackling climate change. Compared with generating similar quantities of electricity from the most efficient fossil fuel powered gas power stations, and after allowing for the carbon used in the transportation of wastes and fuels, it has been estimated that the scheme will save up to 70,000 tonnes of carbon dioxide emissions to the atmosphere every year.
- 6.10. The proposed amendments will ensure that the biomass facility continued to contribute positively to the production of energy from renewable sources. The proposed technologies are acknowledged and encouraged by the Government to meet their objective of generating energy in a manner that does not affect climate change.
- 6.11. An Environmental Impact Assessment (EIA) of the amended proposals has been undertaken to consider the potential impact of the development on the local environment and the amenity of local residents. The EIA concludes that, the proposed development will not have an adverse impact on the environment.



- 6.12. The proposal will result in the development of an enhanced waste management and energy generation facility on land well located to serve the needs of North Warwickshire. Guidance set out in National Planning Policy for Waste encourages the co-location of waste management facilities on sites in close proximity to the source of waste. The development of the resource recovery park accords with the objectives of sustainable waste management and will contribute to meeting the targets set out in EU directives and Waste Management Plan for England.
- 6.13. Following our review of the relevant policies in the Warwickshire Waste Core Strategy and the North Warwickshire Core Strategy it is clear that the minor amendments meet the relevant objectives and detailed policy criteria for the development of new waste treatment and energy resource recovery facilities in Warwickshire.
- 6.14. The amended proposal fully accords with all relevant planning policy considerations and significantly helps in the Government's objectives of greater sustainability through waste recovery and alternative energy requirements. It is clear that the proposed development and products represent proven technologies that are supported by the UK Government and contribute to the provision of renewable energy, sustainable management of waste and diversification of the rural economy. The proposed development also provides carbon neutral benefits and will thereby contribute to the Government's overall objective of tackling climate change.
- 6.15. In conclusion, the proposed amendments will result in greater efficiency in the biomass technology and ensure permitted development achieves significant objectives arising from the Government's sustainability agenda, notably in delivering enhanced sustainable waste management at a local level and energy from renewable sources and an overall improvement in the environment for the future. As such, Warwickshire County Council is respectfully requested to approve this application made under Section 73(A) of the Town and Country Planning Act 1990.

APPENDICES

Appendix A

Appeal Decision - NW57/08/CM042

24 February 2010

Alliance Planning
Halifax House
14-15 Frederick Road
Edgbaston
Birmingham
B15 1JD

Our Ref: APP/H3700/V/08/2104317

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY MEREVALE AND BLYTH ESTATES: LAND AT THE CORNER
OF THE COMMON AND MEREVALE LANE, BAXTERLEY, ATHERSTONE
WARWICKSHIRE – Application ref: NW57/08CM042**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Terrence Kemmann-Lane JP DipTP FRTPI MCM1 who held a public local inquiry between 10 – 13 and 17 – 20 November 2009 into your clients' application for compaction of former colliery spoil to create a stable landform for the construction of a sustainable resource recovery park comprising the renewable energy generation facilities of a biomass plant and an anaerobic digestion plant together with associated plant and buildings, hard standing, access routes and landscaping in accordance with application ref: NW57/08CM042.
2. Instead of being dealt with by the relevant planning authority, Warwickshire County Council (WCC), the application was called in for decision by the Secretary of State following a direction issued on 6 March 2009 in pursuance of section 77 of the Town and Country Planning Act 1990. The reason given for making the direction was because the application raises national planning policy issues on important matters.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application be granted planning permission subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Secretary of State has taken account of the Environmental Statement dated September 2008 which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and

he is satisfied that it complies with the above regulations. He notes (IR4.3) that no formal request for a Scoping Opinion was sought, but he agrees with the Inspector that, as the current proposals represent a similar but significantly reduced scheme compared to that registered as valid on 3 January 2007 (IR3.3), the contents of the Scoping Opinion issued by WCC on 12 December 2005 in relation to that scheme remain valid. He notes that no additional issues were identified during further discussions on the current proposals with the statutory consultees (IR4.3); and he is satisfied that sufficient information has been provided for him to assess the environmental impact of the application and that the ES as a whole is adequate.

Policy considerations

5. In determining this application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the development plan comprises the Regional Spatial Strategy for the West Midlands (2004), including the Regional Waste Strategy; the saved policies of the Warwickshire Structure Plan 1996-2011; the saved policies of the Warwickshire Waste Local Plan; and the saved policies of the North Warwickshire Local Plan (NWLP).
7. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement (PPS) 1: *Delivering Sustainable Development* and associated supplementary PPS: *Planning and Climate Change*; PPS3 (*Housing*) (for the purpose of defining “previously developed land”); PPS7 (*Sustainable Development in Rural Areas*); PPS 9: *Planning for Biodiversity* and associated documents; PPS10: *Planning for Sustainable Waste Management*; PPS22: *Renewable Energy*; Planning Policy Guidance Note (PPG) 24: *Planning and Noise*; Circular 11/95 (*Planning Conditions*); and Circular 05/2005 (*Planning Obligations*). The Secretary of State has taken into account PPS4 (*Planning for Prosperous Economies*), published on 29 December 2009, in so far as it replaces the guidance in PPS7 in respect of sustainable development in rural areas. However, he does not consider that the contents of PPS4 raise any new matters relevant to his determination of this application that would either affect his decision or require him to refer back to the parties for further representations prior to reaching his decision.
8. As North Warwickshire Borough Council’s work towards a Core Strategy is at a very early stage, the Secretary of State affords it no weight in this case.

Main issues

The development plan

9. The Secretary of State agrees with the Inspector’s conclusion at IR11.20 that, for the reasons given at IR11.2-11.18, the development is generally in accord with the development plan and that, to the extent that any of the saved policies are not concordant with current national or regional policies, they should carry less weight than would normally be the case. In particular, the Secretary of State

agrees with the Inspector that, in respect of renewable energy proposals, NWLP Policy CP2 is not concordant with current national or regional policies.

National policies

10. For the reasons given at IR11.22-11.24, the Secretary of State agrees with the Inspector's conclusion at IR11.25 that the proposal is consistent with the national policy guidance contained in the Planning and Climate Change Supplement to PPS1. He also agrees with the Inspector that, for the reasons given at IR11.26-11.29, the development accords with the principles of PPS7 and with those elements of PPS4 which have replaced it. For the reasons given at IR11.30-11.36, the Secretary of State agrees with the Inspector's conclusion at IR11.36 that the proposal delivers the policies in PPS10 with regard to diverting waste from landfill disposal to energy recovery and producing fertilisers and soil improvers while imposing appropriate controls over emissions and satisfying the proximity principle. He also agrees with the Inspector's conclusions at IR11.42-11.43 with regard to the continuing availability of supply of feedstocks for the two plants. Further, for the reasons given at IR11.37-11.40, the Secretary of State agrees with the Inspector's conclusion at IR11.41 that the proposal is consistent with advice in PPS22.

Other concerns raised by Objectors

11. The Secretary of State agrees with the Inspector that, for the reasons given at IR11.47, the appearance of the landscape will be enhanced compared with what can be seen at present. He also agrees that, for the reasons given at IR11.48, the proposal is unlikely to have any real impact on the general enjoyment of the area by local people or visitors and that the existing access to the site will not gain any additional real prominence other than some necessary signage. The Secretary of State also therefore agrees with the Inspector's conclusion (IR11.49) that there are no grounds for finding that the presence of the development would be a breach of normal countryside policies.
12. The Secretary of State agrees with the Inspector at IR11.50 that the absence of any offer of a community chest payment is not material to the consideration of this application for planning permission. He also agrees with the Inspector's observations at IR11.51-11.52 that, while brownfield status does not guarantee permission for an activity such as the application scheme nor greenfield status prevent permission being granted, the balance in this case must be given to the proposal which would largely overcome the harm from what is at present an area of damaged landscape. He therefore considers arguments as to its status as brownfield or greenfield to be immaterial.
13. The Secretary of State also notes the Inspector's comments at IR11.53 about the desirability of devising the landscaping scheme so as to retain the valued long distance view without any harm to the concealing and softening effect of the planting on the development site, and he considers that that would be desirable if it can be achieved in implementing the consent.
14. The Secretary of State agrees with the Inspector (IR11.54) that any additional development which the applicants might wish to carry out would fall to be considered separately by the local planning authority with appropriate publicity and consultation. He therefore considers it irrelevant to his consideration of the

current application. He also agrees with the Inspector that the objectors' concerns with regard to the European Convention on Human Rights are either factually unfounded or no rights are engaged or violated (IR11.55).

Planning Conditions

15. The Secretary of State has considered the proposed conditions relating to this application and the Inspector's comments and modifications as set out at IR11.56-11.60 and the Annex to the IR. He considers that the conditions which he proposes to impose, as amended by the Inspector and set out at Annex A to this letter, are reasonable and necessary and meet the tests of Circular 11/95. He has inserted "(whichever is the first)" into Condition 4 for the avoidance of doubt.

Planning Obligation

16. The Secretary of State has considered the planning obligation by agreement in dated 20 November 2009 the light of the Inspector's comments at IR11.61-11.63 and national policy as set out in Circular 05/2005. He considers that the obligation accords with the provisions of the circular.

Overall Conclusions

17. The Secretary of State concludes that the proposed development generally accords with the development plan and is consistent with national policy with regard to climate change and energy policy, promoting thriving rural economies, planning for sustainable waste management and exploiting appropriate opportunities for providing renewable energy. He also considers that the scheme will be beneficial in improving the quality of a damaged landscape; that it is sustainable in terms of being supplied with waste feedstock from a reasonable distance; and that the fears expressed about potentially harmful health and environmental effects are not substantiated. He therefore sees no material considerations of sufficient weight to justify refusing planning permission.

Formal Decision

18. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby grants planning permission for compaction of the former colliery spoil to create a stable landform for the construction of a sustainable resource recovery park comprising the renewable energy generation facilities of a biomass plant and an anaerobic digestion plant together with associated plant and buildings, hard standing, access routes and landscaping in accordance with application ref: NW57/08CM042, subject to the conditions set out in Annex A to this letter.

19. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

20. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

21. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

23. A copy of this letter has been sent to Warwickshire County Council and all parties who appeared at the inquiry.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Annex A

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the details submitted with application Reference No. NW57/08CM042 and in accordance with the approved plans, and any samples or details approved in accordance with the conditions attached to this permission, unless these conditions require or allow otherwise. The approved plans are: Site Plan (Drawing no. 1), Site Location (Drawing no. 2), Existing Site Survey (Drawing no. MER/BA/BAD0612), Soft Landscaping Proposal (Drawing no. AE0718), Plan of finished ground levels (Drawing no MER/BA/05-08/14224), Plan showing the proposed site layout (Drawing no. MER/BA/04-08/14151rev A), Plan showing the proposed site layout with turning performance diagrams (Drawing no. MER/BA/04-08/14234), Elevations of Biomass facility (Drawing no. ME2921/02), Elevations of Anaerobic Digestion facility (Drawing no. ME2921/04), Elevations of Storage tanks (Drawing no. ME2921/05), Elevations of weighbridge/offices (Drawing no. ME/2359/011), Layout of Biomass facility (Drawing no. ME2921/01), Layout of Anaerobic digestion facility (drawing no. ME2921/03), Cross Sections (Drawing no. MER/BA/05-08/14184 rev C), Indicative Site views – View G (Drawing no. MER/BA/05-08/14310), Indicative Site views – View F (Drawing no. MER/BA/05-08/14309).
3. The development hereby permitted shall not be commenced until full details of a landscape scheme for the site have been submitted to and approved in writing by the County Planning Authority. These details should include phasing; a planting plan showing existing trees to be retained along with new planting; written specifications; and schedules of plants noting plant locations, species, sizes and proposed numbers and densities where appropriate.
4. The landscape scheme approved pursuant to Condition 3 of this permission shall be implemented in the first planting season following the completion of either the biomass plant or the anaerobic digester hereby approved (whichever is the first) and, unless otherwise agreed in writing by the County Planning Authority, should any trees or shrubs planted as part of the scheme die, be removed or become damaged or seriously diseased within five years of their initial planting they shall be replaced in the next planting season with others of a similar size and species.
5. No development shall take place and no equipment, machinery or materials shall be brought on to the application site for the purposes of the development until the trees identified to be retained on the planting plan submitted in pursuance of Condition 3 of this permission have been protected by fencing and other measures installed in accordance with details submitted to and approved in writing by the County Planning Authority. Those measures shall be maintained until construction work is complete and all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the County Planning Authority.

6. Reversing alarms shall not be used unless they are of a bell tone type or are of the directional type or are capable of adjusting their noise level automatically to 5dB(A) above the ambient noise level or are of another type approved in writing by the County Planning Authority.
7. No loaded lorries shall enter or leave the site unless they are sheeted or the load is otherwise adequately secured. Loads other than those containing timber or wood products shall be securely covered so as to prevent the emission of odours.
8. No development shall be commenced until a scheme (including phasing) for the provision and implementation of surface water run-off limitation measures has been submitted to and approved in writing by the County Planning Authority. The scheme shall then be implemented as approved.
9. No development shall be commenced until a scheme (including phasing) for the provision and implementation of surface water drainage works to serve the site has been submitted to and approved in writing by the County Planning Authority. The drainage works shall then be implemented in accordance with the approved scheme.
10. No development shall be commenced until a scheme (including phasing) for the provision and implementation of foul water drainage works to serve the site has been submitted to and approved in writing by the County Planning Authority. The drainage works shall then be implemented in accordance with the approved scheme.
11. A scheme (to include the timing of the installation of any equipment) to prevent mud or other deleterious material being deposited on the highway by vehicles visiting the application site shall be submitted to and approved by the County Planning Authority prior to the commencement of development. Any such material deposited on the highway by such vehicles within 100 metres of the junction of the proposed access road with the highway shall be removed forthwith by the person having control of the Site.
12. The development shall not be commenced until a schedule of all external finish materials to be used on the exterior of the buildings (including storage tanks) hereby approved has been submitted to and approved in writing by the County Planning Authority. The development shall then be carried out in accordance with the approved schedule or any variations so approved.
13. The development shall not be commenced until a scheme confirming the operational phasing of the Site has been submitted to and approved in writing by the County Planning Authority. Prior to the commencement of construction in each phase of the site, in accordance with the approved phasing scheme, a noise management plan for that part of the development shall be submitted to and approved in writing by the County Planning Authority. Such a plan shall include details of on site management measures to prevent noise becoming a cause of nuisance and contingency plans should noise become a cause of nuisance. The management plan and any variation so approved shall be implemented at all times that the development is in use.
14. The development shall not be commenced until a dust management plan has been submitted to and approved in writing by the County Planning Authority.

Such a plan shall include detail of on site management measures to prevent dust becoming a cause of nuisance and contingency plans should dust become a cause of complaint. The management plan and any variation so approved shall be implemented at all times that the development is in use.

15. Construction of the anaerobic digestion plant shall not be commenced until an odour management plan for the development has been submitted to and approved in writing by the County Planning Authority. Such a plan shall include details of on site management measures to prevent odour becoming a cause of nuisance and contingency plans should odour become a cause of nuisance. The management plan and any variation so approved shall be implemented at all times that the development is in use.
16. No development shall be commenced until a scheme for the phased laying out, surfacing and draining of the car parks, access drives and service areas shown on the application drawings has been submitted to and approved in writing by the County Planning Authority. Neither the biomass plant nor the anaerobic digestion plant shall be used until those access drives, car parks and service areas associated with each proposed plant have been constructed, laid out, surfaced and drained in accordance with the scheme or any variation so approved.
17. Except as may otherwise be agreed in writing by the County Planning Authority for a temporary period in the event of urgent circumstances which could not reasonably have been avoided, the engineering operations to re-profile the site shall only be carried out between the following hours:
 - 0700 – 1900 hours Mondays to Friday
 - 0700 – 1300 hours SaturdayNo operations shall occur on the site on Sundays or Bank or Public Holidays.
18. Except as may otherwise be agreed in writing by the County Planning Authority for a temporary period in the event of urgent circumstances which could not reasonably have been avoided, deliveries of material to fuel the biomass plant and the anaerobic digestion plant and the removal of materials resulting from those processes shall only be carried out between the following hours:-
 - 0700 – 1900 hours Mondays to Friday
 - 0700 – 1300 hours SaturdayNo deliveries or removals of material shall take place on Sundays or Bank or Public Holidays.
19. The construction of the biomass plant and anaerobic digestion plant hereby permitted shall not be commenced until full details of the means of voltage power line connection to the national grid have been submitted to and approved in writing by the County Planning Authority and the connection so approved shall be installed prior to the first use of the site (other than occupation for the purpose of construction and installation works).
20. The development shall not be commenced until details of the finished floor levels for the new buildings hereby approved in relation to their adjacent natural ground

levels have been submitted to and approved in writing by the County Planning Authority. The development shall then be carried out in accordance with the approved levels.

21. The development hereby permitted shall not be commenced until details of all external lighting to be installed on the site have been submitted to and approved in writing by the County Planning Authority. All lighting shall then be fitted and maintained in accordance with the details or any variations so approved. No external lighting shall be installed or used other than that covered by the approved details.
22. The new vehicular access to The Common shall only be used as an emergency access to the site.
23. The premises shall be used for generating renewable energy and producing and storing material for use in agriculture from renewable resources and waste through biomass treatment and anaerobic digestion (including, as ancillary uses only, the processing, chipping (for use on site only), drying, pelletising and storage of timber and feedstocks for the biomass plant and anaerobic digestion plant) and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no articles or materials related to the use hereby permitted shall be stored on the land coloured blue on Plan dated 16/11/2009 (document MISC 9). Such articles and materials shall include (but not be confined to) any article or material used or intended for use, and any product of a process taking place, on the application site. For the avoidance of doubt, this condition shall not prevent the application of any such product for the purpose of soil treatment.
25. The woodland in the area coloured yellow on Plan dated 16/11/2009 (document MISC 9) and any area containing new trees and shrubs provided as part of the development hereby permitted shall be retained and be maintained as woodland in accordance with a management plan which shall be submitted to and approved by the County Planning Authority before the commencement of development.