



Adroddiad

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Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 29th Ebrill 2022

Report

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an Inspector appointed by the Welsh Ministers

Date: 29th April 2022

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 62D

APPLICATION BY BROAD ENERGY (WALES) LIMITED

LAND AT BUTTINGTON QUARRY, BUTTINGTON, WELSHPOOL, POWYS, SY21 8SZ

Abbreviations used in this report:

AA	Appropriate Assessment
ADMS	Atmospheric Dispersion Modelling System
AONB	Area of Outstanding Natural Beauty
AQS	Air Quality Standard
BAT	Best Available Techniques
BIIG	Buttington Incinerator Impact Group (Residents Group)
BPM	Best Practical Means
CHP	Combined Heat and Power
DNS	Development of National Significance
EfW	Energy from Waste
EIA	Environmental Impact Assessment
ELV	Emission Limit Value
EQS	Environmental Quality Standard
ERF	Energy Recovery Facility
ES	Environmental Statement
GLC	Ground Level Concentrations
HIA	Health Impact Assessment
HRA	Habitats Regulations Assessment
LDP	Local Development Plan
LIR	Local Impact Report
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
NOX	Nitrogen Oxide
NO ₂	Nitrogen Dioxide
NRW	Natural Resources Wales
NSW	National Sites Network
NT	The National Trust
ODP	Offa's Dyke Path – National Trail
PEC	Predicted Environmental Concentration
PPW	Planning Policy Wales
SAC	Special Area of Conservation
SAM	Scheduled Ancient Monument
SPG	Supplementary Planning Guidance
SSSI	Site of Special Scientific Interest
SuDS	Sustainable Drainage Scheme
S106	Section 106 agreement or undertaking

TA	Transport Assessment
TAN	Technical Advice Note
Tpa	Tonnes per annum
VOC	Volatile Organic Compound
VP	View Point
VSAA	Visual Sensory Aspect Area
WGHA	Welsh Government Highway Authority
'The 1990 Act'	The Town and Country Planning Act 1990 (as amended)
'The 2015 Act'	The Planning (Wales) Act 2015
'The DNS Regulations'	The Developments of National Significance (Wales) Regulations 2016
'The EIA Regulations'	The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017
'The Habitats Regulations'	The Conservation of Habitats and Species Regulations 2017
'The Procedure Order'	The Developments of National Significance (Procedure) (Wales) Order 2016
WFGA	Well-being of Future Generations Act (Wales) 2015
WMs	Welsh Ministers
ZOI	Zone of Influence

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DNS Application Ref: APP/ DNS/3214813

Site address: BUTTINGTON QUARRY, BUTTINGTON, WELSHPOOL, POWYS, SY21 8SZ

- The application, 26 February 2021, was made under section 62D of the Town and Country Planning Act 1990 (as amended by the Planning (Wales) Act 2015).
- The applicant is BROAD ENERGY (WALES) LIMITED.
- The application was confirmed as valid on 19 April 2021.
- Site visits were made on 21 March 2022.
- Hearings were held on 14, 16 and 18 March 2022.
- The development proposed is the construction and operation of an energy recovery facility for the importation, storage and treatment of municipal, commercial and industrial waste and generation of heat and electricity, involving partial re-profiling of quarry void, earth works, alteration to existing residential access and provision of new vehicular site access from the A458 and site haul roads, ancillary buildings, structures, transformer, sub-station and grid connection, parking, hardstanding including laydown areas for materials storage and plant, workshop, weigh bridge, offices, welfare/mess facilities, fencing, gates, security and CCTV, bicycle storage and electric vehicle charging facilities, sustainable drainage measures, landscape works and ecological enhancements.

Summary of Recommendation: That planning permission be refused

Procedural Matters

1. In accordance with Article 5 of The Developments of National Significance (Procedure) (Wales) Order 2016, the applicant notified PINS (Wales) on behalf of the Welsh Ministers of the proposed development on 5 August 2020. The submitted application was subject to appropriate pre-application consultation and publicity from 14 September 2020 until 26 October 2020, and was accompanied by a Pre-Application Consultation Report, dated February 2021.
2. An Environmental Statement (ES) under the EIA Regulations was submitted with the application. The ES was assessed for completeness by PINS (Wales). A report was issued on 19 April 2021 confirming that the ES contained the level of information identified in Regulation 17 and Schedule 4 of the EIA Regulations and was complete for the purposes of those Regulations. I have taken into account the ES and the environmental information, as defined in the EIA Regulations, in this report. A shadow Habitats Regulations Assessment of the effects on the integrity of any European Site as a result of a plan or project whether alone or in combination with other plans or projects was also submitted.
3. The application was accompanied by a Waste Planning Statement containing a statement of compliance with policy and that due regard has been had to the waste

hierarchy and how the proposal would contribute to meeting the provisions of Welsh Government waste policy.

4. In March 2021 Welsh Government published the Beyond Recycling Strategy Document and the Minister for Environment, Energy and Rural Affairs issued a written statement on Taking Action to make the Circular Economy a Reality. Both refer to the introduction of an immediate moratorium on any future large-scale energy from waste developments, as the increase in recycling and reduction in waste already seen means that no new large-scale energy from waste infrastructure will be needed to deal with the residual waste generated in Wales. The data on the need for waste facilities is contained in the Strategic Assessment for the Future Need for Energy from Waste Capacity in the Three Economic Regions of Wales (also dated March 2021). The applicant responded to an invitation to comment on these publications by means of a revised Waste Planning Statement. The applicant's September response document also contains comments on these documents and the announcement.
5. On confirmation of the validity of the application on 19 April 2021, PINS (Wales) undertook the specified consultation and publicity measures as required by the Order. Powys County Council (PCC) subsequently submitted its Local Impact Report (LIR) on 21 May 2021.
6. Natural Resources Wales (NRW) are a key consultee on the application and failed to provide a substantive response to the consultation by the deadline of 24 May 2021. It was therefore decided to formally suspend the DNS process (By a notice under Section 62L (5) of the 1990 Act) until 30 June 2021 in order to enable NRW to reply. Requests for further information under Regulation 15 (2) were issued to NRW, Cadw and Clwyd-Powys Archaeological Trust with a deadline for response of 30 June.
7. In a letter dated 12 July 2021, I informed the parties of the matters that would be discussed at hearings, all other matters would be considered by written representations. The letter also informed the applicant that further information was required for the purposes of the hearings. The applicant then requested additional time to respond to this request and the determination period was suspended until October 2021. The applicant responded in two documents submitted prior to the deadline known as the August Response and the September Response (see Annex D – List of Documents). The administration of the application transferred from the Planning Inspectorate to Planning and Environment Decisions Wales on its inception on 1 October 2021. Further consultation on the applicant's responses was required under the Regulations and the determination period was suspended until January 2022 to facilitate this consultation. Several parties submitted responses. The applicant introduced a decision on a similar proposal in Cardiff known as Môr Hafren (DNS 3236340).
8. The hearing sessions were held on 3 days between 14 and 18 March 2022. The hearings considered the following topic areas. Hearing 1 – Policy considerations & sustainability (including need for the ERF in the South West and Mid Wales Region). Hearing 2 – Effects on air quality, noise issues (including traffic noise), geotechnical issues and traffic and highway safety. Hearing 3 – Landscape and

visual impact, ecological issues and suggested planning conditions. I carried out unaccompanied inspections of the surrounding area on various dates and an accompanied visit to the site and an unaccompanied visits to various viewpoints (including Powis Castle) on 21 March 2022.

The Site and Surroundings

9. The site is around 4.3 km north-east of the centre of Welshpool on the A458 Shrewsbury to Welshpool Trunk Road. The nearby villages are Buttington, c.2km to the south-west, and Trewern, around 1.5km to the north-east. A small settlement known as Cefn (part of Trewern) lies close to the north-east boundary of the site and consists of residential development and Buttington Trewern County Primary School.
10. The overall Buttington Quarry site occupies a total land area of 24 hectares with the application site comprising 3 parcels of land measuring a total of 18ha. The site is bounded by the A458 to the northwest, Sale Lane to the east and Heldre Lane to the south. The Welshpool – Shrewsbury railway line runs immediately northwest of the A458 in close proximity to the site. The site is accessed from the A458. There is an extant planning permission for a new access (north of the existing) to serve the site.
11. The quarry was originally used for clay extraction and the manufacture of bricks from the late 19th century until 1990. The quarry has continued to supply construction and agricultural markets with predominantly bulk fill aggregate and for a time decorative stone. The former brickwork buildings are excluded from the application site. They are now separately occupied by mainly commercial, storage and distribution uses.

The Proposal

12. The proposed development comprises an Energy Recovery Facility (ERF), fuelled by Municipal, commercial and industrial residual waste (i.e. non-inert waste remaining post-treatment and destined for landfill). The Buttington ERF has been designed to accept up to 167,000 tonnes per year of non-hazardous, residual waste. In reality the plant will actually accept around 150,000 tonnes per annum, allowing for maintenance shutdown periods. The Buttington ERF has been designed to run 24 hours a day, 7 days a week. Incoming waste and deliveries of consumables, together with export of bottom ash would be between 07:00 – 19:00 on weekdays and 5 hours on 07:00 – 12:00 on Saturdays.
13. The ERF would be capable of generating around 12.8 MW (net) of electricity through the thermal treatment of the waste described above. The energy generated would be exported to the local electricity grid. Based on the maximum electrical output and approximately 7,900 operational hours a year, the plant would export c. 101,120 Mwe hours per annum (pa).
14. The key elements of the ERF installation are:
 - waste reception area including tipping hall;
 - storage bunker;

- waste feed hopper;
 - combustion line;
 - boiler and water steam cycle in a boiler hall;
 - flue gas treatment facility;
 - a single stack (70m high);
 - bottom ash extraction and storage;
 - steam turbine and generator;
 - electrical transformers;
 - air cooled condensers;
 - and associated utilities infrastructure.
15. The main building will have a total length of 90.3m, with a further 64.4m to account for the air-cooled condensers. The width ranges from a maximum of 56.65m to 21.7m at the narrowest part of the main building at the upper levels. The highest part of the main building will house the Boiler Hall which will measure circa 46m above ground level down to circa 33m for the roof of the tipping hall.
16. The Design and Access Statement states that the building design incorporates colour coated profiled cladding to walls and roof in a palette of natural colours. Different colours would be used in blocks. This together with the sloping roof shape is designed to break up the mass of the building. The design aim is to integrate the large building with the surrounding rural landscape. The Design and Access Statement also states that the building design incorporates cladding which uses subtle hues of green, brown and cream to imitate the natural colours experienced in its landscape setting which is mainly rural with woodland and agricultural land uses. Landscape bunds and planting are proposed in order to screen the development.
17. A new access from the A458 would serve the development. A right turn facility and improved visibility would be provided. 38 car parking and 10 motorcycle spaces together with bicycle shelter would also be provided. A sustainable drainage system incorporating a settlement pond is proposed.
18. The construction period is anticipated to take approximately 36 months. Construction operations will generally be limited to 07:00 – 19:00hrs Monday to Friday and 07:00 – 12:00hrs Saturday. The main construction activities are described. Firstly, site preparation where the site will be secured with fencing and widening the base of quarry. This will involve the excavation of around 334,635m³ of material, of which in the order of 172,400m³ would be re-used on site. This would leave around 162,235m³ of material to be removed from the site. New slopes would be created in the quarry. The steepest would be the south-eastern face in order to minimise land take and maintain land for future employment use.
19. Once the quarry floor has been excavated and prepared, foundation works will involve piling and excavation. The buildings are likely to be of steel frame construction with the external envelope formed from a combination of masonry blocks, cold rolled sheeting rails, metal cladding and polycarbonate cladding. The roofs of the buildings will be constructed of composite cladding panel. Steel work

will be delivered to the site by HGV. The construction is likely to be undertaken using a series of mobile truck mounted cranes and a fixed tower crane.

20. The installation of the main plant and equipment will be undertaken following the completion of the boiler hall and Flue Gas Treatment facility. Installation will begin approximately 12 months after the start of construction and will take approximately 12 months. Commissioning of the plant will take a period of 7 months and will commence following installation of the main plant. During this period the roads, parking areas and drainage will also be provided. 4 laydown areas and their uses are indicated in the ES. A draft Construction Environmental Management Plan detailing environmental protection measures has also been provided.
21. During the construction phase the development will provide employment for approximately 300 workers. Once operational the ERF will provide permanent employment for up to 30 people, working in shifts.

Development Plan Policy

Future Wales: the national plan 2040 (Future Wales)

22. Future Wales was published in February 2021. It comprises part of the development plan (in conjunction with the local development plan for the area concerned). It provides a spatial expression of national planning policy and sets the guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years. Powys is the Mid Wales region with connections identified to the other regions and England from the Welshpool area.
23. It states that applications for DNS must be determined in accordance with Future Wales. Policy 17 states that the Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In determining planning applications for renewable and low carbon energy development, decisionmakers must give significant weight to the need to meet Wales' international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency. Policy 18 provides the criteria for assessing DNS proposals for renewable and low carbon energy and is required to be read together with Policy 17. It requires biodiversity enhancement measures to ensure a net benefit for biodiversity.
24. 5 regional growth areas are identified in Mid Wales one of those is Bro Hafren, including Welshpool and Newtown. The Welsh Government wishes to see energy generation, storage and management play a role in supporting the Mid Wales economy.

Powys Local Development Plan

25. The Powys Local Development Plan (2011 - 2026) was adopted in April 2018. Policy W1 – Location of Waste Development states that proposals for the management of waste which accord with the waste hierarchy will be supported on employment sites identified in Policies E1 and E4. 6 hectares of the quarry site are

allocated for employment use under Policy E1, which also specifies that it may be suitable for waste use under W1. Policy W1 seeks to facilitate an integrated and adequate network of waste management facilities in sustainable locations in line with national policy and guidance and in accordance with the waste hierarchy. The aim of the policy is not to prevent disposal or recovery proposals from coming forwards but to ensure that they are justified in the proposed location. It is made clear that not all sites identified will be suitable for all types of waste management facility and each proposal would be considered on its own merits.

26. The policy refers to Buttington quarry explicitly in para 4.9.7: *TAN 21 advises against the disposal of inert waste and instead promotes the use of permanent recycling repositories or 'urban quarries' to enable the storage and processing of wastes arising from construction and demolition. Buttington Quarry is an allocated site which may be suitable for such a use. Such facilities may also need to be located close to the source of the arisings for a temporary period and Policy W1 allows for this, subject to adequate justification being provided at the planning application stage as well as provision for restoration."*
27. Policy W2 – Waste Management Proposals states that: Development proposals for waste management will be permitted where they are supported by a Waste Planning Assessment and where they meet the following criteria:
 1. The proposal minimises the need to transport waste by road, taking into account the proximity principle.
 2. The highway network is suitable for use by heavy goods vehicles or can be improved to accommodate such vehicles.
 3. There would be no adverse impact on amenity, human health or the environment due to noise, dust, odour or air quality.
 4. There would be no adverse impact on surface water or groundwater.
 5. There would be no adverse impact on features of ecological or built heritage interest.
 6. There would be no adverse landscape impacts and any visual impact of the development is minimised through sensitive location and the use of landscaping.
 7. Where facilities are proposed in built up areas they will generally be supported where wastes are managed within a building.
 8. There is an identified end user where the proposal would involve the production of waste heat; and
 9. Provision is made for restoration and aftercare of the site upon its cessation.
28. Policy DM4 Landscape relates to all proposals for new development outside the settlements defined in the Settlement Hierarchy. Development must not, have an unacceptable adverse effect on the valued characteristics and qualities of the Powys landscape. All proposals will need to be appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape.
29. Policy DM13 is a general criteria-based policy for all types of development. The most relevant criteria are that the development: contributes to preservation of local distinctiveness and sense of place; does not have an unacceptable adverse impact on existing and established tourism assets and attractions; has been designed and

located to minimise the impacts on the transport network; demonstrates that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. The Policy also requires that the amenities enjoyed by the occupants or users of nearby or proposed properties shall not be unacceptably affected by levels of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

30. Policy DM14 relates to air quality management and states that development proposals will only be permitted where any resultant air pollution does not cause or lead to an unacceptable risk of harm to human health or the natural environment. The relevant strategic policies are SP2 – Employment Growth, SP6 – Distribution of Growth across the Settlement Hierarchy and SP7 – Safeguarding of Strategic Resources and Assets. Policy T1 - Travel, Traffic and Transport Infrastructure sets out requirements for the safe and efficient flow of traffic for all transport users, including more vulnerable users, and especially those making 'Active Travel' journeys by walking or cycling; and to minimise demand for travel by private transport and encourage, promote and improve sustainable forms of travel including Active Travel opportunities in all areas.
31. The remaining policies of relevance are Policy DM1 – Planning Obligations, Policy DM2 – The Natural Environment, Proposals for new development outside the Towns, Villages, and Rural Settlements defined in the Settlement Hierarchy must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape, including the visual amenity enjoyed by users. The other policies and supplementary planning guidance are set out below in the section on the LIR.

National Planning and Waste Policy or Guidance

32. National planning policy on waste is set out in Planning Policy Wales Edition 11 (PPW) (February 2021) and Technical Advice Note (TAN) 21 Waste (last updated February 2017). PPW sets out the land use planning policies of the Welsh Government. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 (WGFA) and other key legislation.
33. The Well-being of Future Generations (Wales) Act 2015 ('the Act') gives a legally binding common purpose – the seven wellbeing goals – for the Welsh Government, local government and other specified public bodies. It details the ways in which these bodies must work, and work together, to improve the wellbeing of Wales. Planning Policy Wales, together with Future Wales, has an important role in driving sustainable growth and combating climate change by guiding the location and form of future development.

Planning Policy Wales (PPW) Edition 11

34. PPW recognises the obligations and has embedded the principles of the Act, including the 5 ways of working (longterm thinking, prevention, collaboration, integration and involvement), the wellbeing goals and ways of working. Chapter 5 of PPW is Productive and Enterprising Places which covers the economic components of well-being and contribute towards the national sustainable placemaking outcomes.

35. The most relevant provisions to the proposal are set out in Section 5.13 of PPW which addresses Sustainable Waste Management Facilities:

5.13.1 The planning system has an important role to play in facilitating sustainable waste management by providing a framework for decision making which recognises the social, economic and environmental benefits that can be realised from the management of waste as a resource to meet the needs of society and businesses, whilst at the same time:

- minimising adverse environmental impacts and avoiding risks to human health;*
- protecting areas of designated landscape and nature conservation from inappropriate development; and*
- protecting the amenity of residents, of other land uses and users affected by existing or proposed waste management facilities.*

5.13.2 The benefits which can be derived from proposals for waste management facilities as well as the impact of proposals on the amenity of local people and the natural and built environment must be adequately assessed to determine whether a planning application is acceptable. If adverse impacts on amenity or the environment cannot be mitigated, planning permission should be refused.

5.13.4 The Welsh Government's policy for waste management is contained in Towards Zero Waste and associated sector plans. Planning authorities should, in principle, be supportive of facilities which fit with the aspirations of these documents and in doing so reflect the priority order of the waste hierarchy as far as possible.

5.13.5 The waste hierarchy provides the key starting point for all types of waste management proposals. However, consideration of the hierarchy should be set against the wider social, economic, environmental and cultural factors which are relevant in any given case. Waste prevention and approaches towards encouraging reuse and recycling should be considered at an early stage as part of materials choices and design.

36. PPW affirms at paragraph 5.13.7 that The Collections, Infrastructure and Markets (CIM) Sector Plan describes the waste management framework to provide the best solutions to meet social, economic and environmental needs to 2050. It indicates a move towards the reduction of disposal and recovery options for treating waste in favour of high-volume source segregated collection followed by reprocessing as well as preparation for re-use and prevention.

37. In respect of new facilities to manage waste, PPW paragraph 5.13.10 requires planning authorities to: support the provision and suitable location of a wide ranging

and diverse waste infrastructure which includes facilities for the recovery of mixed municipal waste and may include disposal facilities for any residual waste which cannot be dealt with higher up the waste hierarchy. The extent to which a proposal demonstrates a contribution to the waste management objectives, policy, targets and assessments contained in national waste policy will be a material planning consideration.

Technical Advice Note (TAN) 21 Waste

38. Moving towards the aim of self-sufficiency in waste recovery and disposal through the provision of an integrated and adequate network is a key principle in TAN 21. TAN 21 recognises that in order to reach the goal of zero waste, there is a difficult balance to be struck between ensuring sufficient capacity to deal with waste arisings in the short term (to avoid environmental impacts) and doing so in a way which does not impede the achievement of longer-term goals post 2024/25 (which include zero waste and net zero carbon for 2050).
39. TAN 21 requires applicants to clearly justify why a proposal is necessary. Where it cannot be clearly demonstrated that there is a need for the proposal it may be appropriate for the planning authority to consider refusing planning permission. This is likely to be the case where the level of provision exceeds the upper range identified in the CIM Sector Plan for any given region. Overprovision will only be justified on the basis that the proposal represents a sustainably located facility, demonstrating social, economic and environmental benefits.
40. In accordance with Article 13 of the Waste Framework Directive (Protection of Human Health and the Environment), TAN 21 advises at paragraph 2.11 that planning authorities should ensure that all types of waste facilities are located where a high level of protection for the environment and public health can be ensured. In particular, waste management should be undertaken: without risk to water, air, soil, plants, or animals; without causing a nuisance through noise or odour; and without adversely affecting the countryside or places of special interest.
41. In relation to energy from waste, TAN 21 notes that technologies such as energy recovering waste incinerators can offer a suitable technique for maximising the social, environmental and economic benefits from the management of residual wastes (that waste remaining after reuse, preparation for reuse and recycling actions has been undertaken). Proposals that incorporate combined heat and power could contribute toward district heating schemes for industry, for commercial developments or for large public sector developments such as schools or hospitals, providing these are environmentally acceptable. This makes the recovery of energy more efficient, and it would potentially reduce the impact of using primary fuels.
42. TAN 21 notes further that the recovery of energy from waste should be carried out at a high level of energy efficiency. In the case of energy from waste facilities using mixed municipal wastes and residual waste as a feedstock, in order to be classed as a 'recovery operation' these need to meet (as a minimum) the energy recovery efficiencies as defined under the 'R1 formula' (detailed in Annex 1 to the Waste Framework Directive). The Collections, Infrastructure and Markets Sector Plan provides details on the way in which the efficiency of energy from waste facilities is

calculated using the R1 formula. Energy from waste facilities are categorised as recovery installations when their efficiency, as expressed using the R1 formula, is equal to or greater than 0.65. Below this they are classed as a disposal operation for the purpose of the waste hierarchy.

43. TAN 21 indicates that account should be taken of the energy efficiency of any energy from waste proposal, ensuring that any such facility operates, or is capable of operating, at high efficiencies that minimise the environmental impacts and maximise the benefits of recovering energy from waste. This will involve consideration of the way in which heat is recovered from the installation. Support is indicated for the development of appropriate energy recovery options for the optimal recovery of energy from residual waste in Wales, including the development of markets for heat output and processed combustion residues, as well as electricity. Combined heat and power, and heat only options, should be considered favourably where they meet high energy efficiencies.
44. Para 3.24 refers to an 'urban quarry' as a permanent recycling repository for demolition and construction waste from an appropriate catchment area where there are longer term prospects for a sufficient and economic supply of such waste. Planning authorities should include criteria-based policies, or preferably identify suitable sites, to guide the location of repositories or 'urban quarries' for construction and demolition waste to avoid unnecessarily landfilling of inert waste.

Other Technical Advice Notes

45. Other TANs (including TAN 5 Nature Conservation and Planning; TAN 12 Design; TAN 15 Development and Flood Risk; TAN 18 Transport) contain national policy guidance relevant to various aspects of the proposal.

Towards Zero Waste (TZW) (June 2010)

46. TZW is an overarching waste strategy document. It sets out a long-term framework for resource efficiency and waste management through to 2050. The strategy incorporates the waste hierarchy. It explains that sector plans are the implementation plans for the strategy to be developed on a priority basis. Two milestones are set out:
 - 2025: Towards zero waste – seen as an intermediate step where waste will have been significantly reduced through actions on sustainable consumption and production and any waste produced will be managed in a way that makes the most of valuable resources. This will mean that recycling is maximised and residual waste is minimised with landfill eliminated as far as possible.
 - 2050: Achieving zero waste – seen as a minimum of producing 65% less waste than 2010 and aiming to phase out residual waste through actions on waste prevention and sustainable consumption and production so that the only waste produced is reused or recycled

The Collections, Infrastructure and Markets (CIM) Sector Plan (2012)

47. The CIM Sector Plan supports TZW by detailing outcomes, policies and delivery actions that contribute to the delivery of the Welsh Government's commitments, including targets, set under relevant EU Directives. In particular, the plan focuses on the requirements of the Waste Framework Directive.
48. The Plan addresses residual waste that is not dealt with higher up the waste hierarchy to be disposed of by other recovery or landfill. Four scenarios were modelled in order to predict the range of future residual mixed waste quantities. These were from business as usual to full recycling and waste prevention. There was confidence expressed in Scenario 2 (Only local authority municipal waste recycling targets met). The Plan was supplemented by Monitoring reports in 2012 and 2016.

Beyond Recycling, the Circular Economy Strategy for Wales (2 March 2021)

49. Whilst retaining the core waste policies, targets and goals in TZW, *Beyond Recycling* outlines in more detail the approaches to be taken beyond the key 2025 milestone laid out in TZW. It reinforces the need to continue the trajectory on recycling from 2025 (with a 70% target) to the ultimate goal of zero non-recycled residual waste by 2050. This trajectory leads to a recycling level of around 80% within the mid-2030s. The waste prevention targets to 2050 laid out in Appendix 2 of Towards Zero Waste and in the Sector Plans remain in place.
50. The *Beyond Recycling* Strategy is an integrated plan. The themes and actions support the delivery of commitments under Prosperity for All: Our National Strategy, in particular "for a more resource efficient economy building on our success in recycling and reducing the environmental impacts of production and consumption". It is also key to the delivery of obligations under the Well-being of Future Generations Act and the United Nations Sustainable Development Goals. It is integrated with key strategies and plans, including the Low Carbon Delivery Plan, the Wales Transport Strategy and the recently published Economic Resilience and Reconstruction Mission. It is designed to deliver against key areas of the Environment (Wales) Act 2016 and in particular the priorities set out in the statutory Natural Resources Policy. The circular economy is also an important element of the Covid-19 Reconstruction: Challenges and Priorities Strategy, making a major contribution to a green recovery.
51. *Beyond Recycling* records that Wales' municipal waste recycling rate had increased to over 65% by 2019-20 and that the recycling rate for industrial and commercial waste increased by 9 percentage points from 58% to 67% between 2012 and 2018. It sets out a range of measures which will be introduced in order to achieve the trajectory to zero non-recycled residual waste by 2050. In addition, the document notes that to move to a circular, low carbon economy there is a need to reduce the amount of waste produced by households, businesses and the public sector. The strategy sets ambitious targets to deliver a circular economy and states that waste prevention will be at its core.
52. *Beyond Recycling* signals that as repair, re-use and recycling continue to expand, the Welsh Government wants to ensure the capacity Wales has for generating energy from waste is in line with the capacity needed during Wales' transition to a

circular economy, with the long-term solution being to move away from incineration. Pursuant to this, *Beyond Recycling* announced WG's intention to place a moratorium on any future large scale energy from waste developments, since WG considers that "*the increase in recycling and reduction in waste already seen means we will not need any new large scale energy from waste infrastructure to deal with the residual waste generated in Wales*".

53. Whilst announcing the intention to place a moratorium on any future large-scale energy from waste developments, *Beyond Recycling* did not give any indication of when such a moratorium might be announced or take effect; nor did it state how "large-scale" would be defined. However, on 24 March 2021 the Welsh Government announced a moratorium on new energy from waste plants with capacity of 10MW or more with immediate effect. The announcement also stated that the moratorium will also mean that small-scale plants, of less than 10MW, will only be allowed if applicants can show there is a need for such facilities in the regions in which they are planned. Small plants would also need to supply heat, and – where possible – be carbon-capture and storage enabled, or ready.

Strategic Assessment for the future need for energy from waste capacity in the three economic regions of Wales (24 March 2021)

54. The Strategic Assessment provides information to be used by developers, Local Planning Authorities and the Planning Inspectorate Wales (now PEDW) when considering need for new, or variations of, planning permissions for energy from waste facilities and energy facilities using waste as a fuel. It replaces the strategic assessment for the need for new energy from waste capacity provided in sub-section 2.3.4 of the CIM Sector Plan 2012. As before, the need assessment is intended to support the aim of establishing enough facilities to ensure an integrated and adequate network (which must also take account of spatial needs) whilst at the same time avoiding over- provision (which has the potential to undermine the waste hierarchy, which is driving a move away from landfill and other recovery, and more towards prevention, preparation for reuse and recycling).
55. The Strategic Assessment notes that PPW applies, as key decision-making principles, the waste hierarchy, proximity (nearest appropriate installation) and self-sufficiency in terms of developing integrated and adequate network facilities for the management of mixed residual municipal waste. It requires planning authorities to support the provision and suitable location of a wide ranging and diverse waste infrastructure, which includes facilities for the recovery of mixed municipal waste. It confirms that the extent to which a proposal demonstrates a contribution to the waste management objectives, policy, targets and assessments contained in national waste policy will be a material planning consideration.
56. Tables 22, 23, 25, 26, and 31-33 covering the treatment of residual municipal waste rely on waste data available for the production of the CIM Sector Plan and rely on policies, targets and assumptions relevant at the time. They also provide information for the three waste planning regions for Wales existing in 2012, which do not exactly match the current economic regions for Wales. Tables 23 to 25 contain a note to the effect that Powys was considered to be within the North waste planning region. Another note identifies that there was one waste incinerator with

energy recovery in Wales taking municipal and other wastes. It was located in Neath Port Talbot in South West Wales and was permitted to accept 166 thousand tonnes of residual waste per year. Powys is now within the Mid and South West Wales economic region in the Strategic Assessment.

57. The Assessment notes that there have been a number of significant changes since the publication of the CIM Sector Plan 2012. These include the publication of *Beyond Recycling*, the Circular Economy Strategy for Wales in March 2021 and new data for Local Authority collected waste (2019/20), industrial and commercial waste (2018) and construction and demolition waste (2012). As noted above, *Beyond Recycling* reinforces the need to continue the trajectory on recycling from 2025 (with a 70% target) to the ultimate goal of zero non-recycled residual waste by 2050. This trajectory leads to a recycling level of around 80% in the mid-2030s. The waste prevention targets to 2050 laid out in Appendix 2 of TZW and in the Sector Plans remain in place.
58. The Strategic Assessment records that since 2012, 15 of the 22 Local Authorities in Wales have entered into long term contracts for the management of the residual municipal wastes they collect. As a result, there are now two energy from waste plants operating in Wales, one in Deeside and one in Cardiff. These have additional capacity to manage other residual wastes generated by businesses and the public sector that are not collected by Local Authorities. The Assessment notes the WG announcement of the moratorium on any future large-scale energy from waste developments, and states that the moratorium means the Welsh Government does not consider there to be a need for any new large-scale energy from waste plants of 10MW or greater. It goes on to state that small-scale energy from waste plants of less than 10MW will only be allowable if the applicant can demonstrate need for such a facility for the non-recyclable wastes produced in the region. Any new small-scale facilities must also supply heat, and where feasible, be carbon capture and storage enabled or ready. This would therefore mean a small-scale plant would not be allowable if waste is to be imported from outside of the proposed region (unless in close proximity to a region), in order to also avoid locking in transport emissions and associated pollution.
59. The new Strategic Assessment updates and replaces Tables 22, 23, 25, 26, and 31-33 in the CIM Sector Plan. This information should be used by both applicants and the local planning authority when making the case for and assessing the need for a new small scale (<10MW) energy from waste facility. The information will be a material consideration in the wholly exceptional circumstances where large scale energy from waste proposals of 10MW or greater have, or may, come forward.
60. A Waste Flow Model has been developed for the three economic regions of Wales for two future scenarios using the latest Local Authority, industrial and commercial and construction and demolition waste data available. It uses two scenarios to estimate future waste arisings. Both scenarios include the 70% recycling target set in TZW and the commitment made in *Beyond Recycling* that recycling levels will need to increase beyond 2025 on a trajectory consistent with meeting the zero-waste goal set for 2050. Scenario 1 – ‘Recycling and Waste Minimisation Targets Met’ uses the annual waste arising prevention targets contained within Appendix 2 of TZW. For Scenario 2 - ‘Recycling Targets Met, No Waste Reduction’ waste

reduction has been set to zero. In future years, both scenarios assume waste has been diverted from landfill into energy from waste to ensure that landfill caps set in TZW are not breached.

61. The need for new EfW capacity according to the two scenarios is presented in tables within the assessment. Quantities of residual waste suitable for energy recovery are identified for 2019/20 using the most up-to-date data available. Forecasts of quantities of residual wastes suitable for energy recovery are then made for the two scenarios for 2024/25 and 2034/35 for the three economic regions of Wales and Wales as a whole. Existing energy from waste facility capacity and any likely shortfall or excess capacity are identified for each region and for Wales as a whole.
62. The two modelling scenarios for Wales as a whole predict a clear downward trend in the quantity of residual waste suitable for energy recovery from 1,140 thousand tonnes in 2019/20 to 825-915 thousand tonnes in 2024/25 to 585-790 thousand tonnes in 2034/35. As noted above, the site is within the Mid and South West Wales region. The two modelling scenarios for the region also show a downward trend in the quantity of residual waste suitable for energy recovery from 300 thousand tonnes in 2019/20 to 240 to 220 thousand tonnes in 2024/25 and 220 to 170 thousand tonnes in 2034/35. As there are no energy from waste facilities in the region these figures also represent the under-capacity.
63. The capacity gap figures provided in the Strategic Assessment reflect the current status of operational capacity of energy from waste plants in Wales. The figures will change if any sites with existing planning permission translate into on-the-ground operational capacity. As TAN 21 makes clear, the capacity assessments in the CIM Sector Plan (which the Strategic Assessment replaces for energy from waste capacity) represent the starting point for the determination of need for future capacity. Where planning permissions already exist in an area (region) they should also be taken into account in determining the level of need.

Planning History

64. The relevant planning history is summarised below:

Quarrying & Minerals Permissions

The first permission is P/P 379 dated 1948. An application to extend the quarry area was granted in 1961 (P/P 4928). Another application to extend the quarry was approved in 1997 (M/96/088). Also, in 1997 conditions were approved as part of the review of old planning permissions under the Environment Act 1995 (M/1997/088). There then followed a series of applications to extend the time period for extraction under planning permission M/96/088 and subsequent renewals, which were granted in 2004, 2009, 2011, 2015 and 2020. P/2010/0165 was an application under Section 73 to vary condition 7 (hours of working) of planning permission M1997 0088, which was approved in 19/04/2011.

Permissions for Other uses

P/2012/1445 – Certificate of Lawful Use or Development for an existing use namely the use of land for overflow storage area to the decorative stone business.

Approved 11/09/2012

P/2012/0815 – Certificate of Lawful use or Development for existing uses namely A1, B1, B2 and B8. Approved 05/11/2012

P/2013/0740 – Full planning application for the removal of existing canopy and the erection of a loading bay at Buttington Quarry. Approved 09/10/2013

P/2013/0713 – Full planning application for the erection of a general-purpose storage building at Buttington Quarry. Approved 07/10/2013

2020/0045 – Erection of a building for use as storage and distribution centre. Approved 09/04/2020

Permissions for a New Access

Planning permission for the construction of vehicular access to quarry and alteration of existing access to residential access was first approved in 2000 (M/1999/1032). This planning permission has been renewed in 2005, 2010, 2015 and lastly in 2020 (20/0575/REM).

Environmental Statement

65. The ES comprises 16 Chapters. Each chapter contains technical appendices comprising assessments, reports and drawings. The ES refers to the Scoping Direction. Tables are provided to set out where each comment in the Scoping Direction and those made in the pre-application consultations have been addressed. Table 2-2 sets out where the information required by Schedule 4 of the 2017 Regulations is provided in the ES.
66. Chapter 3 of the ES sets out the alternatives considered by the applicant. The starting point was the need for a new facility in Powys. The sites were identified from a list of locations within the Powys LDP. 61 were considered many of which were minerals or employment sites. Following detailed assessment, the application site was chosen. The alternative technologies, stack heights and building designs considered are also described. The ES explains how environmental effects and considerations have influenced the choices and decisions made. Chapter 3 supplements the Waste Planning Statement by summarising the need for the development and potential benefits arising.
67. The ES explains that Key Environmental Aspects (KEA) were selected in accordance with the Scoping Direction and after consultation with the Local Planning Authority and statutory bodies. The ES includes aspect chapters (Air Quality, Highways and Transportation, Landscape and Visual, Ecology, The Water Environment, Archaeology and Heritage, Noise and Vibration, and Overall Health Impact). There are also chapters on the cumulative impacts, geotechnical matters (including slope stability) and Socio-economic effects.

Air Quality

68. As a worst-case, emissions from the Installation's stack have been assumed to be at the maximum emission limit values which represents a conservative assessment of the impact as the actual emissions from the site are likely to be significantly

lower. A detailed screening assessment confirmed that the optimum stack height for the Installation would be 70m.

69. Predicted maximum Ground Level Concentrations (GLCs) from the Process Contributions are within the short and long term air quality objectives and are assessed as not significant (less than 1% of the Air Quality Standard [AQS]) for most pollutants assessed, and for those of potential significance, further assessment has demonstrated that the predicted environmental concentrations have a negligible impact on the environment or human health at the maximum point of ground level concentration and at potentially significant human receptors locations.
70. For the sensitive habitat sites, there will be no significant effects. It has been demonstrated that the impact from the proposed Installation is unlikely to result in a breach of the relevant Critical Loads or Critical Levels or have a detrimental effect on local habitat sites.
71. An assessment of plume visibility was also undertaken, which concluded that visible plumes would only occur around 30% of the time, and for 95% of this time, any visible plumes would remain within the site boundary. An assessment was also made of the impact of the proposed plant when operating under the abnormal conditions permitted under Article 46(6) of the Industrial Emissions Directive. The results of the assessment indicated that it would be unlikely that any AQSs would be exceeded under such abnormal operating conditions.
72. Modelling was carried out using the appropriate ELVs as specified in the Industrial Emissions Directive. However, it is noted that the Best Available Techniques ("BAT") Reference Document (European IPPC Bureau 2019) has recommended lower limits for certain pollutants. As this document has been issued, the applicant has taken the decision to adopt the limits specified in this document to demonstrate its commitment to ensuring the minimum impact on the environment possible, and to be in keeping with the principles of the Well-being of Future Generations (Wales) Act. The effects of prevailing meteorological conditions, building downwash effects, local terrain and existing ambient air quality were also taken into account. For the purposes of determining the 'actual' maximum GLCs arising from the emission of pollutants from the Installation, actual monitoring data - both continuous and periodic - from a similar plant at Edinburgh has been used.
73. The impact of road traffic associated with the Installation, in all phases of the development can also be classed as not significant for the majority of pollutants and receptors assessed. Where further screening was required, the impact was described as 'slight' (for NO₂ at Buttington Bridge) and 'negligible' for the remaining specified human receptor locations. The odour assessment also confirmed that the Installation will have a negligible effect on the nearest sensitive receptors.
74. The likely effect on air quality from the construction phase will be from dust (particulates) during construction and site clearance operations. The construction activities will be well contained within the quarry void thus potential effects are not expected beyond the planning application boundary.

75. In summary, therefore, the ES concludes that the proposal will not have a significant impact on local air quality nor give rise to any significant odour impacts.

Highways and Transportation

76. The scope of the Transport Assessment report was agreed with the relevant Welsh Government Transport Network Management Division, Powys County Council and Highways England. The relevant National and Local transportation planning policies have been identified and it has been demonstrated that the proposal would comply with those policies. The baseline transport conditions within the agreed study area have been established and that has included reference to the results of an ATC survey on the A458 and the results of manual classified traffic counts at the three agreed key junctions for this study. In addition, the level of traffic attracted to the identified but as of yet un-implemented 'committed' developments has been calculated.
77. The level of traffic attracted to the development site during the construction and operational phases of the development has then been identified. As the construction and decommissioning phases would be temporary and, with the exception of the short construction period for the site access junction, no significant effects are likely, the junction capacity assessments for this study have only been undertaken for the operational phase of the development. The operational phase of the development would span a far longer time period and would, with the exception of the relatively short enabling phase, attract higher daily HGV levels.
78. Notwithstanding the above it is considered that the construction vehicle movements would have a direct, temporary, minor adverse effect only on the operation of the local highway network. It is acknowledged that the construction of the new site access junction, which would lead to highway safety and operational gains once it replaces the existing access junction, would have a major, adverse effect on traffic flows on the A458 adjacent to the Development Site but that effect would be for a very limited temporary period only. It is considered that the operational development traffic would have a direct, permanent, negligible adverse effect only on the operation of the local highway network. Likewise, the decommissioning phase would have a direct, temporary, minor adverse effect only on the operation of the local highway network.
79. Finally, it is considered that during all phases of the Development, the traffic attracted to the site would have direct and minor adverse impact only on pedestrian severance, amenity, delay, fear and intimidation.

Landscape and Visual Impact Assessment (LVIA)

80. The LVIA has been carried out in line with current guidance and best practice specified for landscape professionals, and advice set out in relevant guidance and with due regard to comments in the Scoping Direction in relating to landscape and visual matters. Cultural heritage designations have been taken into account.
81. The baseline situation with regards to landscape setting, character and designations has been established through the LVIA. Direct and indirect effects have been explored in terms of landscape character. A neutral nature of effect was

determined with regards to both the construction/decommissioning and operation phases of the Development. This also applies to indirect effects on the assessed landscape designations. No significant effects were identified.

82. With regard to visual receptors, a significant effect was recorded in a small number of cases. This mainly occurred in the construction/decommissioning phases as opposed to operation. With regards to the latter, overall magnitude of impact was also lower and effects generally of a neutral rather than adverse nature of effect in comparison. An important consideration is the location of the Development Site in a wider context as it occupies part of a transitional landscape with the Severn Valley to the west and the higher uplands of Breidden Hill and Long Mountain to the east. Consequently, it is often viewed against a backdrop of land rather than skyline.
83. The LVIA concluded that there would be sufficient landscape and visual capacity to enable the Development without overriding adverse effects on either landscape character or visual amenity. No adverse cumulative landscape or visual effects have been identified due to the Development.
84. Mitigation measures form an integral part of the Development and have been considered as part of the assessment of landscape and visual effects. Of note, is the siting of the ERF building and stack which will be located in the quarry void in the central environs of the Development Site (i.e. at a low level). The screen bunds will be planted with native broadleaved trees and provide screening properties as well as long term neutral or beneficial effects. The selection of cladding colours which is intended to be sympathetic to the landscape setting is an important consideration for landscape and visual receptors as demonstrated by the assessment.
85. The development will result in notable changes both regarding the development site and in a wider context in landscape and visual terms. Of the adverse impacts or effects that have been identified in the assessment, none are so overriding that it would have a wholly dominant or intrusive visual effect, nor will it remove distinctive attributes of landscape character identified through LANDMAP.

Ecology

86. Ecological features and the likely effects of the Development on them have been evaluated and assessed in line with current best practice guidance for ecology. The designated sites within the Zone of Influence are Montgomery Canal Special Area of Conservation ("SAC") and Site of Special Scientific Interest ("SSSI"), Granllyn SAC, Moel-y-Golfa SSSI and Midland Meres and Mosses (Phase 1) Ramsar Site. There are also eleven areas of Ancient Semi-Natural Woodland ("ASNW").
87. Air quality modelling shows that operation of the proposal will result in a slight increase in air pollution levels but can be judged to be "*not significant*" at all ecological receptors. There will be no exceedances of the critical levels set for the protection of ecosystems at either European Protected sites or all other ecological sites. In most cases, long term process contributions ("PCs") are less than 1% of the critical level and only just over a maximum of 2.66% for one ancient woodland site.

88. Nutrient nitrogen deposition critical loads will not be exceeded at the majority of local nature sites and will not cause any significant pollution at one of the ancient woodland sites. Process Contributions are a maximum of 2.78% of the lower critical load and 1.39% of the upper. At Moel-y-Golfa and the Montgomery Canal, the PCs are a maximum of 2.96% of the lower critical load. However, the magnitude of change for Moel-y-Golfa is so small with respect to the background levels that significant impacts are not expected. The Development is not considered likely to have a significant effect on the qualifying features of any SSSI or area of ancient woodland. For the Montgomery Canal, the lower critical load specified is not applicable, and as the process contribution is less than 1% of the upper critical load the impact can be considered not significant. Process Contributions on both RAMSAR sites considered are less than 1% consequently are not significant.
89. Most of the Development footprint is of low ecological value with limited scope to support protected species. This comprises the existing quarry void, access tracks and laydown areas which are dominated by compacted bare or sparsely vegetated ground, along with recently felled woodland at the proposed new access off the A458. The remainder includes ephemeral/short perennial and tall ruderal vegetation, scattered scrub and areas of semi-improved neutral grassland which together meet the criteria for Open Mosaic Habitat on previously developed land ("OMH"), a Section 7 priority habitat. Two existing settlement lagoons also represent priority habitat (ponds) due to the presence of a small population of great crested newt ("GCN"). Broadleaved woodland along the stream corridor is also a Section 7 priority habitat.
90. Habitats immediately adjacent to, but outside the Development footprint include a small stream, broadleaved and coniferous woodland, including an area of Plantation on an Ancient Woodland Site ("PAWS"). Habitats associated with the remnant agricultural field system are also present within the wider land holding, including hedgerow, scrub, and scattered trees, poor semi-improved and neutral grassland, and tall ruderal vegetation. Targeted ecological surveys have identified that habitats within the Development area and within the wider land holding support or have the potential to support, fauna that could be affected by the proposals. These include GCN, bats, nesting birds, dormice, badger, hedgehog, reptiles, and common amphibians.
91. The main impacts of the development are direct loss of priority (but relatively low quality) OMH, woodland and pond habitats; degradation of aquatic habitats resulting from pollution; and risk of harm to or displacement of protected species. A range of mitigation and enhancement measures have been designed into the development proposals. These include the creation of approximately 2.6 ha of new, high quality OMH habitat along with a series of dedicated wildlife ponds and 4 ha of new native woodland planting which will ensure no net loss of habitats and an overall increase in habitat quality once established. The proposed creation of new ponds to replace the existing sub-optimal ponds means that the overall effect of the development on GCN would be likely to be beneficial. A habitat management plan will identify long-term management and monitoring provision for the mitigation,

compensation and enhancement measures. The plan will be in accordance with BS 42020 and will cover the lifetime of the development.

92. Precautionary measures in respect of the protection of habitats and species will be incorporated into a Construction Environmental Management Plan (CEMP) to ensure minimisation of effects during construction and operation. A European Protected Species Mitigation Licence ("EPSML") will be secured to ensure legal compliance with respect to GCN. The measures proposed (including the mitigation, controls on lighting and the CEMP) will minimise the effects of the Development on ecological features of importance and ensure legal compliance in respect of protected species. The development is consistent with relevant biodiversity planning policy and is considered to contribute to the aims of the Environment (Wales) Act in maintaining and enhancing biodiversity and promoting the resilience of ecosystems, particularly OMH and ponds. Local habitat connectivity will be maintained and there will be an overall increase in the quality of priority habitats.

Archaeology and Heritage

93. The assessment has established that the Development has the potential to contain limited artefactual remains of prehistoric, Roman, Saxon, Medieval and Post-Medieval date. Potential from the Post-Medieval period is limited to remnants of agricultural activity. However, previous quarrying activities will have removed most remains from within the Development Site boundary. Therefore, any remains that may survive from these periods would be fragmentary and lie around the perimeter of the Development where less quarrying activity would have been undertaken. It is possible, however, that a programme of archaeological works may be required by the archaeological advisor to the Local Planning Authority to determine their extent and level of preservation, with an archaeological watching brief on groundworks which have not been subject to previous modern disturbance is suggested as suitable mitigation. Such a programme of works could be secured as a condition to planning consent.
94. Once the mitigation measures outlined above have been implemented, no further archaeological work will be required. The residual impacts on any potential below ground archaeological remains will be negligible in the long-term at the local level, which is not significant.
95. There are no World Heritage Sites, Conservation Areas and Historic Battlefields either within the Development Site or the 5 km study area. Therefore, the Development will not impact upon the setting or significance of these designated heritage assets. A single Scheduled Monument is assessed to have a minor adverse effect upon its wider setting from the Development in the long-term at the national level, which is not significant. There are 4 Grade II, one Grade II* and one Grade I Listed Buildings that are considered to have a minor adverse effect upon their wider settings from the Development in the long term at the national level, which is not significant. Seventeen Grade II Listed Buildings are considered to have a negligible to none effect upon their wider settings from the Development in the long-term at the national level, which is not significant.

Noise and Vibration

96. An assessment has been undertaken of the noise impacts of the Development during its operational period at the identified noise sensitive receptors. Vibration effects were omitted from the assessment, having been scoped out following consultation with Powys CC and in the scoping direction. The study benefits from a baseline study to inform the assessment and to ensure that the impacts are determined in context with the baseline sound climate.
97. During the operational phase impacts from industrial noise sources and on-site vehicle movements on nearest sensitive receptors have been assessed and compared with appropriate and relevant noise guidance and standards. An example of noise mitigation measures has been provided relating to plant design levels and building construction detail to control radiated noise from the Development Site and the assessment concludes that there would be no significant impacts.
98. Noise from road traffic movements as a result of the Development have been considered on the local road network relative to existing receptors and the assessment concludes that this would not produce any significant change or impact.
99. Cumulative noise effects from proposed and existing noise sources in the vicinity of the Development have been considered and the assessment shows no significant increase in overall noise levels at noise sensitive receptors and therefore no significant impact is likely. Construction and Decommissioning noise was also considered in this assessment and best practice would be applied during this phase in accordance with relevant British Standards.
100. In summary, no significant noise effects have been identified by the assessment in relation to site construction/decommissioning or operational phases of the development.

Health Impact

101. A Health Impact Assessment ("HIA") was undertaken to determine the health impacts from the Development. The HIA has been undertaken using the methodology and tools provided by Wales Health Impact Assessment Support Unit ("WHIASU"). The HIA also considered recommendations to address identified potential unintended consequences and to also maximise positive health impacts.
102. The measures to be implemented are set out in terms of proposed mitigation to address potential adverse impacts. A Liaison Group will be established with relevant stakeholders and with links to the community such that concerns can be raised and discussed and effective communication about the proposed Development can be disseminated. The applicant and operator will liaise and collaborate with Powys CC and other stakeholders in establishing an educational and training programme centred on the ERF activities; and collaborate to promote the use of the public footpath and surrounding green space for physical activity and well-being.

103. The HIA considers the possible short-term and long-term impacts of the proposal, including the matters covered in the ES (without mitigation), socio-economic issues, health and safety ethos, well-being, and mental health impacts. Some potential benefits have been identified, but further work will be required, should planning permissions be granted, to formalise these benefits, particularly in respect of the local communities.
104. An assessment of the likely significant cumulative effects of the Development in relation to identified 'Other Developments' has been undertaken. The type of 'Other Developments' considered include those that have been granted planning permission, are not yet operational, have yet to be constructed or are submitted applications which are yet to be determined. Only major developments within 5km of the Development Site have been considered as these have the greatest potential to result in cumulative impact in the surrounding area of the Development. Only major developments, those subject to an EIA, waste developments, winning and working of minerals or the use of land for mineral working deposits and those which involved the construction of tall structures or buildings were selected.
105. The assessment concluded that no significant cumulative impacts have been identified as a result of the Development or as a result of the Development in combination with the identified 'Other Developments'.
106. This chapter also summarises all of the environmental effects identified in the other chapters, the mitigation measures required and how the Development will be managed in an environmentally responsible manner. There is a detailed table outlining all mitigation measures. The risk of major accidents or disasters affecting the development, and consequently impacting the environment is considered. It is considered that where there is a potential risk from the various accidents and disasters, this risk has been addressed in the ES. In addition, the majority of emergency response plans and contingency measures will be addressed in the Environmental Permit Application to be submitted to Natural Resources Wales. Health and Safety effects arising from accident and disaster would be dealt with through relevant industry controls.

Geotechnical, Water and Socio-economic Issues

107. Intrusive investigation of the Development Site has confirmed the underlying ground conditions and characterised the chemistry of soils and groundwater. The Development Site is underlain by Silurian mudstones, which are bedded very steeply towards the southeast, and young towards the southeast. Slope stability analysis concluded that the slope stabilisation will be required for all newly created slopes angled between 34° and 60°. An angle of 60° is considered the steepest angle at which the slope may be safety stabilised for long term integrity. A section of rock exposure just beyond the northeast end of the Development Site and non-operation quarry is classed as a geological Site of Special Scientific Interest (SSSI). The new Development and associated earthworks and slope stabilisation have been designed to ensure long term preservation of the SSSI.
108. A comprehensive Surface Water Management Plan has been prepared to address the management of surface water runoff throughout the life of the development.

The SWMP maximises the use of Sustainable Drainage Systems within the site constraints and the outline drainage design has received a positive pre-application response from Powys County Council's Land Drainage team. The Construction Environmental Management Plan will minimise the risk of pollution to groundwater and surface water. Soils were confirmed to be uncontaminated with regards to the human health of construction workers, future site occupiers and neighbouring site users. Groundwater is not considered to present a risk to the aquatic environment.

109. The ES socio-economic assessment concludes that there would be no significant negative effect from the introduction of the development to the area. A negligible positive effect will result in terms of employment and supply chain particularly during operation, but this is not significant. The likely numbers of construction (300 full time equivalent) and operation (30 full time equivalent) workers will require a mix of technical and support staff that will offer the opportunity of direct and indirect employment. Employment and supply chain effects will result in a positive effect, but this is not considered to be significant for the Local or Wider Study Areas. The length of time employment and supply chain requirements are required for operation makes this positive effect greater than for construction and decommissioning phases.
110. A non-technical summary has been provided which includes the information provided under Regulation 17 and paragraphs 1 to 8 of Schedule 4 of the 2017 EIA Regulations.

Habitat Regulations Assessment (Shadow)

111. The applicant has provided a shadow Habitats Regulations Assessment (sHRA) and has taken into account information in the Scoping opinion for the ES and the comments of NRW, who were consulted. The sHRA has been revised in response to these comments. A Zone of Influence (Zoi) for the proposed development is the area over which ecological features may be affected by biophysical changes as a result of the proposed project and associated activities. The assessment considered the following effects: physical habitat loss and damage, pollution related impacts and disturbance (such as noise or human activity). A Zoi of 10 km has been adopted based on UK Government guidance with regard to aerial deposition of pollution on sensitive ecological features.
112. Taking into account these impact mechanisms and the maximum Zoi that has been adopted for the assessment, the sHRA has only considered impacts on the following European sites:
- Montgomery Canal Special Area of Conservation (SAC), which is 1.8 km to the west of the Site;
 - Granllyn SAC, which is 4.3 km to the west of the Site; and
 - Midland Meres and Mosses a Phase 1 Ramsar site, which is 7.4 km to the south of the Site.

The nearest other SAC is Tanat and Vyrnwy Bat Sites SAC, which is approximately 10.5 km to the north-west of the site. The proposal would not impact on the

population of bats or the surrounding habitats on which the bats rely for foraging and this SAC has therefore been scoped out of the assessment.

113. The qualifying features for the Montgomery Canal SAC are Floating water-plantain (*Luronium natans*); for Granllyn SAC are Great Crested Newt (*Triturus cristatus*) and the Midland Meres and Mosses Ramsar site comprises a diverse range of habitats from open water to raised bog and supports a number of rare species of plants associated with wetlands including five nationally scarce species together with an assemblage of rare wetland invertebrates (three endangered insects and five other British Red Data Book species of invertebrates). The conservation objectives for each site are also set out.
114. Available information on the site conditions indicate that surface water inputs are the main concern for Montgomery Canal SAC. Granllyn SAC was assessed as unfavourable but recovering in 2008. There is no specific information available for the Ramsar site; however, condition assessments have been completed for the component SSSIs that collectively make up the Ramsar site (15 in total). Only one component SSSI is present within the 10 km Zol: Marton Pool, Chirbury SSSI. The condition assessment for this SSSI was assessed as unfavourable but recovering in 2011 due to the past effects of water pollution and agricultural runoff.
115. The source of likely significant effects was determined to be changes in air quality resulting in impacts on water quality through deposition. Physical habitat loss and damage were screened out as the nearest site is the Montgomery Canal SAC, the nearest part of which is approximately 1.8 km to the west of the application site. The two locations are separated by a road, a railway, farmland and the River Severn, which collectively will buffer the SAC from any direct or indirect impacts on habitats.
116. Each of the SACs and the Ramsar site were assessed for changes in air quality resulting in impacts on water quality through deposition of nitrogen, ammonia, nitrogen oxides and sulphur dioxide. There would be no likely significant effects arising from the predicted changes as they are all well below critical levels. The conclusion reached was that the development alone will not have a likely significant effect on the SACs and the Ramsar site and their interest features and no reasonable scientific doubt remains in reaching this conclusion.
117. Whilst the proposed development will result in the generation of aerial pollutants, modelling shows that these will be at very low levels compared to the current baseline conditions. Agriculture is currently the main contributor to elevated levels of nitrogen deposition, ammonia, and NO_x. Industrial sources and shipping are the main contributors of SO₂.
118. The in-combination assessment considered the effects of the proposed ERF in combination with the development of Free Range Egg Laying Chicken Houses at Trelystan, near Leighton (identified by NRW). No additional plans or projects have been identified that need to be considered as part of the in-combination assessment. The assessment concluded that the in-combination impact on ammonia levels would not be significant. In respect of nutrient nitrogen deposition rates and the Montgomery Canal SAC, the assessment concluded that agricultural

activities generating diffuse pollution to surface or ground waters are identified as key source of nutrients, and not aerial deposition (the canal is a man-made feature that is supported by diverted surface water flows). The overall contribution of nitrogen deposition by the ERF and poultry houses when considered in combination is very small compared with current background levels. Overall it is considered that the proposed development, when considered in combination with other plans and projects, is not likely to have a significant effect on the Montgomery Canal SAC.

119. It is concluded that the development is not likely to have a significant effect on the qualifying features of the Montgomery Canal SAC, Granllyn SAC and Midland Meres and Mosses – Phase 1 Ramsar site as a result of changes in air quality that are predicted to arise during the operation of the Site.
120. There are not likely to be significant effects on the Montgomery Canal SAC, Granllyn SAC and Midland Meres and Mosses – Phase 1 Ramsar site or their qualifying features (including functionally linked land) because of the separation distance between the Development and the designated sites. The Development will result in a small increase in aerial pollutants during the operation phase; however, the predicted Process Contribution is small when compared to the relevant Critical Load or Critical Level.
121. The sHRA explains that this conclusion has been reached in the absence of any reliance on mitigation measures and is therefore compliant with European court judgments. This conclusion also considers the effects of the proposed development in combination with other plans and projects. No reasonable scientific doubt remains in reaching this conclusion.

THE CASE FOR THE APPLICANT

Waste Planning Statement

122. The Waste Planning Statement (WPS) sets out the background to the application and describes the site and development proposed. The Buttington ERF will accept a range of non-hazardous residual municipal (household) commercial and industrial wastes. The term 'residual' means that recyclable materials would have been recovered from the waste streams. The ERF will have the capacity to treat up to 167,000 tonnes per annum (tpa), although in practice the plant will accept 150,000 tpa. The facility will be 'R1 efficient' and will generate up to 12.8MWe of renewable and low carbon energy in the form of electricity and heat. This will be achieved through the thermal treatment of the residual waste. The proposal is supported by a Market Appraisal and catchment for the facility, based on the most recent data.
123. The waste planning policy context outlined above is provided. The other main points are summarised here: The 'R1 energy efficient' Buttington ERF will move residual waste away from disposal to landfill and 'up the hierarchy' to enable waste to be used in place of fossil fuels to generate energy. As behaviours change and recycling technologies advance, there will continue to be a need in the medium term for energy from waste and similar technologies to deal with the residual waste in the interim.

124. The Buttington ERF responds to the need identified in TAN 21 for more recovery facilities across Wales. The proposed Development Site has been chosen following a review of the existing energy recovery capacity in Wales based on regional waste monitoring and the most up to date market data, and a comprehensive alternative sites assessment. The Development Site location accords with the principles of self-sufficiency and proximity and the spatial criteria set out in TAN 21. As a quarry with an employment designation the site accords with the type of location identified in TAN 21 as being suitable for waste management.
125. The ERF responds to the identified need for a network of facilities within the local plan area and of the need for recovery capacity up until 2050 when the aspiration of zero waste has been realised. Buttington Quarry is well located in line with the LDP site location criteria and policy aspirations for new waste management facilities. The proposal will generate new direct and indirect employment, focussing on the local market. An apprenticeship scheme will provide on-site learning and an education centre will provide opportunity for local school children to learn about waste, energy, and sustainability issues and how their generation can make a difference in helping to move towards a circular economy.
126. The site search and assessment exercise shows Buttington Quarry to be the preferable site. It is located on a major arterial route, unaffected by any planning or serious environmental constraints and benefits from a 6-ha LDP employment allocation which incorporates a deep quarry void. The site is also identified as being suitable for waste use under Policy W1 of the Powys Local Development Plan. Most of the land is in single freehold ownership and is available for the design life of the facility. The former brickworks buildings are occupied for commercial activities and there is scope to provide heat and electricity as part of wider plans to create a sustainable business park. The proposal in this location would also bring forward the early restoration of part of the quarry. Initial discussions have taken place with business owners and local farms regarding the potential provision of heat and power. No firm commitments have been received because the proposal does not have planning permission as yet.
127. The market appraisal calculates that there would be a surplus of 640,000 to 690,000tpa of residual MSW and C&I waste. This equates to nearly 4 times the capacity of the proposed ERF, therefore clearly demonstrating a need for such a facility.
128. In terms of renewable energy, good progress has been made towards the target of 70% power from renewable resources, but there is still a requirement for a significant amount of additional generating capacity to be commissioned in the next 8 years in order to meet this target. The proposal will make a necessary contribution to the overall targets for both Wales and the UK. It will complement the existing portfolio of renewable and low carbon energy suppliers, which relies heavily on wind and solar energy with potential to produce in the order of 12.8 MWe of energy to help progress towards the ambitious targets.

Need for the Proposal

129. Policy 17 of Future Wales sets out that the Welsh Government strongly supports the principle of renewable and low carbon energy development from all technologies and at all scales to meet future energy needs. As a technology, Energy Recovery (or Energy from Waste) is defined as a low carbon / renewable energy technology in the Welsh Government's 'Energy Generation in Wales' reports published in 2019 and 2020. Whilst the 2020 report does not include a specific section on Energy Recovery, the document states (on page 31) that 'We have not reported on some technologies this year as there has been little or no material change from 2018 [base date of the 2019 report]. These include biomass electricity and CHP, energy from waste, landfill gas, nuclear, solar thermal, sewage gas and pumped hydropower storage'. This confirms that the exclusion of Energy Recovery from the report is not because it is not considered to be a low carbon or renewable technology – it is simply due to there being no change in the data for the technology. However, the data tables included on pages 6 and 28 of the report clearly identify Energy Recovery as a renewable generating technology. The position in the 2019 report is clearer with Energy Recovery having a technology specific section under the over-arching heading 'Low Carbon Technologies'.
130. The Strategic Assessment for the Future Need for Energy from Waste Capacity in Wales provides information to be used by developers, local planning authorities and PEDW when considering need for future capacity. The suite of relevant documents is now provided by Beyond Recycling (2021), Towards Zero Waste (2010), and the Collections, Infrastructure and Markets Sector Plan (2012), with planning policy on waste provided in PPW 11 and TAN 21. The Strategic Assessment (SA) reiterates that the need for a facility will be charged against the capacity range identified for any given region in the sector plan (as amended by the Strategic Assessment).
131. The Strategic Assessment uses two scenarios to identify the need for new energy from waste facilities. The range of undersupply for residual waste suitable for energy recovery shows a 170 to 220 thousand tons per annum of under capacity for the mid and South West Wales region. The applicant's assessment shows that this is very much a best case scenario and in reality the under capacity would be significantly higher. The applicant also provides information on the amount of waste each local authority in the region sent to landfill in 2020. This shows that around 22% of municipal waste generated in Powys is disposed of via landfill, compared with the other councils who all send less than 5% to landfill.
132. The applicant sought further clarification from Welsh Government on the moratorium and the strategic assessment and a full record of the email correspondence has been provided. The information includes confirmation that: the economic regions for waste management have been updated to reflect the economic action plan areas of South-East Wales, North Wales and South West and mid Wales. 15 of the 22 local authorities in Wales have entered into long-term contracts for the management of their residual municipal wastes. The moratorium is a material planning consideration. The available operating capacity identified in the strategic assessment is for two facilities: the energy from waste plants at Park Adfer and at Trident Park in Cardiff. There is no formal decision document available which sets out the detailed reasoning for the moratorium, and why a moratorium

was put into place rather than any other measures. The model used was developed for the Welsh Government by local partnership and is a proprietary model that cannot be made available to the applicant.

133. The Strategic Assessment confirms that the capacity ranges identified for any given region will be a material consideration in the wholly exceptional circumstances where large-scale energy from waste proposals of 10 MW or greater have come forward. The applicants considers that even with the moratorium in place that provision still remains for large-scale proposals to come forward. It is emphasised that the status of the moratorium, the legality of its preparation and issue, and the corresponding weight that can be attached to it in decision making is questionable and open to challenge.
134. The exceptional circumstances that do exist in the case of the proposed development are based on the following reasons:
- The Strategic Assessment clearly defines a need for the facility in the region;
 - The level of need identified exceeds the capacity of the proposed development;
 - The proposed facility will recover circa 13 MW of low carbon electricity from waste that would otherwise be disposed of in landfill;
 - The proposed development offers the opportunity to provide heat to employment development in the area; it could act as a catalyst for development of the employment land; the proposed development is appropriately located to deal waste generated on both sides of the border making an important contribution on a greater than national or regional scale to the objective to direct waste away from landfill;
 - If the Welsh Government's zero waste ambitions by 2050 are not realised, the proposal will address any shortfall and prevent waste going to landfill or being transported out of the region contrary to the proximity principle;
 - The applicant is willing to agree to conditions to limit the operational life of the development to ensure that the proposal does not undermine the objective to achieve zero waste;
 - The proposal will comply with the proximity principle contained in the waste framework directive; and
 - The proposal would result in a saving of around 31,900 tonnes of CO₂ per annum compared to landfill
135. In March 2021, *Beyond Recycling: a strategy to make the circular economy in Wales a reality* was published. The strategy confirms the zero-waste target for 2050. The strategy seeks to ensure that "the capacity we have for generating energy from waste is in line with the capacity needed during our transition to a circular economy, with the long-term solution being to move away from incineration". At the same time the strategy introduced the government's intention to place a moratorium on any future large-scale energy from waste developments. This was confirmed in a written ministerial statement on 24 March 2021. The applicant argues that this position is in conflict with the data presented in the March 2021 Strategic Assessment.

136. The applicant has obtained a legal opinion from Counsel that concludes the moratorium is unlawful as there are a number of legal errors in the production. These are summarised as:

- A failure to adequately consult under the waste regulations which has resulted in clear prejudice to the applicant;
- Failure to take into account national policy in particular the policy support for energy from waste in PPW 11;
- Failure to correctly apply the policy position set out in TAN 21, PPW11 and the CIM sector plan as the capacity analysis contained in the Strategic Assessment (SA) cannot reasonably justify such a moratorium;
- A failure to justify the restriction of large-scale facilities whilst allowing small scale facilities. This has led to an irrational inconsistency in the application of the need case which suggests that need can be met by a number of small scale facilities but not a single large facility; failure by Welsh government to take into account proximity principle in light of the fact that there is no energy recovery facility in the mid and south Wales region; and
- A failure by Welsh government to provide justification or evidence in the context of the moratorium that energy from waste facility should not be viewed as renewable or low carbon energy proposals.

137. The moratorium is inconsistent with the evaluative approach set out in TAN 21. Welsh Government has failed to account for the potential for an appropriately located facility to also process waste from areas close to the Wales-England border. It is irrational to take an approach which effectively disappplies the proximity principle across administrative borders.

138. The legal opinion considers the justification for a moratorium in more detail and after considering the evidence questions the technical information put forward in the Senedd as a basis for the moratorium. Advice obtained concludes that the assertion that such facilities negatively impact the environment, run counter to climate change initiatives and impede the evolution of more advanced recycling technology, represents a misunderstanding of the role EFW plants play in the modern waste management system. The process is complementary to the development of a circular economy because it addresses the intractable problem of residual waste management in a constructive way and avoid its deposition to landfill. The technology reduces reliance upon landfill and provides a proven and safe method for dealing with these wastes.

139. The legal statement concludes that if the moratorium is to be considered as part of the planning balance, it should not be given any real weight as the existence of manifest errors of law in the production of the document is material to the waste to be given. If it is to be given any weight in the planning balance (which the applicant says it should not), the strategic assessment is clear that large-scale facilities may exceptionally come forward and that the need analyses contained in the SA will be taken into account as part of consideration of whether exceptional circumstances have been established.

140. The alternative sites considered in Powys are set out in the ES. Buttington Quarry was found to be the most preferable site. It is located on a major arterial route, unaffected by any planning or unmitigable environmental constraints and benefits from a 6ha LDP employment allocation which incorporates a deep quarry void. The site benefits from an employment allocation and is suitable for waste use under Policy W1 of the Powys Local Development Plan. Most of the land is in single freehold ownership and is available for the design life of the facility. The former brickworks buildings are occupied for commercial activities and there is scope to provide heat and electricity as part of wider plans to create a sustainable business park. The proposal in this location would also bring forward the early restoration of part of the existing quarry. At an earlier stage, sites in Merthyr Tydfil and Swansea were considered. They were discounted due to constraints and existing and planned competing facilities in the area at that time. Finding sites as suitable as this one is very difficult.
141. The need for future ERF has been considered in the context of existing waste management infrastructure in Wales (in the Waste Planning Statement). There are two existing facilities in Cardiff and Flintshire. The planning consent for a smaller facility in Welshpool has not been implemented and no permit has been granted. It is accepted that a lawful development certificate has been issued and the planning permission remains live. The available technology is a major investment which means that small ERFs such as this are difficult to achieve due to the lack of economies of scale.
142. It is recognised that the movement of the waste will lead to the generation of carbon emissions and a carbon footprint. This is a relatively small part of the overall carbon footprint of the proposal. A WRATE (Waste and Resources Assessment Tool for the Environment) analysis has been completed for the operational activities based on current projections and was appended to the September 2021 submission. Every attempt has been made to reduce the carbon footprint within the facility and in relation to transportation.
143. The site is within the region where the SA says that there is a need for additional ERF. The chosen location complies with TAN21, PPW, FW and the Local Development Plan. It is a sustainable location and meets the proximity principle. There are a number of contracts for waste disposal in Wales that rely on transporting waste to England.
144. There would be around 300,000 tonnes of material to be removed from the quarry. Preliminary investigations have begun but there is no confirmed use or location for this material in the absence of planning permission. There are no proposals for carbon capture as the technology and facilities are not currently available.
145. The applicant commissioned a WRATE Assessment which demonstrates that the development will result in a saving of circa 31,900 tonnes of CO₂ per annum compared to landfilling (which is equivalent of removing 11,350 average petrol cars off the road per annum). A carbon calculation concludes that the carbon footprint of the proposed energy recovery facility is substantially lower than sending the waste to landfill.

146. The Proposed Development will only treat waste that is not viable for recycling – this will be addressed by the environmental permit and waste acceptance procedures. The proposal will receive residual waste remaining after the extraction of recyclable materials and produce energy as a sustainable alternative to the use of fossil fuels. While we transition to zero waste, energy recovery is widely acknowledged as a preferable waste management solution to landfill – this is reflected in its position above landfill on the waste hierarchy. Residual waste is and will continue to be an issue as we move towards a circular economy – as is evident even in countries with very high recycling rates.

Air Quality

147. Comments on the main concerns of BIIG are as follows:

- The ADMS model includes effects of stratification (i.e. stable layer/inversions), buildings and complex terrain on airflow and turbulence, and hence dispersion and deposition.
- The complex terrain has been taken into account in the modelling, mainly through
 - model runs including the use of local Numerical Weather Prediction (NWP) data as input to the model
 - the use of the complex terrain module in ADMS
- The NWP data includes the effects of terrain features on scales of 1.5km or greater, and the ADMS terrain module models smaller-scale effects.
- The complex terrain module of ADMS has been extensively validated.
- The modelled stack is likely to have a high effective stack height due to its height, temperature and exit velocity, so the effects of cold wind drainage effects are not considered to be important in this case.
- Plume grounding and high plume concentrations tend to be mutually exclusive. If the plume doesn't disperse, it will not ground, and if it does disperse and reach the ground it will be well diluted.
- In response to the concern that "AERMOD indicates that the plume will regularly ground on the valley sides", it is noted that AERMOD treatment of plume impaction in complex terrain is very poor, and the validation and inputs to the 'Plume Plotter' tool are unknown; so, the material presented for the Plume Plotter tool/AERMOD should be discounted as it is not reliable evidence.

148. The findings of the high-level review of the ECL and Broad Energy dispersion modelling report are that the approach to the general application of ADMS, and the associated assumptions and methodology are considered to be appropriate and robust. Pre-application discussions have been held with NRW since 2017/18.

149. The optimum stack height has been assessed in the modelling and all the input data will be provided to NRW. The dispersion model took account of the terrain. Local weather stations are not representative of this area, so Numerical Weather Prediction (NWP) meteorological data was used. The results show that the worst year for actual meteorological data was that used by the NWP. Amateur data was considered but it could not be used as it was not validated. In terms of the school and other close downwind receptors, all have been considered and the model shows no breaches of any EQS. The EQS are the statutory standards and BAT

will mean that emissions are lower over time, e.g., NO₂ now 60% lower than existing EfW plants. The standards must be met regardless of the topography.

150. BIIG raise a concern that pollution limits are constantly being revised downwards, reasonable reanalysis of BE data indicates Cr VI will exceed permitted thresholds by a factor of over 3 times and based on more recent WHO guidelines, PM_{2.5} and SO₂ concentrations should also be re-assessed.
151. These points largely relate to the same concern, namely that emission limits for various pollutants are too high. The pollutant emission limit values (ELVs) used in the air dispersion modelling are those that would be set by Natural Resources Wales (NRW) in the Environmental Permit that the Installation will be required to operate under. The modelling has been undertaken on the assumption that the Installation will operate discharging the various pollutants at the maximum ELVs 24 hours a day, 7 days a week, which in reality will not be the case. Consequently, the actual ground level concentrations will be lower than those predicted, and in some cases substantially so.
152. Regardless of the composition of waste, compliance with the ELVs would be constantly and automatically monitored. The model assumed a worst-case scenario for metals including Chromium. There is no specific test for Chromium VI, so it was assumed that it would be 100% of the Chromium. By the time it gets into the atmosphere it is unlikely to be Chromium VI because it is very reactive. The assessment has correctly applied Environment Agency guidance (NRW approved) and the calculations have been checked and verified as correct.
153. It is acknowledged that some incinerators do have breaches of their emission limits, however, these are the incinerators, such as the Edmonton Incinerator, that are around 40 years old and are coming to end of life. There are other incinerators, of a similar age, that use fluidised bed technology which again have breaches of emission limits. The proposed technology is modern moving grate incinerator to be provided by Hitachi Zosen Innova ("HZI"). There are seven sites in England operated by HZI using this technology that have been selected. The Environment Agency (EA) ranks their performance using compliance ratings to assess the risk from a regulated facility. Based on how many breaches an installation has, and the severity of a breach the EA assigns an operator performance rating. Annual data for breaches in 2020 at these sites was considered.
154. All of HZI's plants, which will be of similar design to the Buttington ERF, are all either Band A, and therefore have no breaches of permit conditions (and therefore no breaches of emission limits) or are Band B and therefore have had less serious breaches which will have had a minor impact. Consequently, the claim with regard to repeated breaches of emission limits is not true for the type of Installation being proposed at the Buttington ERF. Any plants with serious breaches of environmental permits would be classed in Band D as a minimum.

LANDSCAPE & VISUAL

Landscape Response to the Local Impact Report (LIR)

155. The applicant sets out the pre-application process that included discussions with the Council and the Design Commission for Wales and a review of a draft LVIA by consultants. This is important background to how the methodology and views used were chosen and feedback taken into account.
156. The LIR challenges the sensitivity levels applied in the visual impact assessments. For some categories of user view the LIR applies a higher level than the applicant. The applicant's consultant strongly rejects the view that receptor sensitivity has been downgraded in the LVIA. By increasing sensitivity levels without fully explaining the reasoning can also result in the opposite effects, namely, that results can then be inflated.
157. On landscape sensitivity the applicant is concerned that the Local Planning Authority has chosen to concentrate on one aspect layer of LANDMAP – Visual and Sensory Aspect Area (VSAA). This is important as it informs landscape character but is not the only consideration. The LVIA considers the site related LANDMAP Aspect Areas in Table 5 and effects on other VSAs in Table 6. The LIR uses LANDMAP guidance Note 1 to justify its approach to concentrate on VSAA. However, perceptual and other sensory qualities should also be taken into account and considered. The Local Planning Authority approach has used a methodology for another purpose and has mixed up landscape character and visual sensitivity. The focus on scenic quality to the exclusion of other aspects has skewed the results and the overall approach undermines the conclusions reached. In contrast the applicant has properly applied LANDMAP and its methodologies to analyse the study area and reach the conclusion that the landscape sensitivity is Medium.
158. The LIR identifies the higher-level significant landscape and visual effects, arising from the development proposals, up to around 5km from the development and that these are considered to be key material factors for the decision-maker. The applicant comments on each of these effects as follows:
159. The Local Planning Authority claims that there will be a major adverse landscape effect on the host landscape receptor, the Crewgreen to Forden Hill and Scarp VSAA and a Moderate-Major adverse significance of landscape effect on three neighbouring landscape receptors, Long Mountain VSAA, Breidden Hill VSAA and the River Severn Flood Plain VSAA.
160. The applicant disagrees because the effects will be limited overall due to the current context of the Site, the nature of the Development and incorporated mitigation measures. The LVIA applied a medium sensitivity rather than high applied by the Local Planning Authority.
161. The host VSAA is mainly rural, but LANDMAP refers to a working agricultural landscape with hedgerow boundaries and larger tracts of woodland in places. Quarrying is referenced at Criggion Quarry. It is not remote or tranquil. The existing character of the VSAA will not be notably changed by the Development. The Site is visible from areas of the VSAA as demonstrated by the photographs prepared in the LVIA. B&A do not agree that it will be a dominant feature at the skyline, nor would it become a new key characteristic of the VSAA. There are

attractive views, but they are not always evident given the shape and landform of the VSAA. The siting in a quarry void, and the design and mitigation will reduce wider landscape effects.

162. Landscape effects on the three neighbouring VSAs were assessed appropriately in the LVIA. For the Long Mountain and Breidden Hill VSAs, small or very small magnitude of impacts would occur leading to moderate or minor significance of effects. The ZTV shows that effects would be limited to a small part of the VSAs. River Severn Flood Plain VSA has close to long range effects. The maximum impact would be Medium magnitude of impact and a Moderate (neutral) significance of effect.
163. The applicant's response on visual effects reviews the results for Viewpoint Locations 1 to 4, 10 to 13, 16 to 18 and 22 which are listed in the LIR. For viewpoints 1 to 4 the applicant comments that there are notable differences between the LVIA and LIR in terms of receptor sensitivity, magnitude of impact and significance of effect. The viewpoints are chosen to illustrate representative views. In some instances, elsewhere along the roads, woodland and hedgerows provide a degree of screening.
164. The Local Planning Authority refers to the height of the development against the skyline in comparison to other built form and that mitigation measures i.e. the natural cladding colours and screen bunds, would not be sufficient to prevent significant effects. Aspects of the architectural design incorporated into the Development further to screen bunds and selection of natural cladding colours includes the siting of built form within the quarry void. Whilst the proposed stack is bicolour to mitigate skyline views. The applicant argues that with the proposed mitigation measures, the Development will not be wholly dominant within the context of the available views.
165. The parties concur on the effects from viewpoint 10 in Trewern. For viewpoints 11 to 13 the applicant does not accept the LIR conclusion of Moderate to Major adverse. The LVIA accepted that there will be a clear view of the upper elevation and roofline of the ERF building against a backdrop of distant higher ground. Whilst the stack is seen against the skyline. Intervening vegetation restricts direct views of the lower parts of the proposed built form. Mitigation measures notably the natural cladding colours will assist in assimilating the development into a mainly rural visual setting. The development will introduce new elements which will form a recognisable change to the amenity but will not be intrusive within the overall scene. The higher results recorded by LIR are due in part to the difference in receptor sensitivity ratings. The LVIA assigns a Medium sensitivity to upper floor windows and a differentiation should be made between such views and those from ground floor locations/gardens (High sensitivity) in accordance with the GLVIA Third Edition.
166. Viewpoints 16 to 18 are in the Breidden Hills. The LIR records although these views are at distances of 3km to 5km from the development, the viewer would be looking down on development and able to see substantially more of the development than from any other set of or single viewpoint, in which the screen bunding mitigation would be evidently much less effective. This means that the

magnitude of these visual effects is different to other lower level but similarly distanced viewpoints. Although a comparatively small component in the view, it would contrast with other development in terms of its scale and form, especially the stack with its occasional plume, and would by its nature be likely to draw the eye to it. The LIR recorded a higher magnitude of visual effect and combined this with a higher level of sensitivity.

167. In some views, the immediate area is open and offers a panoramic view from the upper part of Breidden Hill and are static locations rather than from along a footpath. Although the viewer will be looking down towards the site, it will be in a wider context of the Severn Valley. This includes the main transport routes and features other development including large scale industrial buildings noticeable due to their light colour. The reasoning that a higher magnitude of impact should apply because it does not apply to others at a similar distance but at a lower level is not a fair judgement as each Viewpoint Location should be judged on its own merits. The screen bund is designed to reduce views of activities and built form at a lower elevation which will be achieved. Also notable for this Viewpoint Location is the architectural design incorporating a graduated roofline and choice of cladding colours. The photomontage view illustrates the average visible plume but is not judged to be greatly visible.
168. Viewpoint 22 is from the A458 at Buttington Bridge. The LIR states that in the skyline views from the south, the design option would work least well (and it is likely that in bright sunlight the colour palette would emphasise the presence of the building. Other adjoining sections of Offa's Dyke Path, in which the development would be seen against the skyline would be similarly affected. The LIR assigns a Very High sensitivity to Offa's Dyke Path National Trail users (as opposed to High in the LVIA). The assessment concludes that there will be a Major (adverse) significance of effect for Offa's Dyke Path National Trail users and a Moderate (adverse) significance of effect for road users.
169. The applicant argues the above comments do not provide the context. The photograph is taken from an area of existing development (Welshpool Livestock Sales and Buttington Cross Enterprise Park). Current north-easterly views encompass a foreground of the A458, overhead power lines and agricultural fields. Whilst at a further distance as landform begins to rise is the western part of the site which is flanked by higher ground of Long Mountain and the summits of Breidden Hill, Middletown Hill and Moel y Golfa. Many of which feature tracts of woodland. Therefore, the applicant rejects the conclusion that the development will result in a Major magnitude of impact and the judgement that the choice of cladding colour does not work effectively. The development will not affect the view to such a degree as suggested in LIR.
170. The Local Planning Authority argues that the assessment of cumulative effects did not include development in the planning system and land allocated in a Local Development Plan including the land around the site itself. No large developments were identified in the scoping direction or preparation of the LVIA. No comments on this issue were identified by the Local Planning Authority at the pre-application stage (response prepared by the Council's consultants).

171. The applicant disagrees with the LIR finding that the proposal would not meet the landscape requirements of LDP policies DM4, DM13, W2 and RE1. It is maintained that the Development will not have unacceptable adverse effects on the valued characteristics and qualities of the Powys landscape and represents good quality design. The proposal satisfies the requirements of the four Policies referred to above.

Response to National trust comments

172. The National Trust considers that the landscape and visual impact assessment is inadequate as it provides only one viewpoint from Powis Castle. This was considered to be a wholly inadequate assessment of the role of long-distance views in the setting of the grade 1 listed building and grade 1 registered park and garden. The LVIA considered viewpoint 24 from the upper garden terrace on the north-eastern side of the castle to be a rigorous choice. Receptor sensitivity has been classified as very high. The LVIA considers that the architectural and scenic merits of park, Castle and gardens means the viewer will concentrate on close range views rather than the distant backdrop. The application site is around 6 km from the Castle estate, which is a sufficient distance to offer no direct visual link or association. The assessment concluded that a neutral rather than adverse effect would apply to all phases of the development due to the distance and magnitude of change involved. The development would not be visually overbearing or intrusive and would be viewed against rising ground as opposed to the skyline.
173. The National trust refers to findings of a public inquiry in relation to a proposed development at lower Leighton farm, where the importance of the setting of Powis Castle was stressed by the inspectors. The applicant considers that the proposal is very different to the Leighton Farm development in that the application site is a former quarry that is a designated employment site. Whereas the Leighton Farm development was in a natural green area. The current application site is at least twice as far away from Powis Castle and in a different direction. It is not the purpose of the LVIA to address heritage matters, which are dealt within a separate assessment. It is noted that Cadw agreed the applicant's assessment on the impact on the settings of designated historic assets.
174. The National trust suggested that additional viewpoints should be provided and outlined several locations for these. Four additional viewpoint locations have been assessed and it is concluded that the additional assessed viewpoints have not recorded an increased magnitude of impact when compared to the original viewpoint in the LVIA. In several cases, planting within the gardens of Powis Castle can reduce northerly views towards the site, especially in summer months. The assessment has considered the maximum stack plume length in the additional locations and found that it is not very different from the average visible plume shown in viewpoint 24.
175. It is noted that Cadw has responded to the additional information provided and concludes that: *it is our opinion, the scale of the proposed visual change is unlikely to have a significant impact on the way that the castle and historic park and garden are experienced, understood and appreciated.*

Response to BIIG Landscape comments

176. The comments of BIIG in relation to TAN21 and these issues are noted. The landscaping and design and mitigation addresses the relevant paragraphs of TAN21. BIIG comments do not reflect the full range of the landscaping proposals and architectural design. The LVIA considered winter views. The fact that the average visible plume was used in photomontages would not increase the overall scale of effect beyond the currently described limits.
177. Policy E1 of the Powys LDP allows for the allocated sites to meet all scales of employment uses. The site is allocated as suitable for waste uses through Policy W1 Location of Waste Development. It is noted as 'a brownfield site which is partly in employment use and is reserved for further expansion for general industrial uses. There is a long-term objective for the development to facilitate wider aspirations for the development site to create an eco-business park. The site is 1.5 km away from the allocated large village of Trewern, outside any settlement limit.
178. The applicant does not agree that there would be an adverse landscape and visual impact resulting in a detrimental impact on tourism. The Local Planning Authority and applicant agree that road users are categorised as a Low sensitivity. At the gateway site into Wales on the A458 (VP15) the development would have a negligible impact. Other viewpoints (8 & 9) on the A458 at Cefn and Trewern are analysed. Effects are judged to be not significant for road users at either Viewpoint.

Response the Campaign for the Protection of Rural Wales (CPRW) comments

179. The LVIA considered views from the general public footpath network and along the Offa's Dyke Path National Trail and the Severn Way long distance footpath including close to the Montgomery Canal. The most significant impact during operation would be on close range views from Offa's Dyke Path (VP22). The ZTV is used as a broad assessment tool and may suggest visibility from a wider area than exists in reality. Having reviewed the route of the Offa's Dyke Path descending Long Mountain to VP22 near Buttington Bridge, the ZTV indicates that views of the Development will not be likely until reaching the vicinity of coniferous woodland at Cwm Dingle. There is an expectation of the stack being in view rather than the upper elevations of the ERF building for the rest of the route until close to the environs of Buttington. It would not be the case 'that the incinerator will be very prominent in the walker's view with the visibility for the whole of that part of the path' which is claimed by CPRW.

HIGHWAYS AND TRANSPORTATION

180. The proposed access is onto a trunk road and therefore complies with the requirements of TAN18 and Policy W2 in that regard. The access is around 1.5km from the nearest residential area and the school. As such it is not within a congested inner area or residential neighbourhood as referred to in TAN18.
181. The ES considered the construction traffic, and the figures include removal of the quarried stone associated with site preparation. The projected increase in operational HGV traffic on the A483 is modest at 5.6%. There is likely to be 40

two-way HGV movements per day on the stretch of the A458 to the north of the site access referred to by BIIG, not 100 as claimed. This includes traffic associated with the removal of the Incinerator Bottom Ash (IBA). The accidents at Cefn Bridge and elsewhere were considered in the ES, as was the additional tourist traffic at peak times. The ES and Transport Assessment (TA) recognised the perceived weakness of the local road network and concluded that the modest level of development traffic would be unlikely to materially affect the operation of the local road network. This appears to have been accepted as the highway authorities (Welsh Government and Local Planning Authority) have not objected to the proposal.

182. The latest data for Personal Injury Accidents available at the time was used (2017, 2018, and 2019). The record shows that there was a cluster of 5 accidents recorded on Cefn Bridge over the railway line to the north of the proposed development and that 3 of the accidents involved HGVs. However, it is concluded that the modest additional traffic levels associated with the development proposal would be unlikely to materially affect the safety record of the local road network including the bridge. Table 5.5 of the TA confirms that during the operational phase of the development there is likely to be an average of only 2 HGV arrivals and 2 HGV departures crossing Cefn Bridge per hour.
183. The modest HGV flows associated with the operational phase of the development should be viewed in the context that the site previously operated as a quarry which also attracted HGV movements. More information about the vehicle movements associated with the former quarrying operation at the site has been provided.
184. Welsh Government Highways has proposed a condition relating to updating traffic count surveys. It is considered that the proposed condition would not meet the six legal tests for conditions. A review of consultation responses to recent applications that would also be likely to attract HGV movements over Cefn Bridge, indicates that the Welsh Government did not request that the operation of the Cefn Bridge was considered in the context of those other applications. The Welsh Government's suggested condition is not justified and is entirely inconsistent.

NOISE

185. The LPA expressed concerns regarding low frequency tonal noise. Given the prevailing very low background sound levels at Noise Sensitive Receptors overnight, the potential for disturbance from low frequency tonal noise is of particular concern. The acoustic assessment is provisional due to the fact that there is still much uncertainty relating to the details of the development.
186. These issues were addressed in the ES at TA14-7 and it is normal practice, with this type of development that planning conditions would require the submission of a noise compliance monitoring scheme to show that the agreed noise limits defined in a specific noise condition have been achieved. The scheme would be submitted and approved in writing by the Local Planning Authority, prior to commissioning of the Development. The Scheme would show the monitoring locations and the method of noise measurement.

187. The applicant argues that the information in the Noise & Vibration Chapter and additional explanations in TA14-7 combined with the proposed noise conditions and clarifications provided above, clearly shows that no adverse impacts would occur. The imposition of the agreed planning conditions would provide control of site generated noise levels.

ECONOMIC DEVELOPMENT

188. BIIG have identified urban areas of Welshpool as being most affected by the development, the applicant maintains that the location of the proposed development would be the area most affected. The potential for an adverse impact on a delivery company operating in the former quarry site is raised. This type of company would not be affected by the appearance of the proposal. The employment figures for the proposal are set out above (in the ES section) and have been confirmed by the operator. The possible eco-park on the remainder of the site was not included in the socio-economic assessment because any claims would be difficult to justify. It would be subject to separate planning applications, the content of which are unknown at this time and would also be outside the control of the applicant.

CULTURAL HERITAGE

189. The applicant has reviewed the impact on Powis Castle in response to the concerns raised by the National Trust (NT). The process advocated in the Cadw guidance to assessing impacts in Setting of Historic Assets in Wales (2017) has been followed. Powis Castle is a heritage asset of the highest designation and is valued for its historic and architectural special interest. The setting of the Castle has a number of elements which contribute to the manner in which it is experienced, and key among these are the ancillary buildings and structures relating to the Castle, many of which are also Grade I listed, and the Grade I Park and Garden within which the assets are located. In the early period when the Castle was a fortress views towards the border were paramount. With the evolution of the building from fortress to country house, however, views outward to the wider environs became of less import than views toward the assets, through which one could appreciate their architectural splendour. Such views are manipulated through the variety of approaches to the buildings, and the nature of the planting which controls the character of the views. Given that the reasons for the Castle's designation relate to the exceptional rarity of the Baroque elements of the assets, both in terms of the house and the garden, then it follows that the designed views associated with this era of the asset's development should carry more weight.

190. Two of the state rooms have views out toward the site, with views in this direction also available from the main terrace and from the southern edge of the bowling green, and associated terrace. In the views from the main terrace, the site is obscured by tree planting, but is visible from the state rooms and the bowling green terrace. In all views the site is experienced in the context of the settlement of Welshpool, and in particular its later expansion in terms of the residential development and industrial buildings to its peripheries.

191. In its present state the site is considered to make a neutral contribution to the setting of the asset, with virtually no contribution to the asset's significance. The proposed ERF will be visible within the wider landscape setting but, as demonstrated by the visualisations contained within the LVIA Response, the form of the development is wholly contained within the surrounding landform massing and does not compete with the topographical character of Moel-y-golfa and the Breidden Hills.
192. It is considered that whilst Powis Castle is a receptor of very high sensitivity, the magnitude of change will be negligible and therefore the significance of effect will be minor and not significant in EIA terms. This method of assessment is carried through from the Heritage Assessment, which similarly indicates that a minor effect would be sustained by the asset. The additional viewpoints requested by NT and provided in the LVIA response do not affect this assessment.
193. In response to criticisms by BIIG, the applicant provides further information on the local context, the fortifications present, and information on the Roman, Medieval, Early Modern and Modern periods of history of the area. This aims to address the gaps in the Heritage Assessment, which were a result of the absence of local lists for Welshpool.
194. Section 35 of the Historic Environment (Wales) Act 2016 relates to duties with regard to Historic Environment Records (HER) with subsection 2(e) requiring that details of every conflict site in the authority's area which the Welsh Ministers consider to be of historic interest are recorded. The HER itself, however, is not a statutory document and, whilst an invaluable tool in understanding the Historic Environment, is, on its own, insufficient in terms of understanding heritage significance.
195. The statement in the ES that there are no historic battlefields in the vicinity of the development has been made within the context of designated heritage sites. As previously mentioned, the Historic Environment Record is not a statutory tool and inclusion on it does not confer designation status. The compilation of a local list of heritage sites per Cadw's guidance is the recommended route for recording the heritage interest of local assets.

GEOTECHNICAL

196. The placement of thick areas of fill in the northern site area and Laydown Area 4 as well as on the scree slopes was not considered in the slope stability report, as proposals for this area had not been confirmed at the time the investigation was undertaken. In order to clarify whether the intended slopes in the north of the site and Laydown Area 4 will be stable, further intrusive investigative works and assessment will be required, to include number of rotary cored boreholes and geotechnical testing. For the filling on current scree slopes additional sampling and geotechnical testing of scree material should be carried out and an earthworks methodology and compaction specification determined.
197. The slope stability analysis has informed that a proposed gradient of 60° on the eastern cut slope will maintain long term stability providing the correct stabilisation measures are employed as recommended in the Slope Stability Assessment

Report. Accommodating a 60° slope significantly reduces the area and volume of material that would need to be excavated out, processed and re-used on site as engineered fill. By corollary, by reducing the volume of fill materials created for re-location, this option will minimise the loss of land allocated for potential further development. It was an important consideration that as the wider quarry area has been zoned for industrial use, and due to the fact that the ERF will be CHP ready, the maximum amount of land was left available for future site uses which would be able to take advantage of the heat off take. It has been agreed that a suitable condition can address the Council's concerns.

198. The implications of the removal of material from the site have been considered and there is a high probability that the material will be re-used elsewhere. The material to be removed from the site can be used in a number of developments due to its composition. It is not commercially possible to identify an outlet for all material removed from the site prior to consent, as the material's availability cannot be guaranteed until planning permission is in place. However, it should be noted that the management of waste materials is included within the Construction and Environmental Management Plan and by an agreed planning condition.
199. Powys County Council has suggested a suitable condition relating to geotechnical issues and the applicant confirms that details can be provided prior to the commencement of development.

SUPPORT FOR THE PROPOSAL

200. Three representations of support have been received. The company that owns the site refer to the benefits of the proposal. The wider site currently employs 60-70 people. The proposal would act as an anchor tenant that could facilitate the further development of the employment allocation in the LDP. The possible use of the waste heat would be an incentive to attract manufacturing companies. The site selection process, building design, screening and improved access are outlined. The HGV traffic movements associated with the quarry in the period 1995 -2008 were in excess of those proposed by the ERF. The site has a history of heavy industry as a brickworks with stacks and associated emissions.
201. Other letters of support make the following points. Until technology improves or recycling targets are met there remains a need to dispose of waste other than by landfill, which the proposal will meet. The proposal would not affect recycling rates. The proposal will supply much needed skilled jobs, benefitting the economy and allowing young people to gain employment in the area.

CONSULTATION RESPONSES

POWYS CC LOCAL IMPACT REPORT AND HEARING SUBMISSIONS

202. The LPA considers the following documents to be relevant:

- Powys Local Development Plan 2011 – 2026 (April 2018)
- The National Development Framework for Wales;
- The Strategic Development Plan (SDP) for any strategic planning area that includes all or part of that area;

- Future Wales; the National Plan to 2040 (February 2021)
- Planning Policy Wales – Edition 11 (February 2021)
- Technical Advice Note 21: Waste (February 2014)
- Towards Zero Waste – One Wales: One Planet
- Collections, Infrastructure and Market Sector Plan
- Beyond Recycling: A strategy to make the circular economy in Wales a reality (March 2021)
- Strategic Assessment for the future need for energy from waste capacity in Wales

203. The following policies from Powys Local Development Plan are considered relevant:

- Strategic Policy SP2 – Employment Growth
- Strategic Policy SP6 – Distribution of Growth across the Settlement Hierarchy
- Strategic Policy SP7 – Safeguarding of Strategic Resources and Assets
- Policy DM1 – Planning Obligations
- Policy DM2 – The Natural Environment
- Policy DM4 – Landscape
- Policy DM6 – Flood Prevention Measures and Land Drainage
- Policy DM7 – Dark Skies and External Lighting
- Policy DM8 – Minerals Safeguarding
- Policy DM9 – Existing Mineral Workings
- Policy DM10 – Contaminated and Unstable Land
- Policy DM13 – Design and Resources
- Policy DM14 – Air Quality Management
- Policy DM15 – Waste within Developments
- Policy DM16 – Protection of Existing Employment Sites
- Policy E1 – Employment Proposals on Allocated Employment Sites
- Policy E4 – Safeguarded Employment Sites
- Policy T1 – Travel, Traffic and Transport Infrastructure
- Policy T2 – Safeguarding of Disused Transport Infrastructure
- Policy W1 – Location of Waste Development
- Policy W2 – Waste Management Proposals
- Policy RE1 – Renewable Energy
- Policy M1 – Existing Minerals Sites
- Policy M5 – Restoration and Aftercare

204. The following Supplementary Planning Guidance (SPG) are considered to be relevant:

- Renewable Energy, Adopted April 2019
- Biodiversity and Geodiversity, Adopted October 2018
- Landscape, Adopted April 2019
- Planning Obligations, Adopted October 2019

Need for an Energy Recovery Facility in the Region

205. LDP policy W1 aims to facilitate an integrated and adequate network of waste management facilities in sustainable locations in line with national policy and guidance and in accordance with the waste hierarchy. With need being ingrained within national waste policy, need is very much a material planning consideration. A key consideration for all proposals within the policy is whether there is an identified need within the region for the proposal. The Council accepts that Powys as a whole now falls within the Mid and South West Wales Waste Region.
206. The Strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales, March 2021 indicates that the CIM Sector Plan relies on 2012 waste data which is outdated and do not match the current waste Regions for Wales. The Strategic Assessment has developed a waste flow model for the three economic regions of Wales for two future scenarios using the latest Local Authority, industrial and commercial and construction and demolition waste data available. Both scenarios include the 70% recycling target set in Towards Zero Waste and the commitment made in Beyond Recycling that recycling levels will need to increase beyond 2025 on a trajectory consistent with meeting the zero waste goal set for 2050.
207. In future years, both scenarios assume waste has been diverted from landfill into energy from waste to ensure that landfill caps set in Towards Zero Waste are not breached.
208. Both Scenarios indicate that the range of estimated capacity gaps for residual waste suitable for energy recovery in the Mid & South West Wales region to be 170,000 to 220,000 thousand tonnes per annum of under-capacity for 2034-35.
209. In accordance with Welsh Government aspirations of zero waste to landfill and energy recovery by 2050, the LPA considers it essential to include a planning condition that would limit the life of the proposed facility to 2050 should planning permission be granted.
210. In terms of waste from Powys of Residual Local Authority Collected Waste, the 15,000 to 20,000 tons indicated in the applicant's market appraisal report will not be available for a period of 5 to 7 years from this year as a consequence of a procurement contract currently being sought by the Local Authority. In addition the position of other local authorities within the region means that residual waste is unlikely to be available.
211. The capacity gap figures provided within Welsh Government's Strategic Assessment reflect the current status of operational capacity for energy from waste plants in Wales and not that of consented capacity. The Strategic Assessment indicates that if planning permissions already exist in an area (region) and there is a likelihood for the consented facilities to be built they should be considered in determining the level of need.
212. To this effect there is a consented 30,000 tonnes per annum Energy Recovery Facility at Potter's Yard, Welshpool. A letter from Potter's Waste refers to discrepancies within paragraph 4.1.1, 4.1.3 and 4.1.4 of the applicant's Waste

Planning Statement. Potters Waste have a contract with Powys CC to treat residual municipal waste by EfW for 5 years with an option to extend by a further 2 years until 31st October 2028. The company is in dialogue with Scottish Power re the electricity network's capacity, 2 different ERF technology providers, the development of a local heat network and discussions relating to Environmental Permitting in order to facilitate the delivery of the consented ERF.

213. Should this facility become operational, based on Annual Waste Monitoring Report figures for both North and South Powys for Residual Waste Arisings, it appears that this consented facility has sufficient capacity to deal with current residual waste throughput within Powys. Possibly under both scenarios of the Strategic Assessment, in future the consented capacity may have over-capacity for the residual waste needs of Powys by 2034/35.
214. Whilst the applicant refers to the facility helping Wales achieve zero waste to landfill or recovery by 2050, the proposal is for a permanent facility. This matter could be resolved by a planning condition with an end date of 2050. The application also provides very little information on the residual waste produced as part of the ERF process, principally Incineration Bottom Ash (IBA), will be dealt with on site. IBA can amount to 20% to 30% of feedstock processed, which could be between 30,000 and 50,000 tonnes per annum. Apart from noting that seven loads a day may leave the site and it will be reused in the construction market, there is no commitment that it will be utilised as a secondary aggregate and not a waste. Given the existing quarry infrastructure in place to supply aggregate to the construction industry, it would have been expected for this material to have been made available to the local construction industry.

Sustainability Considerations

215. Although there appears to be under capacity to deal with residual waste within the Mid and South West Wales waste region by ERF in the short term up until 2034/35. Waste planning policy indicates that waste developments should "facilitate an integrated and adequate network of waste management facilities in sustainable locations in line with national policy and guidance and in accordance with the waste hierarchy" Policy W1 of the LDP. Based on Annual Waste Monitoring Report Data, the majority of waste within the region is produced in the Swansea, Neath Port Talbot and Pembrokeshire, Carmarthen and South Ceredigion area, and outside the 2 hour travel time from site catchment area suggested within the Waste Planning Statement to be within a Sustainable distance by road from site. It is considered that trucking waste substantial distances across the region to Buttington would contribute unnecessarily towards atmospheric emissions of CO_x, SO_x, NO_x, VOCs and PM¹⁰. Therefore, there is concern that the sustainability credentials advocated within the application would be eroded by the need to transport waste long distances to reach site. The LPA therefore questions whether the location of the facility is truly sustainable in accordance with local and national planning policies, targets and aspirations.

Renewable Energy Generation

216. Policy RE1 - Renewable Energy provides a presumption in favour of renewable energy schemes subject to meeting other relevant policies in the LDP, proposal shall make provision for the beneficial reuse and where necessary, additional compensatory benefits will be sought by planning obligations in accordance with policy DM1.
217. The proposal is a combined heat and power energy recovery facility. It is anticipated that the process will create in the region of 12.8 MW of electricity for export to the grid and there will be the potential for waste thermal energy to be harnessed and made available locally. As noted above, the low carbon or renewable energy benefits will be diluted by the haulage implications of transporting waste over large distances by road.
218. Limited information has been submitted relating to the restoration of the site after 2050, however it is considered that a detailed scheme of restoration together with beneficial after use can be adequately controlled by way of planning conditions. This site is in a rural location and it is not located close to existing heat users as recommended by the site selection criteria within TAN 21. Nor is there any information as to the effect on the employment designation within the quarry. Whilst there is reference to providing a renewable energy source for export into the local power network this has not been incorporated into the application nor has there been any assessment of the viability of district heating networks as required by Policy DM14 criterion 14.
219. TAN 21 (4.35) indicates that "The spatial relationship between energy from waste facilities and heat users is an important factor in site choice. The siting of energy from waste installations should be in proximity to energy users. Likewise, site energy users should choose to locate in proximity to existing operational energy from waste facilities.
220. Although it is recognised that the proposal would be Combined Heat and Power enabled. There is limited evidence and support within the application as to the development of waste heat infrastructure by way of pipelines and networks. The applicant's indication of possible lay down areas being developed for business and industrial sites that may be able to tap into a potential heat source together with off-site poly-tunnels on neighbouring land appear to be aspirational.
221. The Council considers that from a renewable energy generation perspective the proposal will have a **NEUTRAL** local Impact given the development will generate electricity to supply the National Grid. Subject to securing the local energy network such an impact could potentially have a **POSITIVE** impact.

Economic Development

222. The application states a job creation level of 300 for construction and 30 permanent staff together with further employment opportunities within the supply chain. The site is within a permitted working area for minerals and an employment allocation of the LDP. There are four laydown areas within the site that will be available for future employment use upon construction of the development. The application describes the proposal as a kind of anchor facility that will be a catalyst to develop these areas together with the possibility of providing sustainable energy (heat and

power) infrastructure as an incentive to attract businesses to the site. Little information has been provided on how these areas would be developed. The laydown areas are within the application site and the employment allocation under policy E1.

223. Information in the Geotechnical Section shows that a considerable amount of land within laydown area 4 is being lost with the construction of a landscaping bund / green area. By raising the area in accordance with what is suggested by the Geotechnical Engineer and subject to mitigating landscape and visual effects, it is considered that substantial employment land potential is lost within the present scheme.
224. The lack of a local need for this facility and the possible sterilisation of opportunities for the development of a locally needed business on site means that the proposal could be considered to have a negative economic impact. However, such a development would create employment opportunities during construction, operation, decommissioning and restoration that could move the proposal to having a neutral impact. If planning permission were to be granted and the development of the four laydown areas for employment uses can be achieved, it is considered that the proposal may have a **POSITIVE** local impact.

Highways and Transportation

225. As the A458 is a trunk road for which Welsh government is the highway authority, no comment is offered in respect of the site access. No other access from the adjoining lanes is proposed and use of existing accesses would not be supported by the local highway authority. The predicted traffic increase of up to 5% would most likely be confined to the trunk Road network.
226. The council supports potential mitigation measures identified in the application that can be secured by planning conditions: this could address a construction environment management plan, a traffic management plan and a travel plan. In accordance with LDP policies DM 13 and T1, the proposal would not adversely affect the safe and efficient flow of traffic along the non-trunk road highway network and will have a **Neutral** impact.

Design, Landscape and Visual Impact

227. The Local Planning Authority finds the scope of the Landscape and Visual Impact Assessment (LVIA) to be appropriate. The LVIA has informed the design of the proposal and landscaping mitigation.
228. The LPA has several observations on the methodology used for the LVIA and, as a consequence the reliability of the findings. The methodology is not clear about how judgements of sensitivity and magnitude of effects have been reached in the absence of any susceptibility of the receptor to change. The landscape baseline provides little analysis of landscape value and makes no reference to categories of landscape in LANDMAP and other studies. There is no assessment of landscape susceptibility, which renders the assessment of magnitude less than transparent.

229. The key differences relate to matters of judgement as to the landscape sensitivity of the key component landscape unit, i.e., the host LANDMAP Visual and Sensory Aspect Area, the Crewgreen to Forden Hill and Scarp VSAA, and the assessments of the magnitude of the landscape character effect on this landscape unit. Lesser but notable differences also relate to the assessment of the magnitude and significance of the landscape character effects on the neighbouring units, i.e., Long Mountain VSAA, Breidden Hills VSAA and River Severn Flood Plain VSAA.
230. It appears that the sensitivity of visual receptors has been downgraded. The consultant for the LPA has used higher levels of visual receptor sensitivity (as supported by GLVIA3) is partly the reason, but also there is apparently a different approach adopted to the assessment of the magnitude of visual effects, and the consequent significance of these, for the immediate vicinity and closer range views. These effects are judged to be generally greater than in the applicant's LVIA. There is also a notable difference in the assessment of the visual effects on the viewpoints at Breidden Hill, for which again the sensitivity is assessed to be higher, as well as the magnitude and the significance. Users of national trails should also be rated very high, on a par with nationally advertised attractions. Users of the public footpaths should, adopting a precautionary approach and to be consistent with GLVIA3, be in the High category. The LVIA has adopted an approach that effects can be adverse, beneficial or neutral. GLVIA3 states that this is one of the more challenging issues. This type of development in this rural location would not be in keeping with the existing character and the built form cannot be considered to be neutral or beneficial (whatever the planting and design mitigation). The effects of the built form should be considered to be adverse in principle. These issues are fundamental and mean that the results obtained should be viewed with some caution.
231. The LVIA provides a comprehensive record of the features and component parts of the landscape context of the study area and, to a large extent, relies on the findings of the various published landscape character assessments and LANDMAP for descriptions of characteristics, scenic quality, and perceptual characteristics of the landscape. In the LPA's assessment the landscape value of the host Visual and Sensory Aspect Area (VSAA) is Moderate-High and its overall susceptibility to this form of development is High, due to its predominantly rural, intimate, unspoilt character and its attractive views both in and out. Its overall sensitivity is judged to be High, in contrast to the LVIA's assessment of Medium.
232. In principle, the LPA supports the approach to the design of the building's cladding (i.e., Option 2 as defined in the DAS) and agrees that the building would, in most instances, be seen against a landscape backdrop, as opposed to the skyline, in respect of the area of views rather than the number of viewers that would experience these views. The current selection shown on the photomontages work relatively well in summer conditions but less so in winter, the LPA would suggest consideration should be given to a range that may work best throughout the year rather than those suitable for high summer. To this end a selection of 'murkier' greens and shades of brown may be a better compromise than the brighter lighter greens used for the images. It is recommended that this be covered by an

appropriate planning condition should the decision-maker be minded to grant consent.

233. The landscape mitigation proposals for screen bunding and large-scale mass planting of native woodland on the bunds, as identified on the Landscape Masterplan, is considered appropriate.
234. For the host VSAA, its predominantly rural character would be significantly changed with the introduction of a prominent, large-scale industrial building with a tall stack and occasional plume, and the sparsely developed, more intimate and relatively unspoilt characteristics would be significantly diminished. The present quarry is not widely visible from within the VSAA and where it is noticeable it is only partially visible, largely screened behind the current screen bunds and partially wooded surrounds. The development would appear to emerge from the quarried landform, be seen against the skyline in some views and be dominant, and it would become a new key characteristic of the VSAA. Attractive views from the VSAA to adjoining landscapes, especially those from the high ground across the floodplain to the hills beyond to the west, would be changed adversely. The design and coloured cladding would mitigate some of these effects, as would the bunding to some degree and the native woodland planting would, in time, be a slight benefit to the local character, but together these would not offset the significant harm to the landscape character of the VSAA. During operation, the magnitude of effect on landscape character of the host VSAA is considered to be Large adverse overall, and the significance of this effect would be Major adverse. For areas in close proximity to the development, a greater magnitude of change would be anticipated and, correspondingly, this would fall away slightly with distance. The LVIA considers the magnitude of effect to be Medium (neutral) and Moderate (neutral) significance at close range, and Small or potentially Very Small and a Minor (neutral) significance, at medium range.
235. Comprehensive results of the opinion of the LPA on the landscape effects on the 5 VSSAs and the visual impacts from 33 viewpoints is provided in two tables. The LPA concludes that there would be the following higher-level significant landscape and visual effects, in summary, arising from the development proposals, up to around 5km from the development and that these are considered to be key material factors for the decision-maker:
- A **Major** adverse significance of landscape effect on the host landscape receptor, the Crewgreen to Forden Hill and Scarp VSAA, which is a Moderate to High value landscape;
 - A **Moderate-Major** adverse significance of landscape effect on three neighbouring landscape receptors, Long Mountain VSAA, Breidden Hill VSAA and the River Severn Flood Plain VSAA, of which Long Mountain is a high value landscape of regional/county importance and Breidden Hill VSAA is a Moderate to High value landscape;
 - A **Major to Substantial** adverse significance of visual effect on residents and walkers on Heldre Lane west of Whitehouse Farm and **Major** adverse significance to users of vehicles (Viewpoint 1);

- A **Major** adverse significance of visual effect on walkers and users of Offa's Dyke Path National Trail at the A458 at Buttington Bridge at a distance of 2.4km from the development (Viewpoint 22);
- A **Major** adverse significance of visual effect on residents and walkers on other sections of Heldre Lane, including at Upper Heldre (Viewpoints 2 and 4) and **Major to Moderate** adverse significance to users of vehicles;
- A **Major** adverse significance of visual effect on walkers the public footpath immediately south of Nelly Andrews' Green (Viewpoint 3);
- A **Moderate to Major** adverse significance of visual effect on residents and pedestrians/walkers at Trewern and nearby (Viewpoints 10 to 13); and
- A **Moderate to Major** adverse significance of visual effect on walkers in the Breidden Hills at the summits of Moel y Golfa, Middletown Hill and Rodney's Pillar up to 5 km distance from the development (Viewpoints 16 to 18).

236. In accordance with the EIA Regulations the LVIA appropriately considers the landscape and visual effects of construction and decommissioning. The LPA has reviewed these assessments and agrees with the broad principles of the assessment approach applied. The LPA notes that generally the LVIA considers the magnitude of the construction effects to be slightly greater than the operational effects and the decommissioning effects to be broadly similar to the operational effects. The LPA concurs with this approach as a worst case, noting that these are both essentially transient operations that within each period actual effects may be less or may be greater.

237. For the assessment of cumulative effects, the LPA notes the other developments that are considered to form part of the cumulative assessment but notes that these are all existing developments and, therefore, part of the existing baseline context. Cumulative effects are normally associated with assessing the proposed development alongside other similar development that is under construction but not yet complete, has planning consent but not yet under construction and, in some cases, development that is in the planning process but not yet consented, such as land allocated in a Local Plan. There is suggestion that this application is an "anchor facility and will open up the development of the wider business park" (laydown areas 1 to 4). Accordingly, the LPA does not consider this to be an adequate cumulative landscape and visual impact assessment, at least not without further information to demonstrate that no other similar development is 'coming forward' that should be assessed in this LVIA and as part of this EIA.

238. The LPA has considered the applicant's comments on this aspect of the LIR and they have not altered the criticisms of the LVIA or altered the professional judgements. The reference to the landscape effects being neutral as opposed to adverse, remains unclear and is not supported by the assessment. It is in conflict with the findings of the visual assessment to which the landscape effects have some link.

239. The key criticism for the sequence of steps in the LVIA relates to the absence of the expression of separate stages of assessment of landscape susceptibility and landscape value, in reaching judgements about landscape sensitivity. The

applicant's response appears to show that this process has not been understood. The response does not address the criticism of the absence of a separate assessment of susceptibility. It refers to the assessment of landscape effects, which is obviously not the same thing.

240. The applicant refers to the approach adopted by the Council's consultants in the Powys Renewable Energy Assessment 2017 to the use of 'Main Drivers' and the approach adopted in that work to establishing landscape value. Evidently this was a quite different sort of assessment, at a high-level and county-wide, as compared with the site-specific nature of these proposals. It is unclear as to the precise criticism that the applicant's response is making. The LPA is content that an approach to establishing landscape value in this, and similar cases, can be related to the use of the single VSAA of LANDMAP; this is an approach that is adopted across Wales in both assessments and decisions.
241. LDP policies DM4, DM13, W2 and RE1 indicates that such a proposal must be able to demonstrate good design, have regard to the qualities and amenity of the surrounding area, there would be no adverse landscape impacts and visual impact is minimised through sensitive location and landscaping. It is considered that the proposal will have a significant and detrimental effect on the valued characteristics and qualities of the Powys landscape and will thus have a **Negative** impact.

Ecology and Biodiversity

242. Having reviewed the relevant sections of the ES submitted to support the application the LPA is satisfied that the survey effort and assessment methodology undertaken is appropriate and in accordance with current National Guidelines, where deviations have been made from standard survey guidelines these have been adequately justified within the ES.
243. The LPA indicates that the appropriate habitat surveys were undertaken, and that the species diversity recorded in these habitat types was generally low. Appropriate surveys to determine the presence of protected species were undertaken. It is considered that there are sufficient controls by way of planning conditions and the need to obtain European Protected Species Licenses to protect and help mitigate the development's effects upon Species such as Great Crested Newts, Bats, Birds, Dormice, Otters, Badgers and Reptiles.
244. The statutory designated sites (national and European) are identified as well as Ancient Woodland. The western part of the site contains some Plantation on Ancient Woodland Site (PAWS) and Restored Ancient Woodland.
245. The ES details proposed mitigation measures to address the identified impacts associated with the construction phase of the proposed development. Where habitat loss to accommodate the proposed development has been identified new habitat creation will be provided to compensate for this and exceed the areas that would be lost and therefore result in an overall gain with regard to these habitats and would comply with the requirements of Powys LDP Policy DM2. The ES proposes that the provision of the identified compensation habitats would be delivered via a Habitat Management Plan for the lifetime of the ERF secured by a planning condition, although satisfactory, the ability for monitoring will also be

essential to ensure that the management activities are appropriate and to identify any failures and should also be written into any planning condition.

246. Measures to address impacts associated with construction activities have been identified as being dealt with via a Construction Environmental Management Plan (CEMP), an outline CEMP has been provided within Chapter 4 of the ES. The outline measures identified are considered to be appropriate and achievable – the measures currently lack site specific detail but it has been identified that this would be addressed via submission of a detailed CEMP following appointment of a contractor. A condition to this effect must address ecological survey works, protection zones, method statements, processes and mitigation.
247. The ES identifies the impacts of the operation of the proposal are aerial emissions, lighting, pollution incidents from site traffic and vehicle movements. The ES and shadow HRA provide the assessment of the effect of aerial emissions on statutory designated sites and Ancient Woodland. The views of NRW should be sought on the acceptability of the assessment and conclusions with regards to the significance of the predicted process contributions to the Moel y Golfa SSSI and Ancient Woodland Site.
248. With regards to the Montgomery Canal SAC, Granllyn SAC and Midland Meres and Mosses – Phase 1 Ramsar Site the shadow HRA concludes that whilst the proposed development will result in the generation of aerial pollutants, modelling shows that these would be at very low levels and that the proposed ERF plant is not likely to have a significant effect on the identified SACs and Ramsar Site. Having reviewed the shadow HRA the LPA is satisfied with the assessment of the potential for likely significant effects as a result of the proposed development either alone or in combination with other plans and agree with the conclusion that there would be no likely significant effect to the SACs/Ramsar site.
249. The indicative lighting strategy in the ES contains measures to minimise light spill and restrict lighting affecting retained habitats important for bat species. It is recommended that a detailed external lighting plan should be secured through a planning condition and that this should require the submission of details as to how lighting will be installed in order to minimise impacts to nocturnal wildlife with regards to existing retained sensitive areas and new areas of habitat suitable to support nocturnal wildlife that would be created through the proposed development.
250. Potential for impacts to wildlife as a result of site traffic during the operation of the proposed development have been identified. Mitigation would be provided in the form of a low speed limit at night to avoid harm to newts, badgers and hedgehogs and installation of wildlife friendly kerbs within 250m of the new attenuation features and wildlife ponds – these measures are considered appropriate and implementation should be secured through appropriately worded planning conditions. In addition, as detailed above a Habitat Management and Monitoring Plan condition is required to ensure the long-term success of the proposed habitat creation during the operational lifetime of the ERF.
251. The ES contains limited information about the impacts associated with the decommissioning phase of the development such as impacts on species and

habitats that have become established and dust effects on Ancient Woodland. The ES recommends that a Decommissioning Phase Method Statement is secured via a planning condition and that this will need to be informed by appropriate survey work.

252. In conclusion subject to NRW confirming that they are satisfied with the conclusions of the Aerial Emissions assessment with regards to the SSSI and Ancient Woodland and the identified mitigation, management and monitoring requirements and decommissioning strategy being secured through appropriately worded planning conditions it is considered that the proposed development would be compliant with relevant Powys LDP Policies DM2, DM4 and DM7 with regards to the Natural Environment. The proposed development includes appropriate measures to compensate for loss of habitat and the identified proposals would result in a net gain of habitats at the site in accordance with the requirements of Part 1 Section 6 of the Environment (Wales) Act 2016 which requires biodiversity to be maintained and enhanced through development.
253. With prospects of the site to remain in an unrestored state until 2042 and with limited control and influence for the site's restoration to high level biodiversity value; it is considered that there is ecological gain in the medium term by way of the landscaping proposal together with substantial enhancement upon the site's restoration post 2050. Impact of development is therefore considered to be **Positive**.

Cultural Heritage

254. The LPA restricts its comments to listed buildings and Conservation Areas as the impacts on the setting of Scheduled Monuments and Registered Historic Parks and Gardens are assessed by Cadw. The LPA comments in the context of relevant national policies, guidance and legislation together with Local Development Plan policies SP7, DM13 (Theme 4 – Guardianship of natural, built and historic assets), LDP Objective 13 – Landscape and the Historic Environment.
255. The LPA refers to the statutory test in Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990 to have special regard to the desirability of preserving the setting of the building and advice in PPW. The Heritage Assessment has recorded the heritage assets accurately and assesses the settings of over 20 listed buildings. The assessments follow guidance in the Cadw Document Setting of Historic Assets. The assessment of the proposed mitigation measures is considered in the LVIA.
256. It should be noted that the impact on the views of the East Wing of Powis Castle have been assessed within viewpoint 24 within Chapter 9 – Landscape and Visual Assessment and as such the LPA are satisfied that the impact on the setting of the Registered Historic Park and Garden will be assessed by Cadw and in many respects would carry greater weight than the impact on the listed building, given the lack of inter-visibility of Powis Castle from the same viewpoints as the proposal. However, the views from the Registered Historic Park and Garden will be a different consideration undertaken by others.

257. The likely effects of the development on Listed Buildings and Conservation areas locally is considered low and its impact is considered to be **Neutral**.

The Water Environment

258. A drainage assessment has been completed which considers the current surface water drainage regime at the application site and which specifies onsite surface water management systems, including flood attenuation and controlled discharge, to ensure that existing rates and volumes of runoff are maintained and to prevent increases in flood risk to third party property. These measures include SuDS (Sustainable Drainage Systems) wherever possible to promote the onsite management of surface water discharges at source and the enhancement of water quality.
259. The potential impacts of the proposed development upon the water environment have been identified and assessed, and mitigation including water quality treatment and management measures, recommended ensuring that no detrimental impacts to the water quality of receptors arise from development proposals.
260. The site will also be operated in accordance with procedures detailed in an Environmental Permit and drainage will also be subject to a SuDS application demonstrating compliance with the statutory SuDs standards for the design, construction, operation and maintenance of surface water drainage systems serving new developments.
261. Due to the low risk potential to the water environment and that other regimes are better placed in determining the operational effects on the water environment, the impact is considered to be **Neutral**.

Contamination

262. The ES considers the effects of activities at the development in relation to potential land contamination. The Contaminated Land Officer considers the proposal to have a low level of risk and in accordance with Policy DM10 of the LDP, recommends a condition be attached to any planning permission to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
263. Due to the low risk of land contamination, the impact is considered to be **Neutral**.

Air Quality

264. The Council notes that the ES contains a chapter on Air Quality. Within this chapter, consideration is given to potential environmental effects the proposed ERF would have on the baseline environment; the mitigation measures required to prevent, reduce or offset any significant adverse effects; and the likely residual impacts after these measures have been employed.

265. As part of the Air Quality Assessment, detailed dispersion modelling of combustion emissions from the ERF has been undertaken and a Human Health Risk Assessment have been undertaken.
266. The Air Quality Assessment predicts that maximum ground level concentrations (GLCs) are within short and long term air quality objectives and are assessed as not significant for most pollutants. For those of potential significance, further assessment has demonstrated that predicted concentrations have a negligible impact on human health at the maximum point of GLC and at potentially significant human receptor locations. This assessment was carried out with pollutant emissions from the stack at worst case scenario concentrations. This provides a conservative estimate, therefore in reality GLCs can be expected to be even lower for the vast majority of the time. Although this is the case, GLC's falling on agricultural land has the potential for pollution to enter the food chain. Although such effects are possibly diluted once products enter the food chain, through national and even international markets, such knock-on effects on human health possibly needs to be acknowledged within the ES.
267. The study on potential construction dust impacts concluded that the risk of dust emissions from the excavation and construction process were low risk. By adopting appropriate mitigation measures for controlling dust emissions, it is considered that the impact would be 'negligible'. However, the construction phase of the development is going to entail the movement of extremely large amounts of earth off-site. The dust assessment makes mention of car and HGV movements in its vehicle assessment, but consideration should also be given to the number of earth-moving machinery and plant involved in excavation activities. The proposals for mitigation of construction phase dust should be finalised and agreed in the Construction Environmental Management Plan (CEMP). The approved CEMP should include a monitoring, mitigation and management plan for dust for the construction phases of the development.
268. At the pre-planning discussion stage, concerns were raised with regard to a local atmospheric phenomenon known as temperature inversion. As a result, further work was carried out as part of the assessment to ensure that the plume will disperse through the 'ceiling' of the inversion. To ensure the optimum dispersion of emission from the stack, a detailed stack height screening assessment was undertaken, indicating that a height of 70m will achieve effective dispersion.
269. The assessment of odour impact concludes that the risk of odour generation from the waste material would be low and the potential for emission would be mitigated by the enclosure of all operations and the extraction of air from the tipping hall. Overall, the risk of impact is considered to be negligible, and no further mitigation would be required. Issues relating to the storage of spare parts on site which are essential for enclosure and odour mitigation, would be a matter for the Environmental Permit regulated by Natural Resources Wales (NRW).
270. It is considered that the Air Quality Assessment and the Human Health Risk Assessment submitted in support of the application demonstrate that the development would not have a significant impact on air quality or human health. Likewise, the development should not give rise to any significant odour impacts.

271. Policy W2 – Waste Management Proposals of the LDP states that developments will be permitted where there would be no adverse impact on amenity, human health or the environment by way of pollution, dust and odour. Policy DM 13 criterion 11 also notes that the amenities enjoyed by the occupants or users of nearby properties shall not be unacceptably affected. As such the LPA are satisfied that there will no adverse impacts associated with air quality, dust or odour associated with the development: **Neutral** Impact.

Noise and Vibration

272. This is a rural area, due to very quiet background sound levels at night, it was agreed that an absolute limit of LAeq (1hr) 30 dB at NSRs would be appropriate, as this complies with all standards for sleep disturbance. For daytime levels, the agreed limit was LAeq (1hr) 4 dB above background.

273. The noise assessment follows the BS4142 methodology insofar as it predicts rating levels for the development, which can be compared to background levels. However, it does not include any penalties for noise characteristics because it claims that these will all be eliminated by design. Predicted noise levels from the development have been assumed based on library data from similar plants around the UK. It is known that certain components of plant, such as turbines, generators, fans among others, have the potential to generate low frequency tonal noise. Given the prevailing very low background sound levels at NSRs overnight, the potential for disturbance from low frequency tonal noise is of particular concern. This is because low frequency tones can be very annoying and have the potential to disturb sleep even at low absolute decibel levels.

274. As the assessment is provisional due to the fact that there is still much uncertainty relating to the details of the development. Further acoustic assessments need to be undertaken to ensure that significant noise sources not yet known, are considered, assessed and attenuated through design. This information has not been provided in support of the application and is a material planning consideration especially given the rural application site and quiet nature of its surroundings. If this application is to be approved, one way of ensuring that agreed noise limits are achieved would be to attach a condition to any approval which requires a post beneficial use noise survey to be completed in order to demonstrate that agreed standards have been achieved. This recognises the findings of the assessment and the vital need for further acoustic verification assessment.

275. Conditions to restrict the working times for construction and operational delivery times are suggested. Noise monitoring with corrective measures in place if noise limits are breached is recommended to be controlled by conditions related to the construction period and for cumulative noise from plant and vehicles during operation. It is also recommended that a condition is imposed to ensure that no tonal noise element will be emitted from the facility during night time operations (2300-0700 hours) as measured by the methodology set out within BS7445.

276. The other proposals for mitigation of construction phase work and traffic noise should be finalised and agreed in the Construction Environmental Management Plan (CEMP) to be submitted for approval by way of planning condition. The

approved plan/scheme shall include a monitoring/mitigation and management plan for dust, noise and vibration for the construction phases of the development.

277. Policy W2 – Waste Management Proposals of the LDP states that developments will be permitted where there would be no adverse impact on amenity, human health or the environment by way of noise. Policy DM 13 criterion 11 also notes that the amenities enjoyed by the occupants or users of nearby properties shall not be unacceptably affected by levels of noise. The Local Planning Authority is satisfied that these matters can be addressed by the suggested noise related conditions that have been agreed.

Geotechnical Considerations

278. Policy DM10 of the LDP states that development proposals on unstable land will not be permitted where it will result in ground instability or if instability cannot be remediated as part of the development. The site's existing use as a quarry, has created a steep, angular valley formation with limited space within the quarry floor. In order to facilitate the proposal on site, significant engineering works, which will result in the cutting of land in the region 334,600m³ will be required. Circa 172,400 m³ of this material is to be retained on site with around 162,200 m³ of material to be disposed off-site. There are significant geotechnical concerns associated with this work that were raised with the applicant as part of the pre application response.

279. The submitted drawings show considerable depth of fill on several areas including the NW scree slopes. This has not been considered in the geotechnical or slope stability reports included within Chapter 13 of the ES. The Council has significant concerns in relation to the impact of fill material being placed on made ground and scree. Geotechnical investigations and slope stability reports would be a requirement of submission within the ES for determination. As this is not the case, and if planning permission is granted for the proposal; details of stabilisation measures, excavation methods, ground investigations and slope stability reports, and a method statement for the deposit of fill material should be submitted for approval prior to the development commencing.

280. Alternative geotechnical considerations could overcome some of the concerns noted above. The plan and cross-section drawings show that the eastern cut slope is approximately 30m high at a gradient of 60°. There is sufficient area available to consider reducing the slope gradient to a shallower angle. A reduction in the slope angle would represent a significant reduction in geotechnical risk, which would result in the requirement for less, or no, stabilisation measures to the proposed cut slope, and would allow vegetation to be planted on the slope to control erosion. The Local Planning Authority agrees that these matters can be addressed by a suitable condition to manage geotechnical risks during the construction phase in the event that planning permission is granted. This would include the requirements to submit a geotechnical design report; stabilisation measures and erosion control measures; a comprehensive ground investigation and geotechnical design report for all areas where fill material placement is proposed; and slope stability assessments.

281. Policy DM13 of the LDP states that development proposals must be able to demonstrate good quality design to complement and / or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detailing. Policy DM15 further states that development proposals shall demonstrate how the production of waste will be minimised during all stages of the development and how the waste materials that do arise will be managed in a sustainable way, in accordance with the waste hierarchy and that adequate provision has been made in the design of the development to accommodate it.
282. As noted, there is circa 162,200m³ of material to be removed off site and with no certainty of use as recovered material it can only be described as that of waste and its disposal off site can have negative environmental and sustainability dis-benefits. The LPA considers that as an alternative to increasing off-site disposal volumes, consideration and design solutions could have been developed revising proposed levels to increase the amount of material reused on site. For example, increasing the finished level of Laydown Area 4 and increasing perimeter bund footprints and heights. There was also some suggestion of possible alternative locations where this fill material could be used. These suggestions are speculative and may involve development requiring planning permission. It is agreed that a condition requiring a Materials Management Plan would address some of the concerns raised.
283. The submission fails to adequately demonstrate how slope instability will be remediated as part of the overall development and has not considered the geotechnical risks of placing significant thickness of fill over scree and made ground slopes. However, as noted above, these matters can be addressed by a suitable condition in the event that planning permission is granted

Mineral Safeguarding

284. Policies DM8 and SP7 seek to ensure that mineral resources are not needlessly sterilised by other development. Defining Mineral Safeguarding Areas carries no presumption that the mineral resources will be worked, merely that the location of the mineral is known. Notwithstanding, Buttington Quarry is an active working quarry, and it is highlighted within the LDP Proposal and Inset Maps as a permitted working area. With the majority of the brick clay mineral having been worked and the diminishing demand for the production of this mineral, the quarry has been predominantly working lower grade shale for bulk fill purposes in recent years. With the site having also been allocated for employment use within the LDP, as mineral planning authority it is considered that the sterilisation of mineral on site is not critical.
285. As noted above, in the region of 162,200m³ of site won material is destined for off-site disposal. This material or how this disposal accords with the requirements of the waste hierarchy is not discussed within the Waste Planning Statement submitted. Buttington Quarry to this effect is mentioned as a possible destination for an urban quarry where an inert waste repository could be developed to enable the storage and processing of wastes arising from construction and demolition developments. To dispose of 162,200 m³ (c.300,000 tonnes) does not accord with the ethos of prior extraction for reuse either within the proposed development or for

it to be made available within an urban quarry scenario as supported by policies DM8 and W1 of the LDP. As noted above, substantial amount of IBA is to be exported from site annually, such material could be processed on site into secondary aggregate that could be balanced against the mineral sterilised and the 162,000 m³ of construction waste to be disposed of off-site. To this effect it will have a **Negative** impact on mineral sterilisation and on-site material management.

Draft Conditions (Offered Without Prejudice)

286. Without prejudice to the future determination of the application, the LPA recommends that conditions be attached to any permission that the Welsh Ministers are minded to grant. The conditions have been revised and agreed with the applicant and NRW.

Natural Resources Wales (NRW)

287. NRW has reviewed the application including the submitted ES, Design and Access Statement, Shadow Habitats Regulations Assessment, Pre-application consultation report, Waste Planning Statement.

Environmental Permit

288. The proposed energy recovery facility falls under Schedule 1, Chapter 5, Section 5.1 (incineration and co-incineration of waste) Part A (1)(b) of the Environmental Permitting (England and Wales) Regulations 2016. It will therefore require an installation permit in order to operate. Any environmental permit issued will require that the installation meets the requirements of the Industrial Emissions Directive, Waste Incineration Best Available Techniques (BAT) Reference Document and associated BAT Conclusions Document, which set out the standards to which the incinerator must operate, including Emissions Limit Values. The permit, amongst other points, will cover emissions to air, land and water and include noise and odour.
289. The permit application must include details of the expected releases from the proposed activity. These releases will be assessed, to determine whether they have the potential to cause pollution. The applicant's detailed modelling would need to show if they can meet stringent emission limits for this type of plant that are prescribed in the Industrial Emissions Directive. NRW will only allow a permit to be granted if satisfied that the proposed facility will not harm the health of local residents or damage the environment.
290. There is sufficient information to determine the planning application, subject to an application for an environmental permit. There will be consultation with Public Health Wales, the local health board and the Food standards Agency. The applicant's model will be verified. Both ADMS and AERMOD are accepted as they use the same basic programme. It is important to note that modelling is always done on a worst-case scenario.
291. The submission documents confirm that ADMS 5 (version 5.2.4.0) was used to inform the impact assessment for the DNS application. ADMS 5 is suitable software to inform this type of development. In terms of human health considerations, the

modelling provides a broad characterisation, which is appropriate to inform the consideration of the principle of development. Notwithstanding the above, the emissions from the stack would need to be regulated by a permit and the site couldn't legally operate without that permit being secured. It would only during the permit assessment process that NRW would be able to verify the modelling data files.

292. To assess potential impact on human health during a permit application, NRW would examine the Applicant's air quality modelling against relevant environmental quality standards (EQS) for each pollutant that may be released. EQSs are the statutory standards used by us when assessing permit applications. These standards are set for the UK and are derived from The Air Quality Standards (Wales) Regulations 2010.
293. NRW are aware that the latest World Health Organisation (WHO) limits and thresholds are lower than those set in British legislation. However, we are also aware that there has been no agreement to implement the latest WHO standards in the UK. The WHO limits are guidelines for policy makers. Therefore, at present a permit application would be assessed against the EQSs and associated levels and thresholds.
294. EQSs for air are set both for the protection of human health and vegetation and ecosystem receptors. EQSs can also be long term (annual emissions) or short term (e.g., 24 hours). NRW assess both as part of the permit determination process and check that the predicted process contribution is in line with emission benchmarks for the type of process set out in legislation. For new plants, if these emission benchmarks cannot be achieved, a permit will not be granted. The technology proposed by the Applicant must be Best Available Technology (BAT), as the design and technology is also key towards ensuring emissions are minimised as far as possible. The Environmental Statement (Technical Appendix 6-1, Table 3) confirms the air quality standards used and these reflect the EQSs.
295. The bio-accumulation of dioxins in food crops, etc. consumed by humans would be considered as part of a permit application process. An assessment would be required of the human exposure to dioxins by the local population and then the risk that this exposure causes. The exposure assessment includes consideration of ingestion of food crops with the potential to bio-accumulate against the UK tolerable daily intake. The assessment must take into account ingestion of food grown locally by residents and consider adults, children, vegetable growers, fishermen, etc.
296. Atmospheric conditions, i.e., the prevailing weather conditions, will result in observed plume dispersion variance. The Applicant's model used Numerical Weather Prediction (NWP) meteorological data as it was more in keeping with local knowledge of the area where it has been observed that wind did funnel up the valley. Two years of data have been used in the submitted report, which provides the broad characterisation. The issues raised regarding plume grounding would be considered in the Permit application. If the required standards are not met, then a permit would be refused. The effect of cold air is a standard part of the modelling process.

297. NRW use the Environment Agency assessment process for metals such as Chromium and this is extremely precautionary. The composition of waste is strictly controlled, and waste acceptance procedures must be in place. A condition could also be imposed on the permit requiring monitoring of Cr emissions.

European protected species

298. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) requires public bodies in exercise of their functions, to have regard to the provisions of the 1992 'Habitats' Directive (92/43/EEC) and the 2009 'Birds' Directive Birds' Directive (2009/147/EC) so far that they might be affected by those functions.
299. Where a European protected species is present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by NRW. The requirements for a licence to be issued are set out. This includes: the action authorised would not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range
300. These requirements are translated into planning policy through Planning Policy Wales (PPW), sections 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). TAN 5 states that the competent authority should not issue planning consent without having satisfied itself that the development either would not impact adversely on any of the above species on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied. NRW comments on great crested newt, dormice, bats and otters are provided below.
301. The ES has confirmed the presence of Great Crested Newt (GCN) at the application site and as such the development is likely to harm or disturb GCN and/or their breeding sites and resting places. However, as highlighted in the statutory pre-application response subject to the provision and implementation of a GCN Conservation Plan NRW considers that the construction of the development and its subsequent operation is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN. A condition is required to ensure that the plan details are agreed. In addition, the development should be carried out under licence and recommend that an informative regarding licence requirements is included within any consent granted.
302. ES Chapter 10 has now been updated to address the concern regarding the lack of assessment in respect of dormice. The assessment is satisfactory, and the development is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of dormice. The recommendations for dormice under Table 10.4: Construction Phase Mitigation Measures are suitable and should be incorporated into the final Construction Environmental Management Plan.
303. The objections in relation to the effect on bats is noted. However, NRW is satisfied with the level of survey effort and assessment which has been undertaken in respect of bats and welcome the proposed Mitigation Measures, which should be

incorporated into the Construction Environmental Management Plan. There is no objection to the applicant's 'External Lighting Strategy' as mitigation for any effect on bats. Implementation of the Lighting Strategy should be secured either through inclusion of an appropriately worded condition or detailed within the list of approved plans and documents. NRW concludes that the development is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of bat.

304. The ES found that regular use of a watercourse within the site by otters is very unlikely to occur, and indeed no field signs were recorded. NRW concurs with this assessment and considers the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of otter. However, as a precaution good practice measures to prevent any adverse effects on otters are implemented during construction by inclusion of the suggested measures in the Construction Environment Management Plan (CEMP).

Contamination

305. NRW is satisfied with the ES and preliminary risk assessment for contamination of the site and the results show that gross contamination is not present. As there is always a risk of unidentified contamination or hot spots being found during construction, the requirements of PPW must be followed. A condition to ensure that the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy is necessary.

Protected Sites

306. The Montgomery Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is located 1.8km to the west of the site, the Granllyn SAC is located 4.3km to the west of the site and the Midland Meres and Mosses – Phase 1 Ramsar is located 7.4km from the site.
307. Moel Y Golfa SSSI is located 2km from the site and is a semi-natural broadleaved woodland with a mature canopy and well-developed understorey and ground flora. The habitat fits the W11a woodland community described in the National Vegetation Community. The W11a woodland community includes lower plants such as bryophytes and lichens which are more sensitive than vascular plants to the effects of ammonia and nitrogen deposition. It is also classified as an ancient woodland in the Ancient Woodland Inventory.
308. NRW requested additional information in relation to Montgomery Canal SAC and SSSI and Moel Y Golfa SSSI in respect of air quality and this has been provided in the ES. Modelling has been undertaken to consider the impacts on designated sites, but no permit application has been received to date, therefore comments are provided without prejudice to the permitting process or any other assessment required by the development.
309. The NRW review considered the W11a acidophilous oak woodlands at Moel Y Golfa SSSI. This is one of the nearest designated sites with the most sensitive feature. Therefore, if the modelled emissions at Moel Y Golfa SSSI are

insignificant, NRW is satisfied that other the areas of ancient woodland are also likely to be insignificantly affected.

310. NRW has considered the potential effects on protected sites from ammonia (NH_3), nitrogen oxides (NO_x) and sulphur dioxide (SO_2). For nitrogen oxides (NO_x) and sulphur dioxide (SO_2), NRW are satisfied with the conclusions of the report, as even when utilising the higher background values, there is not likely to be an exceedance that would result in a significant environmental impact upon the designations.
311. The process contribution (PC) for Ammonia to the Moel y Golfa SSSI would be 1.5% of the critical level, which is indicative of a risk of a significant effect. However, the critical level is exceeded before adding the development's PC. NRW has reviewed the source attribution for total nitrogen available on the Air Pollution Information System website for the Moel y Golfa SSSI which shows that the energy production and transformation currently has very limited impact. Further, agriculture is dominant in total nitrogen-based pollution to the SSSI. Given that a PC of 1.51% is very small scale and there is a need for an Environmental Permit to be in place to operate the facility, then NRW are confident that best available technology can be applied and considered in more detail to limit the ammonia contributions from the development to the SSSI. As such, although the PC exceeds the 1% trigger for concern, it is not likely to result in a significant impact to the SSSI.
312. Regarding the cumulative impact of aerial emissions from the development to environmental receptors the Applicant has undertaken an 'In combination Assessment' as outlined in ES Technical Appendix 6-1 Chapter 10. Table 55 presents the combined ammonia from the proposal and Trelystan Poultry Farm (P/2018/0474) at Montgomery Canal SAC/SSSI, the closest designated site. Regarding the assessment techniques NRW consider that the critical level for ammonia provides a more stringent test than the critical load for nitrogen oxides, because ammonia is the component of the emissions that are the issue for the nutrient nitrogen rather than the nitrogen oxides. As detailed above the background attributable sources of nutrient nitrogen is dominated by agriculture rather than emissions from energy production and transformation. As noted, there are ammonia reductions available through various technologies that will need to be addressed through the permitting regime to make sure the contributions from the development remain limited and do not have a significant effect on designated sites.
313. NRW confirms that the submitted Shadow Habitats Regulations Assessment (sHRA) correctly identifies the sites of interest as: Montgomery Canal SAC, Granllyn SAC and Midland Meres and Mosses – Phase 1 Ramsar site. NRW reviewed the sHRA and agree with the conclusions of the report with regard to the 'alone' assessment. The comments in the preceding para also apply to the in-combination assessment in the sHRA. And as noted, measures as required via Environmental Permit (i.e. Best Available Techniques) will need to be applied and managed in perpetuity for the operation of the development to make sure the contributions from the development remain limited and do not have a significant effect on designated sites.

Other matters

314. The outline CEMP within ES Technical Appendix 4-3 details a structure and likely content as would be expected at this stage of the development. However, it is emphasised that a more detailed, comprehensive and site-specific CEMP along with method statements to ensure that all aspects of the construction phase have been considered/ mitigated for will be required prior to commencement on site. A condition to address this is suggested.
315. NRW refers to the need for licences for: dewatering that lowers groundwater levels in excess of 20m³/day and for the proposed package treatment plant for domestic foul water. NRW has no further comments on the surface water management plan contained within ES. NRW's statutory duty in respect of landscape is limited to proposals within or with the potential to impact on a National Park or an Area of Outstanding Natural Beauty. On review of ES Chapter 9 NRW are satisfied that the proposal does not fall within our landscape remit. Landscape impact is therefore a matter for the Local Planning Authority comment.
316. In terms of conditions, NRW are satisfied that the requirements and comments provided in the responses and hearing statements have been addressed and incorporated into the agreed conditions submitted during the Hearings.

Cadw

317. After consideration of the information submitted, Cadw have no objections to the proposed development. The application is accompanied by an environmental impact assessment, which includes chapters on the landscape and visual impacts of the scheme and also the impact of the proposed development on archaeology and heritage including an assessment of the impact on the settings of the designated historic assets.
318. The methodologies used to determine these impacts are appropriate and the additional visual impact caused by emissions from the working plant, which was raised in our pre-consultation response, has been considered. The environmental impact assessment concludes that the proposed development will have no impact on the settings of the majority of the designated historic assets. However, where an impact will occur this will not have more than a minor but not significant, adverse effect. Cadw concurs with this conclusion.
319. It is noted that the National Trust objected to the proposed development due to the impact on Powis Castle. Cadw recommended that the applicant assess the likely impact of the development on the setting of Powis Castle. Additional information including a consideration of the visual impact of the proposed development from Powis Castle and its grounds has been submitted. This work has shown that the development will be visible from the castle and the associated registered historic park and garden at a distance over 6km away. However, whilst it is noted that there are historical references to views in the direction of the proposed development from the historic garden being important, it is our opinion, the scale of the proposed visual change is unlikely to have a significant impact on the way that the castle and historic park and garden are experienced, understood and appreciated

320. There may be undesignated historic assets that could be affected by the proposed development and consultation of the Historic Environment Record held by the Clwyd-Powys Archaeological Trust was suggested.

Welsh Government Highway Authority

321. Welsh Government Highway Authority (WGHA) are content with the scope and level of detail contained within the Transport Assessment and Chapter 8 of the ES. As regards site access, the proposed development will be served by an approved access that was initially granted approval in 1999 and which has been subject to numerous extension applications, most recently in 2020 in respect of which Welsh Government issued a No Direction response with an advisory note reiterating that the construction of the proposed site access would be subject to a S278 agreement.
322. The anticipated total traffic flows (100 HGV movements per day) that will be generated by the proposed development (and which translate to 8 HGV movements per hour) are considered to present a modest additional increase in relation to the existing volume of traffic that both the A458 and A483 presently accommodate. Furthermore, submitted modelling identifies that the proposed site access is capable of operating within capacity under a worst-case traffic flow scenario.
323. This section of trunk road is already busy with a large proportion of HGV movements every day and it is a reasonable assumption that the HGV drivers that supply the facility will be 'regular drivers' and as such will be familiar with the limitations of the route, particularly the narrow/conflict point at Cefn Bridge.
324. Given this, we do not consider that the additional 4 no. HGVs per hour (2 in 2 out) that will be generated by the development will contribute significantly to the existing level of risk and that the impact of the additional traffic at this location will not be detrimental to the operation of the operation of the trunk road network. Nor do we consider that the existing bridge structures will be significantly impacted by these small increases in traffic volume.
325. Whilst it is clear that local residents are concerned about the existing accident record involving HGVs and the risk of this increasing should the development be approved, it should be noted that according to Personal Injury Accident information contained within the ES, of the 21 accidents recorded at Cefn Bridge, 6 involved HGVs, with the remaining 15 not involving HGVs. Of those 6 accidents recorded where HGVs were involved, 3 were recorded as 'slight' and 3 as 'severe'. The conclusion of the Transport Assessment is that the anticipated increase in traffic generated by the site would not materially affect the existing safety record and having reviewed this, Welsh Government are content with this conclusion.

Clwyd-Powys Archaeological Trust

326. Clwyd-Powys Archaeological Trust (CPAT) comment on impacts to non-designated archaeological sites. The Heritage Assessment Report is satisfactory. The undisturbed areas of the site are limited to two small fields on the southern edge. If these fields are topsoil and/or subsoil stripped for future development, as

suggested in the LDP Employment Allocation shown on the plans, then a scheme of archaeological investigation should be completed as a condition of any consent.

327. Battlefields are identified in the ES as designated assets, which they are not in Wales. No direct impacts to any battlefields listed in the inventory are identified within the ES and Heritage Assessment.
328. In conclusion, while there are some errors and omissions which could usefully be corrected by the applicant's heritage consultant so that they contribute to the general historical background information of the assessment report, we do not find that there are any demonstrably significant impacts to non-designated assets which would result in an objection.

OBJECTIONS TO THE PROPOSAL

329. The proposal has attracted a high level of public opposition. Over 100 individual letters of objection and documents containing 600 pages of online representations have been received. The Member of Parliament for Montgomeryshire and the Senedd Member for Montgomeryshire have submitted letters of objection. Letters have been received from Montgomeryshire Constituency Labour Party and Welshpool Labour Party. The points made in these letters are included in the summaries of other representations below.

Trewern Community Council and Welshpool Town Council

330. Both councils oppose the proposal. A public meeting attended by a large number of local people unanimously objected to the development. People are concerned about the wide-ranging potential health issues that could arise from living near an incinerator, especially as the development will be in such close proximity to Buttington Trewern School and the Parc Caradog and Sale Lane residential areas. There are significant concerns about future air quality in our area if this proposed incinerator were to be built.
331. The Council has concerns and unanswered questions over the removal of the toxic ash from the incinerator, whether it will be removed/disposed/stored in the correct manner as to not cause further harm to the environment. The detrimental impact from noise and light pollution on local residents is a significant issue.
332. The local road infrastructure cannot cope with the increased demands that lorries bringing waste would create. There are several accident blackspots on the A458 main trunk road that the lorries will use to access the site. An increased number of lorries passing the local school as parents and children walk and have to cross the road from the Pentre Gwyn estate by Criggion Lane with no road crossing facility, is causing anxiety and lorries passing over the two narrow bridges at Cefn and Buttington will have a significant negative impact on the lives of local people in terms of increased travel times, danger, pollution and noise. This means that the site is not accessible from either direction on the A458 without a potential delay as lorries wait to pass on one bridge or the other. An increase in traffic would also mean an increase in general road congestion.

333. This is an unsuitable location for the proposal as the whole of Powys produces a low quantity of waste. There is no need for the proposal. It will not be low carbon or sustainable development. It would prejudice the Welsh Government's waste policies and efforts to increase recycling and the circular economy.
334. The plant would have a negative effect on the landscape and on local tourism. The stack in particular would be a blot on the landscape. The claimed employment and economic benefits of the proposal are unlikely to materialise. There would not be jobs for local people. An incinerator would have a negative effect on property values in the area. There is concern about inaccuracy in some of the plans and statements made. The lack of disability accessibility was also raised.
335. The traffic assessment that has been carried out by the developers does not take into consideration the Cefn Bridge, which is situated along the A458 and just a short distance from the Buttington Quarry site. The Cefn Bridge is an already dangerous bridge with multiple weekly accidents occurring. In the last three years, due to crashes involving lorries, the Cefn railway bridge at the west end of Trewern village has been limited to traffic light controlled single file traffic for two periods of nearly six months each, causing huge disruption to the area.
336. Trewern Community Council would like to endorse the recent comments made by County Councillor Amanda Jenner. Trewern Community Council, on behalf of residents within the local community and surrounding areas, object strongly and unanimously to this application and unreservedly request that it is rejected

The National Trust

337. The National Trust (NT) owns and manages Powis Castle on behalf of the nation. The castle constitutes four separate Grade 1 listed buildings, and the park and garden also Grade 1. The proposed Buttington ERF will be seen from the terrace and castle, with key views to and from its east front. The importance of the landscape and heritage setting of the terraces at Powis Castle was recognised in an appeal decision for a major development at Lower Leighton Farm. The fact that over 100,000 visitors would potentially experience this view each year and the fact that this would be a key part of most people's visits to Powis Castle gardens makes this a highly sensitive location.
338. NT consider that the submitted LVIA underestimates the level of landscape, visual and heritage harm at Powis Castle. There is only one viewpoint from the castle. The importance of long-distance views towards the proposal to the setting of the castle and gardens is downplayed. Claims that the proposal would not be seen are incorrect. Additional viewpoints should be assessed and locations on the terraces and at the front of the castle were suggested.
339. The impact of cranes during construction and lighting of the proposal needs to be properly assessed. The impact of the visible plume could be Medium to Large, again considering the open views to the wider landscape of the Castle and also the higher ground that it sits on. A more accurate and considered LVIA may result in a change to the overall significance of effect. The lack of recognition in the role of long-distance views at Powis Castle undermines the confidence in the conclusions it makes with regards to harm on heritage assets. Mitigation should be considered

within the submission, and if required an off-site landscape scheme brought forward. Although colour schemes for the building have been produced, an environmental colour assessment should be undertaken to aid the integration of the building into the landscape (as recommended by the Landscape Institute).

340. Following submission of further information in response to these points from the applicant, the National Trust were invited to take part in the relevant hearing session. The Trust replied as follows: National Trust note the hearing statement of NRW dated 2/3/22 and additional representation by Cadw dated 16/2/22. As a consequence, National Trust will not be providing any further evidence, nor attending the Hearing Sessions.

Campaign for the Protection of Rural Wales (CPRW)

341. CPRW support the residents' group in its opposition to the proposal. The site is located in a particularly sensitive location as a principal entry to mid-Wales. The proposed massive structure and stack would appear dominant and would industrialise the rural landscape. There would be a major impact on views from the national Offa's Dyke path. The LVIA shows that the proposal would be very prominent in views when descending from Long Mountain. It would remain in view for virtually a full day's walking. There would also be significant adverse impacts to users of the Severn Way, Montgomery Canal and to Powis Castle and gardens.

Objections from Residents and the Public

342. The main points raised in the objections are:

- There is no need for the proposal and it would be contrary to Welsh Government and Local Development Plan waste policies and guidance;
- The proposal would not be low carbon renewable energy but would burn products made from fossil fuels and would discharge CO₂;
- The proposal would occupy a low position on the waste hierarchy and could adversely impact the Welsh Government's drive towards the circular economy and zero waste by discouraging recycling and the importation of waste plastics;
- There would be potential adverse long-term effects on human health from discharges to the atmosphere, especially given the temperature inversions caused by the local topography;
- Adverse effects of the proposal on the economy and tourism in the area. The owners of a nearby listed Georgian estate state that the proposal would adversely affect the work they have done over the years;
- The proposal would be detrimental to highway safety and the free flow of traffic on the trunk and local road network. This infrastructure will not support the additional traffic from the proposal;
- The scale of the proposal with the associated stack and plume would have a detrimental landscape and visual impact;

- Adverse impacts on nature conservation and cultural heritage assets;
- Adverse effects on the living conditions of local residents especially children, due to noise, traffic, and visual impact, which would discourage the use of outdoor recreational facilities;
- The proposal would be contrary to the Well-being of Future Generations Act (Wales) 2015 for these reasons.

343. Many respondents are concerned about the impact this proposal would have on the mental health and wellbeing of residents caused by anxiety about the development. The local area often experiences low lying fog and temperature inversions. Residents will be distressed about the perceived health impact caused by pollution being trapped due to the inversion.
344. An objector raises the potential harmful effects of PM^{2.5} on human health. The opinion of Public Health Wales, or any other body, that incinerator emissions don't harm health is meaningless unless relevant data can be produced to back up that opinion. He refers to ONS data in support of his objection as well as numerous newspaper articles and extracts from proceedings. His main concern is that the former England Health Protection Agency (HPA) does not recognise his evidence and that the HPA maintains that emissions from incinerators are safe. He refers to a study in Japan from 2004 that shows a connection between incinerators and infant deaths. There was a fall in fatalities from the 1960s onwards as clean air legislation and actions improved air quality.
345. There is a worsening of infant death rates in Council areas exposed to emissions. ONS data consistently show sudden post-incinerator rises in infant death rates. These sudden changes also show that it's wrong to blame higher rates on deprivation, ethnicity and (low) socioeconomic status. He refers to post-incinerator rises in infant mortality for Bromsgrove in which Hartlebury, a recent incinerator (2017), is located.
346. He refers to many examples of a rise in infant mortality once incinerators open. There was a Health Protection Agency Study into a possible link between incinerator emissions and infant mortality in 2011. After adjusting ONS infant mortality data for deprivation, ethnicity and socioeconomic status, the authors concluded that there was no risk. The objector claims that this was a flawed and misleading study that is contradicted by his evidence that deprivation and other factors do not affect mortality rates.
347. There are residents who live incredibly close to this proposed development who would be negatively impacted by the noise associated with the operation of the facility. As already stated, this area is a rural area without any current industrial type of noise. The Powys County Council Local Impact Report states that *the submission fails to adequately prove that there will no adverse impacts associated with Vibration and Noise from the proposal, which is a Negative aspect.*

Submissions of Buttington Incinerator Impact Group

348. A group of residents have formed the Buttington Incinerator Impact Group (BIIG). They have conducted extensive research into this proposal and have local and technical expertise. They have put together a response highlighting their concerns about the impact of this incinerator.

Need and Sustainability

349. A specific company has been set up to develop the proposal and the managing director's family owns the site. This means that the consideration of alternative sites was predisposed to justify the choice of the application site as the preferred site.

350. This was referred to by the Design Commission for Wales in its report on the application, which has been ignored by the applicant. These comments are key factors in framing the BIIG objection to the proposal:

“Criteria were suggested on site selection, but these were applied to justify the site under consideration rather than as informing an objective site selection exercise”

“No specific consideration of alternatives was presented nor any analysis of current and future waste trends at the local, county and national level. Inherent in ERF facilities is a concern that the long design life allows for a ‘lock-in’ of fuel volumes via contracts which can in some circumstances have the perverse incentive of discouraging waste reduction and can be a disincentive for recycling”

“In respect of site location, a more thorough exploration of the alternatives considered would allow a far more insightful debate. This is particularly important for the challenges of assessing complex and often conflicting environmental and planning issues such as transportation impacts, local and national air quality, visual impact and sustainability. On the latter, whilst the panel noted an interest in possible use of the considerable waste heat from the facility, the highly contained nature of the proposed site makes this a challenge to deliver in quantum in the vicinity.”

351. The proposal would not comply with the Policy W1 (para 4.9.9) as the proposal is for a national facility serving a wide area and not a local proposal. It is close to part of the village. For reasons given earlier it would detrimentally affect the village, the school and future development in the village. This would be detrimental to the settlement strategy and housing allocations in the village. The nature of the proposal means that it would not meet the allocation for development in the quarry site, which requires development to be primarily for a local market. This is the wrong size of facility in the wrong place.

352. The objectors set out detailed reasons why the proposal would detrimentally affect the achievements of the Wales well-being goals and Placemaking outcomes. The proposal would not be sustainable and would be at the bottom of the waste hierarchy. Future development in energy lies in renewable energy not incineration. The Welsh government has said that there is no need for large-scale incineration. The proposal is very unlikely to provide a source of heat due to its location away from potential users.

353. Residents refer to the strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales which provides the information required for consideration of the need for new energy from waste facilities. This is based on beyond recycling which places a moratorium on any future large-scale energy from waste development because there is no need for this type of development. The moratorium applies to this facility. Given the location the proposal would most likely source a lot of waste from nearby parts of England. There would be no way of controlling the source of the waste. North Wales economic region would not have a significant shortfall and would not therefore be a source of waste for the proposal. It is in a highly unsuitable location to meet the needs of south-western mid Wales. It would not comply with the proximity principle. It is highly unlikely that the plant could supply heat, which is a requirement of policy.
354. The proposal would not comply with the proximity principle. This makes it vulnerable to becoming uncompetitive as the need for this type of facility further reduces. The proposal would have adverse effects on environmental protection goals and on the achievement of accessible and healthier environments.
355. The proposal would inevitably accommodate a large proportion of waste from England, which would detrimentally affect Wales's strategies for building a circular low carbon economy. It would also be harmful to England by discouraging recycling and requiring long-distance transportation of waste. Figures produced by DEFRA show that on current projections, UK incineration capacity will exceed available waste by 2027. The application should be viewed in the national as well as local context.
356. The proposed Buttington Incinerator would be a merchant facility on the Wales/England border and the Applicant would have no involvement in its operation. The Applicant makes statements of intent in key areas such as heat, carbon capture, waste content and transportation but these are not supported by hard evidence and they cannot commit to their delivery. The Applicant is not even able to say how much of the waste would be sourced in Wales and has provided no evidence of contracts.
357. The proposed Buttington ERF has a defined catchment area, most of which is outside of the South-West and Mid-Wales Region in which Buttington is located. Broad Energy has built its case for need on the basis of this catchment area, most of which would no longer be admissible. An ERF for the South-West and Mid-Wales Region would require a very different area of search and would include sites that were suitable for a much smaller facility. Buttington is located in the extreme Northeast of the Region in a highly rural county far removed from the main areas of population, commerce and industry which have a particular focus on the Swansea area. It would be difficult to conceive of a less suitable location than Buttington to serve the incineration needs of this Region. The Strategic Assessment reiterates the principle of proximity set out in "Towards Zero Waste" and TAN21.
358. The amount of waste available within the catchment area is lower than claimed by the applicant, whose assessment is fundamentally flawed. The applicant's figures have not included the correct current and available capacities of relevant

incinerators in Cheshire, which amounts to capacity of over 600,000 tonnes. There are also four additional incinerators in the planning system in the west midlands i.e., within or close to the catchment area. Construction commenced on one of these plants with a capacity of 395,000 tonnes in November 2021.

359. The applicant has not taken into account current strategies to eliminate waste at source. Nor progress towards meeting recycling targets in England and Wales. In the absence of suitable waste and information from the applicant, it is likely that recyclable waste will be incinerated. As this will be a merchant facility there will be no control over the source or content of the fuel once the plant is consented. Reliance would be placed on the supplier to remove the recyclable material.
360. The quantities of waste that may be available in Powys and Ceredigion are very small. Parts of Powys are closer to South Wales. The northern parts can be served by the established facility in Flintshire and Cheshire (if needed). In addition, the amount of waste available will reduce over time. The needs of Powys would be better served by smaller facilities or alternatively a solution provided in another County.
361. The proposal now falls foul of the Welsh government's moratorium on any future large-scale energy from waste developments as set out in the document Beyond Recycling (March 2021). The Applicant's assertion that the Welsh Government's moratorium on approval of new large-scale incinerators is unlawful. However, the objector's case is based on the merits of the case. It is argued that the application should be rejected on grounds of its lack of merit in planning terms alone.
362. The Applicant maintains that Buttington would divert waste from landfill. Wales, however, already has a Key Target of zero waste to landfill by 2025. Counties in Wales which currently use landfill are now pursuing incineration-only contracts: Powys has just let a 7-year contract with a break clause at 5 years; other counties in SW/Mid Wales are at different contractual stages but following a similar pathway. By 2034/35 Wales' existing incinerators should be sufficient for its needs, leaving Buttington with very limited years of potential value to Wales.
363. The application does not meet the proximity principle in that very little of the waste will come from Powys. Indeed, the waste will come from wherever it is available this is the nature of the market or merchant basis. The proposal is located in the extreme north-east of the waste region in a highly rural county far removed from the main areas of population and industry i.e., Swansea and Neath/Port Talbot.
364. The proximity principle has been completely disregarded as the site is in the worst location for the region. Welsh Government's new transport policy Llwybr Newydd encourages a move away from road transport. A location close to rail facilities would be more sustainable. The actual costs of HGV traffic travelling to the site from say a 2-hour drive-time would be around £3m. There would also be significant environmental costs in terms of pollution and climate change. The scale of the proposal is such that alternative sites in Powys that will have been disregarded may have been suitable for a smaller facility based on the needs of Powys.

365. Other facilities are located in proximity to the main dual carriageway or motorway network. In contrast the road network in Powys is not well suited to HGV traffic.
366. The proposal would undermine the Wales strategy for waste set out in Beyond Recycling. It would be prejudicial to the carbon neutral target by 2050. The estimate is that one tonne of waste would produce one ton of carbon. It would be prejudicial to waste strategies in England also. Waste coming from England would frustrate the measures proposed in Wales to achieve the zero-waste target. Beyond Recycling sets out key targets for reduction in waste at source and for recycling. Waste imported from England would become Welsh waste once it crossed the Border. It would be beyond Welsh control and not subject to the future initiatives and regulations set out in Beyond Recycling. It would, however, be included in Wales' waste figures and potentially frustrate achievement of Welsh targets.
367. The proposal would produce large quantities of Carbon in absolute terms. The process would generate a tonne of Carbon per tonne of waste on average; it could be higher. Transportation over long distances would add to this. This type of facility would produce much higher levels of carbon than renewable sources and even gas power plants. The proposal would not therefore be low Carbon from any perspective.
368. The proposal would result in the incineration of recyclable material, mostly from England. There is little information from the applicant as to the source or type of waste to be accommodated. The proposal would increasingly burn plastics, which are derived from fossil fuels. This burning would generate CO₂ at roughly a tonne per tonne of waste incinerated. Transportation emissions must be added to this. EfW incinerators increasingly do not produce less carbon compared to landfill because food waste is not going to landfill, thereby removing the principal source of carbon emissions.
369. In October 2021, Flintshire CC approved a new small-scale incinerator to link with an RDF plant and Anaerobic Digester (already approved). The combined facility will process 182,000 tonnes pa of waste, giving Wales sufficient incinerator capacity by 2034/35 even under Scenario 2. (This incinerator and Parc Adfer are just 47 miles from Buttington).
370. The Applicant's claim that "matters of need and alternative site availability do not require consideration" appears to be based on Future Wales, Policies 17 and 18 which relate to low carbon renewable energy. However, EfW is not included in the list of low carbon technologies in the Energy Generated in Wales report 2019. Wind and solar are sustainable low carbon technologies and critical to achievement of net zero carbon and a circular economy; EfW is transitional and will be phased out on the journey to 2050. A claim that no justification of need is required when the need has a limited life is illogical and clearly inconsistent with the intention of Policies 17 and 18.
371. The WRATE assessment is not sound and is increasingly irrelevant as landfill is phased out. It does not specify the carbon content of the plastic fuel material. It could produce up to 2 tonnes of CO₂ per tonne of waste incinerated. Incinerators

which process large quantities of plastic have a carbon intensity level well above conventional renewable methods of generating electricity. The claim that the facility would be low carbon is based on data that is out-of-date and excludes around half of the actual carbon emissions because it is not derived from fossil fuel. There are other technologies being developed to increase recycling and deal with residual waste without the need for incineration. Whilst carbon capture is theoretically possible, a Welsh Government study states that road transport of carbon would only be feasible for small plants. A pipeline to transport carbon would not be feasible in mid-Wales.

372. District heat is a requirement of the SA and encouraged in FW. The applicant acknowledges that claims of local heat supply cannot be justified. The proposal would not result in a reduction in GHG emissions by diverting waste from landfill as Wales (if that is where the waste is to come from) will not be using landfill after 2025.

Air Quality Impacts

373. The complex relief of this area makes it an unsuitable location for an incinerator. The form of the valley sides and the relief of the area means that cold air can accumulate to great depth. This would compromise dispersal of pollution, which may not have been taken account of in the modelling. The modelling of climate data has been based on the location where the landscape is flat and this is completely different from the Severn Valley in this area. There are local weather statistics available from 2019 onwards which were not used by the applicants.
374. This temperature inversion will overwhelm the flue. Mapping undertaken on behalf of the group indicates that the plume will regularly ground on the valley sides leading to higher pollution values. It is claimed that polluted air grounding on the hillsides drains back into Pwll Trewern. This is a frequently observed hazard which already causes pollution problems and may not have been taken into account in the modelling.
375. Downwash has been observed and filmed at Shrewsbury and Gloucester incinerators. The bonfire smoke referred to, on that day at Buttington/Trewern, indicated the downhill direction towards the school and housing that any flue downwash (should it occur) would take. The area (within which the quarry defile is cut) is slightly elevated. Lee wave eddies and katabatic wind can roll air downwards behind obstacles, at any scale, where there is normal mixing in turbulent air. This could occur here.
376. The site is close to a local school and there are dwellings within 50m of the site. Concerns are expressed over the long-term exposure to pollution for children and adults who live in the area. The World Health Organisation is constantly revising limits downwards and considers that pollutants from incinerators such as Chromium VI, arsenic and dioxins have no safe threshold. Reanalysis indicates that the emissions will exceed permitted thresholds threefold. It is considered that PM_{2.5} and SO₂ concentrations should be urgently reassessed because no account has been taken of recent WHO guidelines. There are instances of repeated breaches of emission permits, which gives a very high risk to young people's health

from an incinerator in this landscape. The site breaches WHO guidance that incinerators should not be located in hilly areas. Hampshire CC requested information to show that a proposed incinerator would comply with WHO guidelines in connection with a recent application

377. The concern over long-term pollution is supported by research undertaken by Dr Mary Phillips Jones. The air quality standards used are now 20 years old and need to be updated due to the toxic effects of the pollutant referred to. There is no safe level for arsenic and Chromium VI (CrVI) is a very toxic harmful compound widely present in a large number of products that are incinerated. The applicant's figures show that 100% of the Cr emissions would be CrVI. These figures have been derived and screened using the Environment Agency information and guidance and the results show that even after screening the CrVI will be 5.5 times higher than the EQS safety standard.
378. BIIG are glad to hear that consideration of the ingestion of dioxins from crops will be addressed under the permit application. Data for 24-hour exposure to particulate matter (PM 2.5) is missing from the data analysis and should be considered and finally the same applies to SO₂ concentrations. The objectors also referred to a report by air quality consultants on behalf of the Greater London authority which shows the health risks of living near incinerators, especially downwind.
379. New WHO Global Air Quality Guidelines (AQGs) provide clear evidence of the damage air pollution inflicts on human health, at even lower concentrations than previously understood. The guidelines recommend new air quality levels to protect the health of populations, by reducing levels of key air pollutants, some of which also contribute to climate change. The health risks associated with particulate matter equal or smaller than 10 and 2.5 microns (μm) in diameter (PM₁₀ and PM_{2.5}, respectively) are of particular public health relevance. As well as CrVI, there are concerns about the levels of NO₂, SO₂ and VOC. The applicant appears to have used stack height twice in screening out effects from these pollutants.
380. BIIG have used AERMOD modelling system, which the applicant says should be discounted as it is not reliable evidence. Two systems are widely used for Air Quality Assessment: ADMS and AERMOD. ADMS is slightly more popular in the UK but is not well known elsewhere. AERMOD is most well-known globally. Incinerator proposals can use AERMOD in their Air Quality Assessments. The rejection of the AERMOD assessment by consultants is convenient for the applicant. NRW has confirmed that AERMOD is suitable for use.
381. However, the consultants also quote excerpts from an application for an incinerator at Keighley where the Environment Agency itself even mentions AERMOD as alternative modelling software. AERMOD is not discounted. Thus, we do wonder in whose interests it is to say that AERMOD is 'not reliable evidence' here? BIIG therefore consider that the AERMOD plot (below) does indicate where pollution will generally fall. The weather data show that the SW winds will regularly take pollution downwind to Trewern and Middletown. On days when the weather is conducive to temperature inversions, polluted air drainage from the hill slopes cooled by radiation will collect at Trewern.

382. Irrespective of the AERMOD/ADMS predictions, it is obvious to the local inhabitants that the plume will impact the area. It is the sheer persistence of this 'in your face' stream of pollution over the lifetime of this proposed incinerator that is the problem for the community. Not only will the emissions carry PMs, NO₂ etc. but also a cocktail of heavy metals.
383. BIIG therefore continue to assert that the AERMOD plot does indicate where pollution will be concentrated. The weather data clearly show the prevailing winds will normally take the pollution downwind to Trewern, the SSI and Middletown. Turbulent air mixing described by the applicant's consultants is the normal situation, but the plume is entrained in the valley. It is not freely dispersed. Thus, the Application's 'insignificant' amounts of pollution will be concentrated on the inhabited area. Isopleth maps in the ES show concentrations of pollutants, as expected, NE of the stack on the school/settlements.
384. It is also known that very high releases of dioxin, and other pollutants, can arise during start-up and shutdown of incinerators. Shut down can happen due to failures or maintenance. There are frequent permit breaches of emission limits. These emissions are silent. The affected population will not be aware of their toxicity at the time of the breach. We are also reliant of monitoring systems functioning normally, but they can fail. The guidelines used by the applicant may not be up to date. The calculated values for pollutants are constantly being revised downwards to smaller values being 'acceptable'. This could be a pollution 'hot spot'. It is almost impossible to predict the long-term accumulation of pollutants and their risk to health to the population, and the yet unborn. The presumption should be that if we don't have clear information to demonstrate that it is safe, then we shouldn't take the risk.

Economic Development

385. BIIG critique the economic development aspects of the proposal in the light of the Local Development Plan, Technical Advice Note on Economic Development (TAN 23) and TAN 21 Waste. Reference is made to adverse impacts on tourism in the area and the quality of the landscape.
386. TAN 23 requires consideration of the alternatives to the proposal, which the residents say is flawed for the reasons given above. The collection of baseline data is flawed in that the two areas of population that would be most affected by the development have not been included in the analysis: most importantly the town of Welshpool.
387. There is a lack of evidence to support the applicant's claims of the 300 construction jobs and 30 full-time jobs that will be created. Doubt is also cast upon the claimed supply chain benefits, the possibility of an eco-business Park on the site and the possible training and apprenticeship opportunities. The ES cast doubt on the need for and the possibility of local employment generation as a result of the proposal. There is no reference therein to the possibility of an eco-business Park and no details of such a proposal have been provided.
388. The applicant's employment figures are out of date. There were 68 jobs advertised locally within 10 miles over the last 30 days (52 FTE). As this is a commuter area a

wider area was considered, and it was found that 1,000 jobs were available within 25 miles. This shows that this is not an area in which employment is an issue.

389. TAN 21 practice guidance requires consideration of the environmental benefits of a waste facility compared to other options, economic benefits and employment benefits from the facility as well as benefits to society. The objectors consider that the proposal would have a negative impact on the environment. It would have a negative economic impact on the local community by an adverse effect on tourism, adverse effects on the desirability of living in the area and on the viability of the local school and adverse effects on accommodation and local lettings due to the construction period. The applicant has been unable to provide robust evidence of significant employment benefits and there are significant adverse impacts on the local community. The Applicant has failed to properly assess the socio-economic impacts on the local area or to substantiate the conclusion that the proposed ERF would have no significant negative impact. It is clear that the development of an incinerator at Buttington Quarry meets none of the planning tests relating to economic development and should therefore be refused.

Highway Safety and Transportation

390. The applicants transport assessment wrongly states that the A458 as a trunk road is by definition a road that would be expected to take HGV traffic – this is not the definition of a trunk road. A trunk road is simply one which is the responsibility of national government. The Marches and Mid-Wales Freight Strategy 2018 (commissioned by Welsh Government and Powys CC & others) identified a number of key weaknesses of the trunk road network such as: their poor condition; poor average speeds leading to long journey times and poor journey time reliability; lack of alternative routes, with low network resilience in the event of incidents.
391. The two main roads (A458 and A483) leading to the site are single carriageways that pass through the centres of villages and already carry large volumes of HGV traffic. The proposal would add around 6-9% HGV traffic to the A483 and 11-16% to the A458. This is not a modest increase to what are already the busiest roads in mid Wales.
392. The proposal will not comply with paragraph 8.2.9 of TAN 18 because the site is not located away from built-up areas. Other incinerators are located close to dual carriageways and motorways. It would not comply with Policy W2 of the LDP because the highway network is not suitable for the traffic proposed. The traffic associated with the proposal would run counter to Welsh Government's new transport policy Llwybr Newydd, which encourages a move away from road transport. The Highways response therefore sends out a poor message to developers.
393. There are accident blackspots along the A458 most notably at Cefn Bridge. This narrow bridge in the shape of an S has been the scene of many accidents (12 accidents from 2017 to 2019 are listed). It is not possible for two HGVs to pass each other on the Cefn Bridge. There have been serious accidents here that have caused damage to the bridge resulting in traffic lights that have had to be put up so the traffic is reduced to single flow until the repairs can be done. Scheduling repairs

involves liaising with Network Rail so that the line can be safely closed. At one point there were traffic lights in place for months, causing severe traffic jams and backlogs on the main route into mid Wales. Buttington Bridge is also a dangerous bridge. Accidents have continued during 2020 despite reduced traffic volumes arising from the pandemic, including 4 accidents that resulted in the A458 being closed. References are also made to accidents along relevant portions of the A483.

394. Of particular concern is the daily 2-way flow of 141 HGVs during the construction phase of the development. If the traffic is coming along the A458 from the direction of Welshpool, this is also problematic due another narrow bridge which crosses the river. This road is not just heavily used by those commuting to Shrewsbury and Welshpool, but also tourist traffic and those using the Welshpool Livestock Market which is the largest of its kind in the UK. The proposal would source waste from a considerable distance away. The resultant long journeys could result in a concentration of delivery traffic at certain times, which could lead to congestion problems at the access.
395. It should also be noted that in the event of any serious accident resulting in closure of the A458, there is no easy diversion for traffic. The only alternative is to use the A5 to Oswestry and then the A483 Welshpool, which is an additional distance of around 15 miles. It's also the case that the A458 is heavily impacted by summer holiday traffic. In addition, the A483 to the north of Welshpool can be closed as a result of flooding from the River Severn during winter months, as happened twice during 2019/20.

Landscape and Visual Impact

396. The applicants refer to discussions with the Design Commission for Wales in July 2020 and that comments regarding the design concept and building appearance had been received. However, there is no reference to the detailed advice presented in the report of the meeting in the ES. The objectors refer to the notes of the meeting on the Commission's website. The Commission notes the materials proposed for the external elevations but considers that alternatives do not appear to have been tested. The Commission questioned how successful the use of coloured cladding might be especially in the winter and urged the applicants to consider a more distinctive approach. Amongst other things the Commission refers to doubts that the current approach allows for the complete screening and camouflaging of the building. There is no evidence that the further consultation and a follow-up meeting promised by the applicant actually took place.
397. The Landscape and Visual Impact Assessment (LVIA) provides a detailed analysis of the impact at 35 locations. 15 of these are nearby to the site and almost all of these were predicted to have a medium to large (potentially large) magnitude of impact, with the major adverse significance of effect for residents. The LVIA also assesses impacts over a much wider area and overall concludes that the development will result in notable changes both in relation to the site and in a wider context of landscape and visual terms.

398. In terms of the mitigation measures, the first is to clad the building in various shades of green so that it would allegedly blend in better with the landscape. This is not accepted by the Commission who note: Where the building is seen against the skyline the colour would make little or no difference other than to stand out more starkly against the sky. The chosen colours reflect the colour of the landscape during summer and for other seasons would blend in less well.
399. The second is to plant broad-leaved trees around the periphery of the site. It is considered that the trees would be of limited benefit in view of the height of the building and they would take many years to grow. So, for the early period at least they would have no significant impact. The planting required by conditions on planning permissions at the quarry has not been provided. In fact, large areas of woodland, notably along the A458 have been removed over the past 20 years.
400. The proposal to raise the height of the bund around the site would not have a significant screening effect for a building 46m high. The proposed stack would be 70m high would add a new industrial feature to the area and would have a major visual impact on the predominantly rural landscape. For these reasons the proposal would conflict with the aims of the Powys Local Development Plan and would not comply with the requirements of the employment allocation on the site. The visual impact of a large incinerator on the landscape would have an adverse effect on tourism in the area. It would also have an adverse effect on the mental health and well-being of people who could see it from their homes or other viewpoints. This would be contrary to PPW and its placemaking principles.

Ecology

401. The ES lists 10 Bat species recorded within the wider land ownership in and around the site. 5 of these are rare or less common according to the Bat Conservation Trust. The threats to bats referred to in the ES include: light spill from construction activities; potential for further displacement of bats during the operational phase and adverse impacts on air quality.

Cultural Heritage

402. The cultural heritage chapter lists the archaeological sites and listed buildings in the area. However it fails to demonstrate any understanding of the ancient history of this important area and misrepresents or omits information about the important role Trewern and the surrounding area has played in Welsh and English history including many of the unique historic sites. It lacks any understanding of the importance of historic assets to the character and sense of place of different parts of Wales.
403. The objectors refer to the Well-being of Future Generations (Wales) Act 2015 and the Historic Environment (Wales) Act 2016 section 35 which defines conflict sites (battlefields), Technical Advice Note 24 on the Historic Environment and Cadw Conservation Principles. The Royal Commission on Ancient and Historic Monuments in Wales has an inventory of historic battlefields, which has a much wider definition than that used in England. The cultural heritage assessment has not included five battlefields on the register that are within the study area, despite references to the inventory of historic battlefields.

404. The importance of Cefn Digoll and Trewern as a gateway to Wales for millennia has not been recognised. Examples of heritage assessment errors and omissions including: the scant reference to Gorddwr, the fact that Trewern is referred to in the Domesday survey, Caer Digoll SAM is referred to as a heritage site, but not its importance and the omission of Caus Castle.
405. It is considered that the heritage assessment is demonstrably incomplete and partial and shows no understanding of Welsh history or the interrelationship between Welsh communities, culture and landscape.

Health Impact Assessment (HIA)

406. The HIA was not complied with the best practice guidance as claimed by the applicants because the level of community engagement falls far short of that required in terms of meetings of the steering group and publicity/consultation. The composition of the steering group did not include an impartial chair or appropriate representation from the community.
407. The group feels that the public consultation exercise at the pre-application stage was inadequate and falls short of best practice in the appropriate guidance. A rebuttal to the HIA was submitted at this stage, but this has been completely ignored by the applicant.
408. The importance of proper consultation is reflected in the guidance on Health Impact Assessment, which also states that this can negatively affect the outcome of a planning application.
409. The methodology used is flawed. The geographical area selected for the HIA has the effect of blunting the data because it is too large. This is also affected the community profile by avoiding focus on the host community of Trewern. Useful sources of data were not used and the health and well-being determinants for the local area were incorrectly identified.
410. If the correct datasets had been applied would have shown that the physical environment of the ward is already under pressure. The literature review in the HIA concluded that there were various impacts requiring mitigation and yet it unaccountably concludes that no significant environmental effects to population or human health will arise from the development. Despite these issues the HIA has been submitted without any further effort to progress outstanding matters or address concerns raised during the pre-application consultation. The HIA fails to provide an objective assessment of the probable impact of the development on the local community and its conclusions must therefore be discounted.
411. Although the applicant makes much of going beyond minimum HIA requirements, for those who live in Trewern, their description of the community is partial and misleading. ES Chapter 15 appears at best a desk top exercise paying lip service only to HIA principles. The applicant has failed to engage meaningfully with Trewern residents. The area focused on by the HIA conflates several disparate communities and ignores statistical conventions and it does not present an accurate picture of Trewern Community area or adequately consider local needs.

412. The HIA refers to engaging with Public Health Wales but there is no reference to any contribution from them in the assessment. Neither has the applicant sought the support of Wales Health Impact Assessment Support Unit in improving the quality of the HIA, although providing such advice is the core to the purpose of the unit. This demonstrates that the Applicant has not been fully committed to putting HIA principles into effect through engaging positively with the community of Trewern. The HIA has failed to progress matters identified as outstanding or to address concerns raised during the pre-application consultation or to provide an objective assessment of the probable impact of the development on the local community and its conclusions must therefore be discounted.

Councillor A Jenner

413. The planning and waste policy pertinent to the proposal is set out and is not repeated here. The key points made are that waste should be managed close to where it arises. The majority of waste creation in the Mid and South West region area will be in the Swansea, Neath, Port Talbot, Milford Haven corridor and the journey time to Buttington would be considerable more than 2 hours. The transport routes to Buttington would be on rural road networks such as over the Brecon Beacons, Preseli Hills or Cambrian Mountains. The transport millage from these areas to Buttington will be high and contrary to the proximity principle which clearly should apply here. Such transportation will completely dilute any carbon saving claims that the applicant makes.

414. The site is allocated in the Local Development Plan for employment use and as suitable for waste, but this is clarified as being suitable for an urban quarry where inert waste can be stored for re-use.

415. There is no local or regional need for this proposed incinerator. Powys residents' produce under 20,000 tonnes of non-recyclable waste a year and this is a fraction of the amount of waste that this facility would need to burn per year in order to be viable. Disposal of this waste by EfW is subject to a recent 5-to-7year contract. There is also planning permission for an EfW plant in Welshpool.

416. The applicant puts forward many speculative and aspirational arguments to justify their proposal. They have not outlined plans to use the heat generated and their claims that this development would be a catalyst for further business development are uncertain and not backed up by any expressions of interest. The applicant's comments on landfill comparisons are based on outdated assumptions and do not consider Wales' use of methane capture or prevention at such landfill. Landfill gas capture is in place at all sites in Powys. The comments of BIIG refuting the claim that the proposal would be low carbon are supported by evidence from Zero Waste Scotland, WRAP and Professor Ian Boyd, the previous DEFRA Chief Scientist.

417. With regard to the sustainability of the operational life of the proposal. Given the Welsh Government's targets to eliminate waste going to incineration, when considering this alongside the decision timeframe for this application, the likely length of construction and testing phases, it is likely that the potential operational shelf life of this project would be well under a decade. Further, an environmental

permit has not been sought yet by the applicant. The limited shelf life of this proposal shows goes against the principle of sustainability.

418. There was no proper consideration of alternative sites. Given the latest policy, there should be a genuine search for a more suitable and sustainable site to serve the South Wales and Mid-Wales Region.
419. The location of this proposal is in a largely rural and agricultural area and the scale of the stack could materially alter the rural nature of the landscape. As stated from the outset, this development would materially alter the rural nature of this area and the erection of the stack would be a blight on the natural landscapes. The stack would be able to be seen from miles around, including from local attractions such as Powis Castle, the Moel y Golfa monument, parts of the Montgomeryshire canal, the Offa's Dyke path and many other public footpaths. The adverse impacts would affect local well-being of residents, many of whom chose to retire to the area because of its scenic qualities. There are proposals to improve the public footpaths in the area that serve Moel y Golfa, including the routes from Middletown.
420. The concerns of other objectors about local road safety on the A458 and especially Cefn Bridge are shared. Recently erected barriers on the bridge have already been hit twice by HGVs. The road is very busy as a result of tourist traffic, especially with increased staycations since the pandemic. In a survey by the local AS, 91% of respondents thought that the A458 should be improved. This issue has been raised in the Senedd and commented on by the First Minister. The Welsh Government Highways expressed concern about other applications. The A458 is the route to the nearest hospital in Shrewsbury.
421. There are residents who live incredibly close to this proposed development who would be negatively impacted by the noise associated with the operation of the facility. As already stated, this area is a rural area without any current noise of an industrial type.
422. There are a number of tourism and hospitality businesses within the local area, including caravan sites, holiday accommodation and restaurants and cafés. This industry has already been severely impacted during the COVID-19 pandemic and the approval of this development would further risk their long-term survivability. There is a new Italian family run restaurant which has just opened within a few hundred meters of the proposed incinerator site. The potential detrimental impact of the incinerator was the first thing they mentioned when asked about their hopes for having a good business in the area. The PR would adversely affect the value of houses in the area. Many have chosen to retire to this attractive area and will have their retirement dreams dashed by the proposal.
423. There is significant local concern and opposition to the proposal. Fear caused by the threat of the proposal would have a negative impact on the mental health and general wellbeing of residents. Within a few hundred metres of this development there is a thriving primary school, which sees an increasing number of pupils walking to school with their parents. There is also a playground, public footpaths, a community gym and a local football field nearby. The perception of poor air quality

due to the incinerator's emissions will discourage people (including school pupils) from engaging in outdoor activities.

424. This proposal would be contrary to the Well-being of Future Generations Act (Wales) 2015. It would not be sustainable and would have a detrimental economic, social and environmental impact on our local community and would negatively impact the well-being of many. The proposal would have a negative impact on the Act's Well-being goals.
425. The incinerator will have a negative impact on the school. Particularly due to the perceived negative risk to health from incinerator emissions and also the likely increased traffic problems, it could result in parents choosing to send their children to a different school and could risk the long-term viability of the school.
426. Cllr Jenner had suggested some conditions be attached to any planning permission. These related to the payment of monies and did not meet the tests for conditions. At the hearings she agreed that they would not be appropriate as they would not meet the legal tests for conditions.

Buttington Trewern County Primary School

427. The school has submitted letters from the governing body and on behalf of the pupils themselves. A major objection is the potential effects long-term health of pupils, staff and the residents of our local community. The applicant points out that their plan will not result a significant impact on human health, but clearly this does not rule out the possibility of any impact on human health, only that the consequences may not be significant. The applicant's assertions are based on a modelling process only and therefore may not necessarily be accurate in practice. Furthermore, it is impossible for anyone to be certain of the health impacts that could result in decades to come.
428. Many pupils and their families currently enjoy the benefits of outdoor recreation and exercise close to the proposed development site with walking, running and cycling being particularly popular. Within the perimeter of the school there is an outdoor gym, a community playground and a sports field (used by the local football team). The school has also secured grant funding for an outdoor sensory garden. To allow the proposed incinerator development to proceed at the Buttington Quarry site would undoubtedly lead to reduced take up of outdoor activities within our community spaces with a resultant knock-on effect to physical and mental health.
429. The entrance to our school is situated on the A458. This is a busy main road which receives a high volume of traffic throughout the day and in particular during the morning around the time that our pupils are being dropped off at school by their parents. We have noted the difficulties that arise when, after dropping off their children, parents attempt to re-join the carriageway as long streams of traffic approach from either direction. To add a considerable number of more HGV's per hour would in our opinion add a burden of additional traffic that would exacerbate the problem with resulting consequences for road safety.
430. The exceptional team of staff at the school have worked tirelessly over many years to achieve an excellent reputation. However, school funding is largely based upon

the pupil numbers attending. Numerous parents have expressed their concerns about the proposal and the school anticipate difficulties in recruiting new pupils and retaining existing ones. The landscape impact, health concerns, increase in volume and pollution from traffic, will have detrimental impact on the future viability of what is currently a thriving rural school.

Appraisal

431. The main considerations are:

- Whether the proposal would be consistent with the aims of waste planning policy in Wales in terms of need, sustainability and direction of travel, in the context of national and development plan policy;
- The effect of the proposal on air quality and human health;
- The landscape and visual impact effects of the proposal on the character of the area and on receptors;
- The effect of the operation of the proposal on nature conservation, biodiversity and the ecology of the area. In particular, whether there would be significant effects on the Montgomery Canal Special Area of Conservation and SSSI, and Moel y Golfa SSSI;
- The effects of the development on highway safety; and
- Whether the benefits of the proposal outweigh any adverse impacts that are identified.

Legal Submissions

432. I have summarised the contents of a Legal Position Statement (LPS) prepared by Counsel that was submitted by the applicant (and attached the full document as Annex C to this report). The LPS refers to two documents produced by Welsh Government on 24 March 2021: firstly, a Written Statement announcing the moratorium (WS) and secondly the Strategic Assessment. The LPS states that there are a number of errors in the production of the document but does not specify which document. It is presumably the references to the moratorium in both. The LPS sets out what are considered to be fundamental flaws in the preparation and content of the document (see the first 5 bullet points above).
433. It must be the case that a policy document remains valid until it has been successfully challenged in the courts or quashed by another means. It is also a fundamental principle of planning law that the weight to be given to any policy is a matter for the decision-maker. In my view the alleged errors in the production of the WS and Strategic Assessment (if both) are a matter for consideration by the Welsh Ministers. Policy in TAN21, PPW, Future Wales, etc. was the subject of submission and the alleged incompatibility between this policy and the moratorium is in my view also a matter for consideration by Ministers. The exceptional circumstances justifying a large scale EFW plant, the need for such a plant and related issues are considered fully in this report, which will be presented to Ministers for decision.
434. The validity of the moratorium policy on large scale energy from waste infrastructure is a matter of law and for consideration by the Welsh Ministers. I therefore make no further comment on this legal submission or its content.

Waste Planning Policy and Need

435. The importance of the demonstration of need is recognised in Policy W1 of the Powys LDP. The policy states that all proposals for waste management will be considered against the waste hierarchy. The supporting text makes it clear that Policy W1 seeks to facilitate an integrated and adequate network of waste management facilities in sustainable locations in line with national policy and guidance and in accordance with the waste hierarchy. It sets out that national policy cautions against the overprovision of recovery and disposal facilities but recognises that there will continue to be a need for them up until 2050 when the aspiration of zero waste should be realised. In order to ensure sufficient provision exists, TAN 21 provides advice on the point at which the extent of provision within a region is considered to be sufficient. Para 4.9.8 states that “Any other new waste facilities, including inert waste, will be assessed on their own merit provided that there is a justifiable need for the development. The justifiable need should refer to the local need as specified within the Municipal Sector Plan and Collections Infrastructure and Markets Sector Plan”.
436. Policy W2 includes the requirement that a proposal minimises the need to transport waste by road, taking into account the proximity principle. There should be no adverse impacts on: amenity, human health or the environment due to noise, dust, odour or air quality; features of ecological or built heritage interest; and there should be no adverse landscape or visual impacts.
437. Much of the site is allocated under Policy E1 - Employment Proposals on Allocated Employment Sites within the category of Local Sites. These are sites for B1, B2 and B8 uses located within close proximity to the main road and transport infrastructure as well as centres of population. The Plan states that these sites primarily serve a local market and may include local office developments. The site is also one of those identified in this policy as suitable for waste uses through Policy W1. Para 4.9.7 explains that Buttington Quarry may be suitable as a permanent recycling repository or ‘urban quarries’ to enable the storage and processing of wastes arising from construction and demolition.
438. Chapter 5 of PPW is Productive and Enterprising Places which covers the economic components of well-being and contribute towards the national sustainable placemaking outcomes. The most relevant provisions to the proposal are set out in Section 5.13 Sustainable Waste Management Facilities.
439. Looking at the national policy level, PPW and the accompanying TAN 21 set out the planning guidance for sustainable waste management facilities. Welsh Government waste policy is contained in Towards Zero Waste (TZW) – the waste strategy document, which is accompanied by a suite of sector plans, the relevant one being the CIM sector plan. I have described the relevant parts of these documents earlier in the Planning and Waste Policy section.
440. Demonstration of need for the proposed ERF is a fundamental requirement of development plan and national policy concerning waste-related development. TAN 21 identifies the role of the CIM Sector Plan in setting out the need for sufficient capacity for the recovery of residual mixed wastes which are incapable of being recycled, in the short to medium term, as a means to reduce disposal by landfill. However, this must be complementary to the overall aim of driving the treatment of

all waste further up the waste hierarchy. TAN 21 confirms a short to medium term need for more waste treatment and energy recovery facilities in order to reduce reliance on landfill, but it also confirms the longer-term aim of an infrastructure network based on higher levels of reuse and recycling.

441. TAN 21 requires applicants to clearly justify why a proposal is necessary. It makes clear that the CIM Sector Plan represents the starting point for the determination of need for future capacity. Where it cannot be clearly demonstrated there is a need for the proposal it may be appropriate to consider refusing planning permission. This is likely to be the case where the level of provision exceeds the upper range identified in the CIM Sector Plan for any given region.
442. TZW sets out the strategy for achieving zero waste by 2050 and an intermediate milestone in 2025. This refers to significant reductions in waste generation, maximising recycling and the elimination of waste disposal to landfill in favour of high efficiency energy from waste plants. The CIM Sector Plan 2012 identifies a need across Wales to develop more residual waste treatment and recovery facility capacity and notes that the future needs for such capacity cannot be predicted with complete certainty due to the variety of factors affecting future tonnages and actual existing capacity.
443. Beyond Recycling (BR) is a strategy document that outlines in more detail the intended approach beyond 2025 towards the TZW 2050 goal. It reinforces the need to continue the trajectory on recycling beyond the 70% 2025 target to the ultimate goal of zero non-recycled residual waste by 2050.
444. The CIM Sector Plan 2012 supports TZW by detailing outcomes, policies and delivery actions that contribute to the delivery of WG's commitments, including targets, set under relevant EU Directives. However, the strategic assessment for the need for new energy from waste capacity provided in section 2.3.4 of the CIM Sector Plan (2012) was last year replaced by the Strategic Assessment for the Future Need for Energy from Waste Capacity in the three economic regions of Wales. The revised Strategic Assessment makes clear that the new information therein should be used when assessing the need for a new energy from waste facility. Notwithstanding the immediate moratorium on any future large scale (10MW or greater) energy from waste developments announced in the Ministerial Written Statement of 24 March 2021, the Strategic Assessment states that the information will be a material consideration in the wholly exceptional circumstances where large scale energy from waste proposals of 10MW or greater have, or may, come forward.
445. As TAN 21 makes it clear that the CIM Sector Plan represents the starting point for the determination of need for future capacity, the new Strategic Assessment figures explicitly replace those in the CIM Sector Plan 2012 and should therefore be treated in the same way.
446. A Waste Flow Model has been developed for the three economic regions of Wales for two future scenarios using the latest Local Authority, industrial and commercial and construction and demolition waste data available. It uses two scenarios to estimate future waste arisings. Scenario 1 – 'Recycling and Waste Minimisation

Targets Met' uses the annual waste arising prevention targets contained within Appendix 2 of TZW. For Scenario 2 - 'Recycling Targets Met, No Waste Reduction' waste reduction has been set to zero.

447. For the Mid and South West Wales region Scenarios 1 and 2 estimate total non-inert residual waste arisings of 300 thousand tonnes in 2019/20 reducing to 220 to 240 thousand tonnes in 2024/25 and 170 to 220 thousand tonnes in 2034/35. The stated capacity of the proposal is 167,000 tonnes, although in reality the stated maximum will be approximately 150,000 tonnes when maintenance periods are taken into account. This means that the level of need is more than the capacity of the plant, even using the optimistic waste minimisation targets met in scenario 1.
448. The applicant argues that the figures in the Strategic Assessment are a best-case scenario because they do not reflect actual operating capacity, especially given the levels of waste imported from England to the two existing plants. It is argued that this means that considerable reliability and weight can be given to the under-capacity (and therefore need) identified in the Strategic Assessment for the Mid and South West Wales region. The objectors provided some evidence of further capacity becoming available within the two-hour catchment of the site in England and North Wales, which may reduce imports from England. However, my interpretation of the waste policy is that it is clear that the identified need should be met in each of the 3 regions. This is the approach that was taken in the consideration of a recent similar proposal in the South-east Wales region (DNS 3236340 Môr Hafren). The applicant has accepted this approach by offering a condition to require 70% of the waste to come from the Mid and South West Wales region. This is also a relevant consideration in the context of the All-Wales need which is stated to be between 40,000 over-capacity to 165,000 tonnes of under-capacity in 2034/35.
449. There is a tension between the short-term need for EfW facilities to cater for waste that was going to landfill and the Welsh Government's long-term goals of zero waste, net zero carbon and the circular economy. TZW updated by BR indicates that waste prevention will be at the core of the transition to a circular economy, and that the long-term solution is a move away from incineration. The Welsh Government is seeking to ensure that the capacity Wales has for generating energy from waste is in line with the capacity needed during the country's transition to a circular economy. This underpins the announcement of a moratorium on large-scale EfW plants as no longer being required. I shall return to this in the overall balance section below.
450. TAN 21 and the Strategic Assessment also state that where planning permissions already exist in an area (region) they should be taken into account in determining the level of need. The significance which can be attached to proposed (planned) capacity in determining the level of need will vary depending on the likelihood of facilities being built. Matters to consider will include whether there is evidence of contracts in place to manage residual waste, whether facilities are in the process of being built, whether they have been commissioned, whether pre-commencement conditions have been discharged and whether an environmental permit is in place.

451. The Local Planning Authority drew attention to the fact that there is a valid planning permission for a 30,000 tonnes per annum ERF in Welshpool and supplied a letter from the applicant, an established local waste management firm. They consider that this ERF would meet the needs of the Mid-Wales area going forward. A Lawful Development Certificate has been granted confirming that all pre-commencement conditions have been complied with and the development has lawfully commenced. The letter refers to ongoing work to procure appropriate technology and suitable electricity connections. Discussions have been held with NRW and the Council regarding a permit application. The possibilities for combined heat and power are set out. Discussions with the Council around supplying heat to local schools and the leisure centre are ongoing. There are also potential customers in terms of nearby businesses and a nursing home.
452. Having regard to the matters to consider identified in TAN 21, as listed above, there is evidence that a contract is in place to manage residual waste. There is a commencement of the development but no evidence that the approved buildings or plant have been erected. The letter states that there is no environmental permit in place as yet. And whilst it refers to the company being in a better position to provide expected dates when the plant may become operational in early 2022, no further information has been provided. Taking all the information into account, I conclude that the commissioning of this proposal is a realistic possibility and I will, on this basis, take it into account in determining the level of need for additional ERF capacity in the region.

Sustainability

453. Turning to consider the sustainability of the proposal. The proposal would be an energy recovery facility achieving R1 status, which is the relevant standard to be classed as an ERF at the moment. The WRATE assessment shows that the development would save around 31,900 tonnes of CO₂ pa compared to landfilling, which is the equivalent of taking 11,350 petrol cars off the road. This is a benefit of the proposal, reflecting its higher status in the waste hierarchy than landfill. However, this is not the complete picture. There was evidence that the disposal of municipal waste to landfill will shortly be reduced to such a level as to be eliminated altogether. This raises questions around the applicability of the WRATE comparison as landfill is phased out and progress continues towards becoming zero waste.
454. The plant would also emit carbon as part of the combustion process. The amount would vary depending on the content of the material being incinerated. The objectors argue that it would emit almost as much carbon as a fossil fuel power station. The Strategic Assessment states, in relation to any new small-scale energy from waste facilities that may be permitted, these must, where feasible, be carbon capture and storage enabled or ready. A consistent approach would suggest that the same should apply in the exceptional circumstances where a large-scale facility of 10MW or greater might be approved. The proposed ERF does not make provision for carbon capture and storage. Although the applicant confirms that carbon capture technology can be retrofitted. The possibility of using carbon capture technology has been investigated and the evidence leads to the conclusion that it is not viable. The systems to store and transport the captured CO₂ are

simply not in place in this location and not likely to be for the foreseeable future. The applicant initially suggested that a condition requiring carbon capture by 2035 could be attached. During the hearings this date was changed to 2050.

455. The proximity principle is fundamental to waste planning policy – that waste should be treated close to where it arises to ensure the right waste management facilities are located in the right place and at the right time. The nearest appropriate installation principle states that waste should be disposed of or recovered in one of the nearest appropriate installations. There are several reasons why it is important to manage such waste close to where it arises, including reducing the detrimental environmental impacts associated with the transportation of waste. The movement of the waste will lead to the generation of carbon emissions and a carbon footprint. There was some evidence that this would be a relatively small part of the overall carbon footprint of the proposal, but I consider that transport emissions are an important sustainability issue. I note that this was referred to in the Môr Hafren Minister's decision (paragraph 28).
456. The evidence demonstrates that annual waste in Powys and Ceredigion is relatively low. The main sources of waste in the region are in Swansea, Neath/Port Talbot, Carmarthen and Pembrokeshire. This area is a considerable distance away from these locations and the connecting road routes are of a lower standard. I consider that this would be a significant drawback of the proposal.
457. The applicant contends that the proposal is in a good location as it is close to the junction of the regions. I agree that the site is close to the North Wales region. However, the updated figures in the Strategic Assessment shows that there would be no need for any additional ERF facilities in that region in 2034/35. Whilst parts of Powys are close to the other two regions, as noted above, the site itself is not. The evidence shows that the approved small-scale ERF in Welshpool could meet the needs of Powys and Ceredigion. The plant could also supply heat to several Council-owned premises and nearby businesses. This would be sustainable and would accord with the Welsh Government's position in the Strategic Assessment. At the hearing, the Low Carbon witness (Low Carbon would be funding the proposal) made the point that small scale ERF plants are not viable as economies of scale are needed. This does not chime with the Welsh Government policy of allowing small scale plants to meet future needs.

Conclusions on Need and Sustainability

458. To conclude on the issue of the need for an EfW facility of the scale proposed: the Strategic Assessment projections are the most up to date and are determinative for waste treatment proposals. These show that additional capacity of 170 to 220 thousand tonnes per annum will be needed in 2034/35. Whilst the intention is to reduce waste and eliminate the need for EfW facilities by 2050, there are no figures beyond 2034/35 in the Strategic Assessment. Even if the Welshpool ERF becomes operational then that would reduce the under-capacity to 140 to 190 thousand tonnes per annum in 2034/35. I therefore conclude that there would be an unmet need in the Mid and South West Wales region in 2034/35 which the proposal would largely address. However, the direction of travel of waste policy means that the long-term solution is a move away from incineration. The Strategic

Assessment projections are that the All-Wales need will be between 40,000 of over-capacity to 165,000 tonnes of under-capacity by 2034/35. I will return to this matter in the overall planning balance.

459. In addition, sustainability is an important part of Welsh Government policy in the context of the declared climate emergency. It is also important in relation to the achievement of the WBFGA and Welsh Government's well-being objectives. I also conclude that the proposal would not be in a sustainable location for the reasons given above. A possible small-scale alternative exists that would be more sustainable in terms of transport emissions, and beneficial use of waste heat. The proposal would be contrary to Policy W2 and the proximity principle for this reason. This is a dis-benefit of the proposal to be weighed in the planning balance.

Air Quality and Human Health

460. There is considerable local concern, expressed at the hearings and in written submissions, about the perceived risk of adverse health effects resulting from the proposed ERF. These fears are exacerbated by the perceived effects of the terrain, temperature inversions, prevailing wind direction, plume grounding on the airborne pollution and by the proximity of the proposal to the local school.
461. Annex C of TAN 21 states that "Air emissions and the potential emission of pathogens and/ or toxins are a material planning consideration and may represent a significant public concern. Such matters are controlled through environmental permitting conditions. However, air quality issues can be a material planning consideration as well as a pollution control issue. Modern, well managed incinerators are unlikely to make a significant contribution to local concentrations of air pollutants." PPW states that the parallel tracking of planning and environmental permitting applications should be the preferred approach and TAN 21 states that this is good practice. Despite indications that a permit application would be submitted in tandem with the DNS application, no application had been submitted by the time of the hearings.
462. Notwithstanding the above an Air Dispersion Modelling assessment of emissions to atmosphere from the stack of the proposed ERF has been submitted. NRW were consulted for its views on the proposal and did not object to the proposal on these grounds. The comments or criticisms of BIIG were considered by an independent consultant at the applicant's request.
463. The submission documents confirm that ADMS 5 (version 5.2.4.0) was used to inform the impact assessment for the DNS application. NRW confirm that ADMS 5 is suitable software to inform this type of development. In terms of human health considerations, the modelling provides a broad characterisation, which is appropriate to inform the consideration of the principle of development. Notwithstanding the above, the emissions from the stack would need to be regulated by a permit and the site could not legally operate without that permit being secured.
464. The dispersion modelling included an assessment of air quality impacts at the maximum Ground Level Concentrations (GLCs) and then on sensitive human receptors. It is important to note that modelling is always done on a worst-case

scenario. As a worst-case, emissions from the Installation's stack have been assumed to be at the maximum emission limit values which represents a conservative approach to the assessment of the impact as the actual emissions from the site are likely to be significantly lower as noted in the evidence of NRW. A detailed technical assessment confirmed that the optimum stack height for the Installation would be 70m.

465. The results show that predicted maximum GLCs from the Process Contributions are within the short and long term air quality objectives and are assessed as not significant (less than 1% of the Air Quality Standard [AQS]) for most pollutants assessed, and for those of potential significance, further assessment has demonstrated that the predicted environmental concentrations have a negligible impact on the environment or human health at the maximum point of ground level concentration and at other potentially significant human receptors locations. The health impact assessment confirms that there would be no significant health risk associated with potential exposure to emissions of pollutants from the proposed ERF.
466. To assess potential impact on human health during a permit application Public Health Wales, the local health board and the Food Standards Agency would be consulted. NRW would examine the Applicant's air quality modelling against relevant environmental quality standards (EQS) for each pollutant that may be released. EQSs are the statutory standards used by NRW when assessing permit applications. These standards are set for the UK and in Wales are derived from The Air Quality Standards (Wales) Regulations 2010.
467. BIIG refer to the WHO guidance, which is based on the latest data to inform the drive to lower thresholds for pollutants. The standards were updated in 2021 and they consider that the proposal exceeds several of them. BIIG argue that NRW should be applying the WHO guidelines especially in the context of the WBFGA. NRW are aware that the latest WHO limits and thresholds are lower than those set in British legislation. However, there has been no agreement to implement the latest WHO standards in the UK. The WHO limits are guidelines for policy makers. Therefore, at present a permit application would be assessed against the EQSs and associated levels and thresholds set out by NRW above.
468. EQSs for air are set both for the protection of human health and vegetation and for ecosystem receptors. EQSs can also be long term (annual emissions) or short term (e.g., 24 hours). NRW assess both as part of the permit determination process and check that the predicted process contribution is in line with emission benchmarks for the type of process set out in legislation. For new plants, if these emission benchmarks cannot be achieved, a permit will not be granted. The technology proposed by the applicant must be Best Available Technology (BAT), as the design and technology are also key towards ensuring emissions are minimised as far as possible. The Environmental Statement (Technical Appendix 6-1, Table 3) confirms the air quality standards used and these reflect the EQSs.
469. The objectors have used AERMOD and Plume Plotter to predict the effect of emissions given the local topography, atmospheric conditions and cold air downwash. Both ADMS and AERMOD are accepted by NRW, as they use the

same basic programme. I note that the Applicant's model used Numerical Weather Prediction meteorological data as it was more in keeping with local knowledge of the area where it has been observed that wind did funnel up the valley. Two years of data have been used in the submitted report, which provides a broad characterisation. NRW confirmed that the issues raised regarding plume grounding would be considered in the Environmental Permit application. The effects of cold air downwash are a standard part of the modelling process. NRW stated that if the required standards are not met then a permit would be refused.

470. The objectors referred to bio-accumulating pollutants such as dioxins accumulating in foodstuffs, which is of particular importance for local agriculture and horticulture or local gardeners. The bio-accumulation of dioxins in food crops, etc. consumed by humans would be considered as part of a permit application process. An assessment would be required of the human exposure to dioxins by the local population and then the risk that this exposure causes. The exposure assessment includes consideration of ingestion of food crops with the potential to bio-accumulate against the UK tolerable daily intake. The assessment must take into account ingestion of food grown locally by residents and consider adults, children, vegetable growers, fishermen, etc. I note that the BIIG representatives were reassured that this matter would be addressed in an environmental permit application.
471. The objectors argue that the results for Chromium (Cr) VI indicate that there was a potential error in the application of the Environment Agency Group 3 Metals assessment guidance (which is used by NRW for Permit applications). These errors would result in the relevant AQS been exceed, this would be significant due to the adverse effects that Cr VI has on human health. The applicant indicated that the assessment used a worst-case scenario, and that Cr VI would be unlikely to remain in the atmosphere as it would react with other compounds. The guidance had been properly applied and calculations were checked and found to be correct. I am guided by the views of NRW who use the Environment Agency assessment process for metals such as Chromium and pointed out that this process is extremely precautionary. The composition of waste is strictly controlled, and waste acceptance procedures must be in place. If there were found to be any concerns, then a condition could also be imposed on the permit requiring monitoring of Cr emissions. I consider that this issue would be adequately addressed as part of the environmental permit application process.
472. Objectors refer to harmful emissions of small particles known as PM_{2.5}, leading to health problems. An objector submitted evidence and a number of maps documenting mortality rates upwind and downwind of incinerators, and ONS health statistics for wards near incinerators and power stations. A Japanese study was also referenced. The criticisms appear to be rooted in a long-held opinion that the health protection agencies in England have ignored this issue over many years. Some of the examples quoted date back many years and no information on the regulatory framework at that time or in other countries was provided. In the context of a planning decision, it is difficult to draw any firm conclusions from this data. There may be many confounding factors as was the case in the disputed Health Protection Agency Study and other air quality issues as referred to by the objector.

473. The Environmental Permitting process provides a separate regulatory regime, through which NRW as the regulator will examine the modelling and results in more detail and fully consider all public health impacts, in consultation with public health bodies as appropriate. Irrespective of whether planning permission is granted, the proposed ERF would not be able to operate unless an environmental permit has been granted and would be obliged to operate within any stipulated environmental limits. I have considered all the evidence submitted concerning emissions and health impacts and note that NRW has confirmed that the information provided by the applicant provides a sufficiently robust basis on which to decide whether planning permission should be granted and that further detailed consideration of all effects on human health as a result of the operation of the ERF would be undertaken when an application for an environmental permit is submitted.
474. Fear about the consequences of the proposed development on the health of local residents is a material consideration in this case, and I have given it some weight. Of particular concern was the effect on the nearby local school, which is downwind of the proposal. Reference was also made to the school's outdoor facilities for sport and recreation. However, it seems to me that these fears underestimate the efficacy of pollution controls available as part of the permitting process. This limits the weight that should be given to health fears in determining this application.
475. My overall conclusion is that the evidence indicates that the emissions from the proposed plant and traffic accessing the site have been properly modelled. The modelling has taken account of the factors identified by the objectors. Considerable reassurance can be gained by the controls available under the environmental permitting regime. The evidence indicates that the potential impact on local air quality is likely to be small and would not result in a significant threat to the health of people living and working nearby. The proposed ERF would not cause unacceptable harm to the environment or human health. In these terms there is no conflict with the Development Plan, in particular LDP Policies W2 and DM14.

Landscape and Visual Impact

476. A Landscape and Visual Impact Assessment (LVIA) was undertaken by a landscape architect for the ES (included as Technical Appendix 9-1). This was principally informed by the scoping and pre-application consultation responses, the Guidelines for LVIA (3rd Edition) and LANDMAP – the formally adopted methodology for landscape character assessment in Wales (NRW). There is no dispute that the LVIA is comprehensive and accurate or that the viewpoints are representative. The LIR contains a landscape response prepared by a consultant landscape architect, which highlights what are considered to be the key material factors for the decision-maker. Several objectors raised issues of the landscape and visual impact of the proposal and its impact on the setting of heritage assets (notably the National Trust at Powis Castle). The applicant provided a response to various issues in August 2021 that included an extensive landscape and visual response at Appendix 1. The LPA commented on this response in Hearing Statement 3 and both landscape architects attended the hearings and provided further evidence. I have taken all this information and evidence into account and visited the site and surroundings (including viewpoints used in the LVIA). For

convenience I will refer to the applicant's landscape evidence as the LVIA and the Council's as LIR.

477. LANDMAP is an all-Wales landscape resource which records and evaluates landscape characteristics, qualities and influences in a nationally consistent data set. It provides a comprehensive and integrated landscape baseline from which change can be monitored. It divides Wales into discrete geographical areas known as aspect areas and five aspect layers. The use of LANDMAP is endorsed as a basis for consistent, quality assured landscape assessments in PPW. I consider that a focus on the visual and sensory aspect layer to inform the consideration of the landscape and visual impact of the proposal to be appropriate. This is a common approach to assessing the landscape and visual impact of proposed developments.
478. The main difference between the LVIA and the LIR relates to the applicant allegedly downplaying the effects by ascribing lower sensitivity values and the absence of a landscape susceptibility analysis. The LVIA does not consider susceptibility of the landscape (see fig. 5.1, GLVIA3) to change in a transparent manner and as a result has simplified the assessment. The criteria used for landscape sensitivity focus on LANDMAP evaluations, but the LVIA assessment of landscape effects makes little reference to categories of landscape value in LANDMAP.
479. The proposal is a very large and high building with a 70m stack. Whilst, it would be located in a quarry void, the building would be visible because of its height and scale. Proposed mitigation includes bunding (partially existing), landscaping and the proposed cladding, which is composed of blocks of different colours designed to blend into its landscape setting by using the colour palette present around the site. This design has been illustrated in the photomontages in the LVIA. The LVIA shows the proposal with bunding in place but no planting. I have taken into account that planting is proposed and that it would take some years for it to have a significant screening effect.
480. The applicant's argument in responding to the impacts identified by the Council is that whilst there would be large scale changes, the mitigation measures would mean that the development would be assimilated into the landscape setting. This results in a neutral nature of effect. I agree with the LPA that the general approach should be that the effects cannot be viewed as beneficial or neutral because the proposal is a large industrial scale development in a rural area.
481. The site is within the Crewgreen to Forden Hill and Scarp Visual and Sensory Aspect Area (VSAA), which is predominantly rural with attractive views in and out. This is not to say that it is remote or tranquil. LANDMAP classifies its scenic value as high and its overall value as moderate. I acknowledge that there are developments along the Severn valley and some detracting features such as Criggion quarry. The quarry site is not obvious given that it is hollowed out of the hillside and surrounded by trees and partially completed bunds. I agree with the assessment in the LIR that the proposal would introduce a large new industrialised development that even with the mitigation proposed would become a feature of the landscape that would have a significant adverse effect on its character. Similar

assessments apply to parts of three adjoining VSAs – Long Mountain, Breidden Hill and River Severn Floodplain. The effects diminish with distance from the site, but views from the hill summits in the Breidden Hill VSA are very important, and I noted on my site visits that from there the proposal would be a prominent element. For these reasons, I consider that there would be major adverse effects on landscape character of the host VSA and a moderate adverse effect on the three adjoining VSAs.

482. There has been some disagreement about the sensitivity of receptors in the assessment of visual impacts. The approach used in the LVIA has reduced the significance of these effects. The sensitivity of receptors has been set out in Table 1D, Appendix 1 of the LVIA. A sensitivity of very high is assigned to visitors of nationally advertised attractions and the example given is National Parks. This serves to downplay the advice in GLVIA3 on susceptibility of visual receptors to change, which is based on activities and the extent to which attention is focussed on views and visual amenity. In this context I agree with the Council that the sensitivity of users of nationally advertised trails should be very high and for users of other footpaths should be high. I would also adopt a precautionary approach and afford all views from residential properties/areas a high sensitivity.
483. I note the reasons for the selection of viewpoint locations as set out in 6.4.1 of the LVIA. The views have been chosen as representative of the range of potential views and to enable an assessment of relevant receptor experience. I assessed the views as presented and note that some may be of longer duration than others. As the applicant points out each viewpoint should be judged on its own merits (p57 Landscape Response). The use of an 8-point scale for magnitude of impacts is unhelpful, as it over-complicates the distinctions of impacts. For the reasons noted above, the applicant plays down the effects by assigning a lower sensitivity to receptors and the evidence shows an over-reliance on the mitigation measures (especially cladding colour) to reduce the perceived impact.
484. The evidence has usefully set out the viewpoints with the most significant effects and grouped them geographically. Having visited the viewpoints (VPs) and assessed the impacts using the photomontage evidence provided, I conclude as follows. There would be major adverse significance of effect from close range views at VP1 to VP4, with the closest VP1 being skyline and having a substantial significance of effect (which is the highest category). From close and medium views to the North and East there would be Moderate to Major significance of effect from VPs 10 to 13. The building and stack would appear prominent and on the skyline in all these views. These VPs include views from the nearby residential areas in Cefn/Trewern. The significance of views from the nearby hilltops has been under-estimated by the applicant. From here one is looking down on the proposal and there are clear views of the existing quarry area. I consider that there would be a Moderate to Major adverse significance of effect from VPs 16 to 18, in agreement with the LIR. VP 22 at Buttington Bridge captures significant views from the National Offa's Dyke Path (ODP). The sensitivity of users of this path means that there would be a Major adverse significance of effect. The building and stack would appear prominent and on the skyline in this view. There is existing

development in the vicinity of the VP, but it does not affect the view towards the Breidden Hills and the site.

485. I have considered the impacts on other VSAs and the impact from other VPs and I agree with the LVIA and LIR that there would not be significant effects.
486. I note the applicant's response to the issues raised by other objectors, the relevant issues have been considered above and elsewhere. In particular, the impact on Powis Castle is assessed below under cultural heritage. The CPRW objection refers to extended views from ODP when descending from Long Mountain towards Buttington. I note that the views from there are limited as explained by the applicant. However, I would add that the portion of ODP along the Severn from Buttington Bridge would have similar clear views to VP22.
487. I have set out my assessment of the landscape character and visual impacts above. As I have concluded that there would be significant landscape and visual impacts, the proposal would be contrary to Policies DM4, DM13 of the LDP. This is a significant adverse impact to be weighed in the planning balance.

Cultural Heritage

Powis Castle

488. The castle comprises four separate Grade 1 listed buildings, and the Park and Garden also Grade 1. I note that there are over 100,000 visitors to the castle annually. The significance of the heritage assets is very high and the contribution that the setting makes to the castle, terraces and gardens is very important. In applying the legal tests, the effect on the setting of the heritage assets at Powis Castle in terms of the impact on their significance must be considered. The landscape around Powis Castle forms part of its setting. The National Trust drew attention to the importance of views from and of the Castle and grounds. The inclusion of additional viewpoints at the East Front of the Castle was suggested.
489. In response to the NT objection the applicant produced additional photomontages and photographs from the suggested VPs. The applicant's assessment remains one of no significant effects during construction and operation of the proposal on views from or the setting of the castle. This is supported by the LIR. Cadw has also received the additional information and commented that the scale of the proposed visual change is unlikely to have a significant impact on the way that the castle and historic park and garden are experienced, understood and appreciated. The response of NT to the additional information does not dispute these views.
490. The most important view in terms of the impact of the proposal on the setting of the assets is from the East Front of the Castle. From here there are limited views towards Moel-y-Golfa, which is an important vista. The proposal would be seen in this view at a distance of over 6 km. I have visited the Castle and viewed the relationship to the proposal from the East Front and terraces. The existing site makes little contribution to the setting. The proposal would be visible from a limited number of viewpoints. It would be seen at a distance against a backdrop of rising ground with the built form of Welshpool and surrounds in the foreground. Welshpool has grown over the years since the Gardens were planned and then

acclaimed in Country Life magazine (referred to by NT). The proposal would now be seen in an urban context. I conclude that the effect on any planned views would be very small and unlikely to detract from the appreciation of the significance of the heritage assets. I agree with Cadw that the scale of the proposed visual change is unlikely to have a significant impact on the way that the castle and historic park and garden are experienced, understood and appreciated. For these reasons, I conclude that the effect on the setting of the heritage assets would be minor and not significant.

491. An appeal decision at Leighton Farm was referred to, however, the circumstances of this decision are not comparable, as it related to a development closer to the Castle with a greater degree of inter-visibility.

Other Heritage Assets

492. I note the issues raised by objectors in relation to the impact of the proposal on designated and undesignated heritage assets and archaeological remains. Dealing with direct effects, the site has largely been disturbed by quarrying and associated operations and little undisturbed ground remains. Clwyd-Powys Archaeological Trust indicate that the undisturbed areas of the site are limited to two small fields on the southern edge. If these fields are topsoil and/or subsoil stripped for future development, then a scheme of archaeological investigation should be required as a condition of any consent, which would address this matter.
493. In terms of other heritage assets potentially affected by the development, I draw attention to the statutory duties in respect of listed buildings. The relevant ES chapter is informed by a Heritage Assessment. Cadw confirms that the methodologies used to determine the impact are appropriate. The ES (Table 12-6) states that there are a Grade I, a Grade II* and 4 Grade II Listed Buildings that are considered to have a minor adverse effect upon their wider settings from the Development, which is not significant in EIA terms. There would also be a minor adverse effect upon the wider setting of Strata Marcella Abbey remains, which is a Scheduled Ancient Monument. The Heritage Assessment merely refers to views of the proposal from the asset that will affect their wider setting. There is no analysis of the impact on their significance and no harm is identified. Cadw agrees with this conclusion and has no objection to the proposal.
494. The objectors had referred to the ES as being incomplete in omitting references to the importance of the area for Welsh and local history and claimed important local heritage sites. The importance of the area and the omissions referred to have been rectified in the applicant's response. No significant heritage impacts have been identified on any of the undesignated buildings, monuments or sites referred to. Finally, Clwyd-Powys Archaeological Trust points out there are some errors and omissions which could usefully be corrected by the applicant's heritage consultant. This has been completed. The Trust confirms no objection as there would be no significant impacts to non-designated heritage assets.
495. I conclude on cultural heritage that there will be minor adverse effects upon the heritage assets at Powis Castle. Whilst minor adverse effects upon the wider settings of a Grade I, a Grade II* and 4 Grade II Listed Buildings and upon Strata

Marcella Abbey Scheduled Ancient Monument are identified in the ES, no harm to their significance has been identified. These less significant impacts attract little weight against the proposal, also noting that Cadw and CPAT had no objections to the proposal.

Nature Conservation and Biodiversity

496. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 and the relevant provisions of PPW and TAN5 require consideration of any adverse effects on European protected species. The ES identified the presence of small numbers of Great Crested Newt in a pond on the site. The proposal could harm a small local population of the species. NRW has confirmed that conditions requiring the provision and implementation of a Great Crested Newt Conservation Plan would mean that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population.
497. NRW has also considered the potential effects on Dormice, bats and otters and concluded that the proposal is not likely to be detrimental to the maintenance of favourable conservation status of any local populations of these species, subject to conditions addressing mitigation measures related to the control of lighting and the inclusion of several matters in the Construction Environment Management Plan and good practice measures.
498. European sites” have been transposed into UK law under post-Brexit legislation as the National Sites Network (NSN). In relation to the European sites, the Habitats Regulations require that the competent authority (in this case the Welsh Ministers) before authorising a project likely to have a significant effect on a European site ‘must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives’. “Three such sites have been identified as being within 10 km: Montgomery Canal Special Area of Conservation (SAC), Granllyn SAC and Midland Meres and Mosses a Phase 1 Ramsar site.
499. The applicant has provided information in the ES, a shadow HRA and further evidence on the possible likely significant effects on the three European sites. NRW has been consulted and the responses of NRW and the general public have been taken into account.
500. The shadow HRA provides information on the qualifying features that are a primary reason for the selection of the site. For Montgomery Canal SAC it is Annex II species Floating Water Plantain; for Granllyn SAC it is Annex II species Great Crested Newt; and for Midland Meres and Mosses Ramsar site the features are a diverse range of water habitats, a number of rare species of plants and an assemblage of rare wetland invertebrates. I am satisfied that the results of the assessment show that there would be no likely significant effects on the Granllyn SAC or Midland Meres and Mosses Ramsar site and their qualifying interest features.
501. The modelling results show that the only likely significant effect on the Montgomery Canal SAC concern would be ammonia deposition. The main effect on nutrient nitrogen in the SAC is agricultural operations from surface water flows into the canal. The information shows that background levels exceed the upper critical

load. However, the interest feature is not associated with a soft water lake. If the qualifying interest feature is not dependent on this type of lake then there is no comparable critical load. The relevant guidance states that application of the critical load needs to be applied with caution in cases where there are significant agricultural inputs. The information on Nitrogen and Ammonia deposition as a result of the proposal shows that the amounts would be very small and would not have a significant effect. NRW has not raised any concern with this assessment. There would be no likely significant effects on Montgomery Canal SAC and its qualifying interest features as a result of the proposal.

502. Consultation replies indicated that an in-combination assessment taking into account all potential projects within a 10 km radius of the site should be provided as part of the sHRA. Information from the Council planning records and NRW was used to compile the other projects for consideration. The results of the in-combination assessment are that the proposal and other projects considered together are not likely to have a significant effect on the integrity of NSN or European sites and their qualifying interest features.
503. I conclude that it is beyond reasonable scientific doubt that the scheme, either alone or in combination with other projects, would not have an adverse effect on the integrity of European Sites (the National Sites Network), namely the Montgomery Canal SAC, Granllyn SAC and Midland Meres and Mosses, a Phase 1 Ramsar site. This conclusion is based on the particular circumstances and evidence of this case.
504. The potential impacts on Moel Y Golfa SSSI have also been considered. The W11a woodland contains plants that are more susceptible to nitrogen and ammonia deposition. The SSSI is downwind of the proposal. The modelling results show that the only concern would be ammonia deposition. NRW indicate that a process contribution of more than 1% of the annual critical level for a pollutant indicates that there is a risk of a significant effect (but not that there will be a significant effect). I have considered the information and advice provided by NRW who have reviewed the ES and associated reports on this issue. Whilst the process contribution would be 1.5% of the critical level, NRW indicate that this is very small scale, given background levels are dominated by the effects of agriculture. NRW advise that as part of the environmental permit Best Available Techniques can be applied and considered in more detail to limit the ammonia contributions from the development to the SSSI if necessary. As such, although the process contribution exceeds the 1% trigger for concern, NRW do not believe it is likely to result in a significant impact to the SSSI. Further NRW also advise that if the modelled emissions at Moel Y Golfa SSSI are insignificant then other areas of ancient woodland are also unlikely to be significantly affected.
505. The applicant summarises mitigation measures within the site as the creation of approximately 2.6 ha of new, high-quality habitat along with a series of dedicated wildlife ponds and 4 ha of new native woodland planting which will ensure an overall increase in habitat quality once established. The proposed creation of new ponds to replace the existing sub-optimal ponds means that the overall effect of the development on Great Crested Newt would be likely to be beneficial. A habitat management plan will identify long-term management and monitoring provision for

the mitigation, compensation and enhancement measures. The plan will be in accordance with BS 42020 and will cover the lifetime of the development.

506. I consider that the effects of the proposal on other habitats and animal species have been considered in the ES and supporting evidence. Mitigation and practical measures to address construction effects have been outlined in the ES and are addressed in the recommended conditions. NRW has confirmed that the conditions would meet its requirements for safeguarding protected species the CEMP and addressing any contamination within the site. In relation to the effects outside protected sites, the LPA Ecologist has raised no concerns and concluded that overall, the proposal would have a positive impact on nature conservation. However, this assessment does not include the impacts on protected sites and species, which are addressed by NRW.
507. The Environment (Wales Act) 2016 imposes duties to maintain and enhance biodiversity and promote the resilience of ecosystems. The habitat lost as a result of the proposed development has been identified. New habitat creation will be provided to compensate. The amount and quality of the habitat created would exceed the areas that would be lost, resulting in an overall gain, once established. Overall, I conclude that the proposal would be acceptable in terms of its impacts on ecology and biodiversity and would comply with the above legal duties, PPW, TAN 5 and LDP Policy DM2.

Highway Safety

508. The site benefits from an existing planning permission for a new access, which would improve the safety of access arrangements. The access is from a Trunk Road which is an appropriate category of road to serve a major development. That said there are several points at which the geometry and alignment of the existing carriageway is challenging, especially for larger vehicles. The objectors drew attention to two bridges in particular – Cefn Bridge and Buttington Bridge. I have visited both at various times and agree with the points made concerning the difficulty of negotiating them.
509. The ES and accompanying Transport Assessment set out the predicted traffic flows from the development. It was confirmed to the hearing that the figures reflected the construction period, including the removal of the quarried stone associated with site preparation, and the operational traffic associated with the removal of the Incinerator Bottom Ash. The construction period would represent a temporary period, with some fluctuations in traffic generation at various stages. The operational traffic flow is likely to be an average of only 2 HGV arrivals and 2 HGV departures crossing Cefn and Buttington Bridge per hour. This would represent a modest increase to the traffic on the trunk road. The Welsh Government Highway Authority (WGHA) confirms that the site access and trunk road network would operate satisfactorily even under worst case scenarios.
510. The accidents at Cefn Bridge referred to by objectors have largely been analysed in the Transport Assessment and are set out in the evidence of the parties. There are several factors that have been adduced by the applicant and considered by WGHA to be relevant. The modest increases to traffic flows would be unlikely to

materially affect the safety of the local road network including the bridges (notably Cefn Bridge). It is also relevant to note that the traffic generation as a result of use of the site as a quarry and existing/potential employment site. The WGHA concluded that the anticipated increase in traffic generated by the site would not materially affect existing safety or the existing bridge structures. This being the case then road closures due to accidents would not be materially affected either. In order to address the concerns regarding use of minor roads, HGV routeing can be effectively controlled by conditions attached to any planning permission. The applicant confirmed that the plant would have a sufficient supply of waste to operate even in the event of road closures.

511. WGHA suggested a condition requiring an updated Transport Assessment if HGV movements exceed those cited in the original one. This would not be appropriate as the application must be considered on the basis of the evidence before the decision-maker at the time. I consider that this matter would be better addressed by a condition limiting the annual amount of waste imported to the plant to that specified in the ES (as suggested in the Môr Hafren Report). This would limit the traffic to that considered in the ES and Transport Assessment. It would also mean that the maximum operation at the proposal would be limited to that assessed in the ES.
512. On this issue I conclude that the access arrangements would not have a significant impact on highway safety or the existing traffic flows. This view is supported by the WGHA. I consider that the proposal would comply with TAN18 and Policies T1 and W2 of the LDP.

Other Matters

513. The noise assessment is contained within the ES (summarised above). The Council had raised some concerns with the potential noise impacts from the development given that there are several residential properties close to the quarry boundary. The proximity of properties was also raised by Cllr Jenner and other objectors. As the finer design details of the plant and machinery to be used in the ERF are not available at this stage, a Noise Mitigation Plan would need to be developed in detail, with further professional assessment to ensure that significant noise sources are considered, assessed and attenuated through design.
514. The applicant responded to the concerns raised by the Council (and objectors) in the August response. Discussions continued up to the hearings where it was confirmed that the suite of agreed conditions would satisfactorily control and address the noise impacts of the development on local receptors. The conditions address such matters as: the submission of a Construction Noise and Vibration Mitigation Plan, a Noise Assessment Report including details of proposed mitigation, a noise compliance monitoring scheme and a noise survey to verify compliance or in response to a complaint. They also control the operation of loading bay doors, reversing alarms, noise limits at residential receptors, and hours for deliveries and construction.
515. I note the objections raised regarding potential noise impacts on nearby residential properties. The comprehensive suite of recommended conditions that has been

suggested by the Council would address these impacts. I have no evidence to dispute the opinion of the LPA and applicant. The proposal therefore complies with the noise criteria in Policies W2 and DM13 of the LDP.

516. The Council raised various geotechnical and slope stability issues in the LIR, which the applicant addressed in Appendix 3 of the August Response. After further discussions and clarification from the applicant at the hearings, the LPA confirmed that the geotechnical and slope stability issues and risks could be addressed by conditions in the event that planning permission were to be granted. I therefore conclude that the proposal would comply with Policy DM10 of the LDP.
517. The site preparation works would necessitate the removal of around 162,000 m³ of material from the quarry. The concern of the Council was that this would become waste material with consequent sustainability and environmental effects. The applicant advanced several possible uses for the material locally and in the wider area. The local uses were not convincing as planning permission has not been granted for them. The other possibilities further afield were aspirational. The agreed materials management condition does not effectively address the sustainability issue. In addition, there would be substantial quantities of inert Incinerator Bottom Ash (IBA) produced. The use of this material as a secondary aggregate is referred to in the Waste Planning Statement. The applicant refers to a potential for an IBA re-processing facility to be developed building on the quarrying heritage of the site. However, no firm commitment has been given to this. I consider that the absence of firm proposals for the removed material and IBA to be a lost opportunity that reduces the sustainability credentials of the proposal.
518. The effects on tourism, existing businesses and house prices (whilst not a planning consideration) were considered in the ES and it was concluded that these would not be significant. Little quantifiable evidence of any effects was advanced by the objectors. I have considered the objections relating to the local school. I do not doubt the excellent reputation that the school currently enjoys. Given the controls to ensure that health would not be compromised, an education programme for parents could be expected to give confidence for pupils to remain at the school thereby addressing concerns about declining pupil numbers. I have considered all other relevant matters, including the points regarding the Health Impact Assessment, none of these other matters raise issues which weigh significantly in the planning balance.

Conditions

519. Notwithstanding my recommended decision, I have considered the conditions that should be imposed in the event of a decision to grant planning permission. In so doing I have had regard to the tests for conditions and guidance in Circular WGC 016/2014. The applicant and LPA have worked together to prepare and agree a set of conditions, which includes the topics suggested by NRW. NRW has confirmed that the conditions are acceptable. The objectors were afforded the opportunity to comment on conditions. I report on the agreed and disputed conditions as were discussed during the hearing sessions and refined with input from the Applicant, the Council, NRW and other parties. This resulted in a finalised schedule of largely agreed conditions, forming the basis for the schedule of

recommended conditions set out in Annex A to this report. I have considered the content and wording of the conditions in the light of the above guidance and made appropriate amendments to avoid duplication, correct errors and include matters referred to in evidence, as appropriate.

520. At the hearings, I raised some additional conditions with the parties, which were agreed and included in Annex A. Condition 15 would control approval of the final colours of the proposed cladding and condition 34 would secure a programme of archaeological/heritage mitigation as requested by CPAT. I also suggested consideration be given to a condition to control the maximum amount of waste processed in the plant to that specified considered by the ES. This would ensure that the operation of the proposal would be limited to that assessed in the ES. I drew the applicant's attention to the fact that such a condition was recommended by the Inspector in the Môr Hafren Report. This condition would also serve to control the volume of operational traffic movements to the site, which would achieve aims of the WGHA suggested condition requiring an updated Transport Assessment. This is addressed by condition 35.
521. Conditions 1 and 2 are the statutory time limit for commencement and the identification of the plans to which the permission relates. Conditions 3 and 4 relate to the availability of a copy of the planning permission on site and notification of commencements and completions, etc.
522. The Local Planning Authority proposed that condition 5 should require all operations and uses associated with the development to cease no later than the 31 December 2050. This wording was supported by the objectors, but they considered that the end date should be 2035. The applicant proposed an alternative condition to define the life of the permission and to ensure that the facility is only able to operate beyond 2050 if it is operating as a zero-carbon emissions plant and/or it is still required due to the availability of residual waste in line with Waste Planning Policy. I consider that the Local Planning Authority's version of condition 5 should be preferred. The applicant's version refers to carbon capture technology being installed by 2050 but does not refer to the reduction of residual waste in line with Waste Planning Policy. This does not accord with Welsh Government policy for Net Zero by 2050. The Council's version is simpler, complies with the tests for conditions and if there is any change in circumstances then an application may be made to vary the planning permission. An end date of 2035 would not be reasonable in the context of there being no capacity figures beyond that date in the Strategic Assessment.
523. Condition 6 requires the submission and implementation of a scheme for decommissioning, restoration and aftercare of the site, which is an important environmental consideration. Conditions 7 to 9 relate to the access and control of construction and operational traffic management as required by WGHA and explained above. Condition 10 secures the submission and implementation of Construction Environmental and Management Plan, which is an important requirement for a development of this scale and nature. Conditions 11 to 13 would ensure that the requirements of NRW in terms of nature conservation and ecological mitigation are provided. A Great Crested Newt Conservation Plan is required to mitigate the effects of the development, provide compensation and

long-term management of that habitat. Condition 14 requires measures to address any unexpected contamination that may be encountered, mindful that the ES does not envisage any significant risks in this regard. Condition 16 requires the submission and implementation of a lighting scheme, which is necessary to control any adverse ecological effects. Conditions 17 to 26 and 30 cover environmental controls on noise, hours of operation, dust, and litter. These conditions have been agreed as necessary to avoid adverse impacts on local residents and the environment. Condition 18 contained a list of exceptions. I consider that it would be simpler to omit these and allow the Local Planning Authority to deal with them as they arise. Conditions are required to ensure controls over matters not fully addressed by conditions on an environmental permit and ensure effective controls for the Local Planning Authority. The proper landscaping of the site is very important and conditions 27 to 29 deal with the provision and implementation of the proposed landscaping arrangements and fencing. Condition 31 requires warning lights on the stack and is necessary for aviation safety for users of Welshpool airfield, which justifies the resultant small additional visual impact.

524. Finally, I note above that the submission of details of geotechnical/slope stability measures and of storage of the material to be removed to prepare the site were suggested to overcome issues raised by the Local Planning Authority. Conditions 32 and 33 address these matters.

Additional Condition suggested by the Applicant

525. The applicant proposed an additional condition that would require the development to source a minimum of 70% ('the annual target') of the waste going to site each year from within the Mid & South West Wales waste region. Compliance would be monitored by the operator submitting copies of statutory Annual Waste Acceptance Returns (that must be submitted to NRW) to the Local Planning Authority. Should the operator fail to meet the annual target for more than 5 continuous years, the operator would have a period of 24 months ('the compliance period') to modify the operation of the facility and achieve the annual target. If the operator fails to achieve the annual target within the compliance period, all operations and uses associated with the development shall cease within 12 months of the end of the compliance period. Should operations cease at the site as a result of the condition, the operator is required to provide the Local Planning Authority with evidence of contracts secured within the Mid & SW Wales region that will comply with the annual target in order for operations to recommence. The operator would then be subject to the annual return provisions set out under this condition.
526. The Local Planning Authority commented that this condition goes to the heart of the planning permission in establishing need and future need for the facility to deal with regional and Welsh waste. If the Welsh Ministers consider that the need and future need is established and the site is sustainably located to deal with this need, the LPA would not object for the condition to be included should the Inspector / Ministers consider it necessary.
527. The objectors consider that the proposed condition would fail to meet the legal tests for conditions (as set out in the relevant Welsh Government Circular 016/2014). It would not be relevant to planning as it should require 100% waste to

be sourced from the Region or in close proximity to it. It would not be enforceable because the waste returns on which the condition relies are not primarily intended to track waste flows but to monitor compliance with permits. The returns do not reliably allow waste to be tracked back to its original source. The figures used in the Strategic Assessment were not taken from Operator Returns because they were not sufficiently reliable. The verification process, by way of checking the last year's waste returns, is retrospective. Verification should be to assess future "sourcing" rather than past sourcing

528. The condition would not be reasonable because it would be the Operator and not the Applicant who would be responsible for meeting the terms of the condition. The proposal is for a 'Merchant' facility and no evidence has been provided of where the waste would come from or of any contracts either in place or proposed. There will be a steadily diminishing need for incineration capacity in Wales as it progresses towards its target of Zero Waste by 2050. This would not therefore be a reasonable condition and would be open to legal challenge by the Operator.
529. The wording of the condition shows how unrealistic the applicant's intention is. Failure to meet the annual target would have to go on consecutively for 5 years, plus a further 2 years compliance period and then a 1 year shut down period. This 8-year grace period indicates the applicant knows that it will not be possible to comply with the condition. This is due to the diminishing amounts of residual waste year on year and given that they will be competing on the open market for a diminishing amount of waste.
530. If the plant had to shut down operations (due to this condition) then to restart operations evidence of contracts secured must be provided. The fact that the applicant cannot provide that evidence from the outset is also telling of the current situation and that it is unlikely for 70 % of waste to be sourced from within the region or even within Wales.
531. The applicant was afforded the opportunity to respond in writing, and has made the following points (using the heading of the relevant legal tests):

Relevant to Planning

- The Strategic Waste Assessment states that waste should only be imported from outside the proposed region where the waste is in close proximity to the region. Due to the sustainable location of the proposed facility at the crossroads of three waste regions, the 70% target will ensure that the proposed facility responds to the identified capacity gap within the Mid and South West Wales region within which it is located, while allowing the facility to operate within the proximity principle.

Enforcement

- The objectors commented on how the condition will be enforced and verified. As part of the permit that will be issued by NRW, the operator will be required to submit quarterly returns for waste received and waste removed off site. The applicant for the DNS will also be the applicant for

the environmental permit and as such will be responsible for the submission of waste returns. An example of a return for Park Adfer was provided, which clearly shows the Local Authority Area where the waste arose. Therefore, it will be straightforward to identify the waste arising from within the Mid and South West Wales waste region and that arising elsewhere.

- The objectors also comment that verification should consider future waste streams rather than doing so retrospectively. As waste used at energy recovery facilities will not always come from long term contracts, retrospective measurement is more accurate as it captures 100% of the fuel used. It is accepted that if the facility is in the situation where it needs to demonstrate compliance in order to re-open after a period of closure, then forward-looking contracts are the only measurement that can be used despite the fact that retrospective measurement is a far more accurate measure.

Reasonable

- The objectors have commented on how realistic the draft condition is. The Applicant will be responsible for sourcing the long-term fuel contracts for the facility. As previously stated in the hearing sessions, discussions with fuel suppliers are ongoing, but these cannot be disclosed due to commercial sensitivity. However, the Applicant has agreed to the draft wording as submitted to PEDW, and agree that it is reasonable, acknowledging the implications of non-compliance.

532. I must consider whether the applicant's proposed condition would meet the legal tests. In terms of enforcement and relevance to planning, as pointed out by the objectors, it would be unclear whether the source of the waste would actually be within the region or not. It could be the waste transfer station or recycling centre where the waste was sorted rather than the original source. The North Wales region is predicted to have sufficient capacity to meet its needs in the near future. In these circumstances, the site would not be meeting a need in another region. Wales's two existing facilities could be sufficient to meet its incineration needs by 2034/35 provided it meets its waste reduction and recycling targets. Moreover, the two existing incinerators are much better located than the site to meet needs and to support Wales's strategies of reducing transportation, providing heat and potentially enabling carbon capture.

533. I do not agree that a 70% figure would be appropriate, rather it should be closer to 100% in order to meet the identified need. The need for facilities in England is not a matter for the Welsh Government to address. In the event of no local need in Wales, the transport of waste over long distances would not be sustainable. The condition would not be enforceable as the verification process would allow for retrospective checks and effectively an 8-year compliance period. This could allow the operator to fail to comply for 5 - 7 years then comply for 1 year during the compliance period and then fail to comply again and so on. On the reasonable test, the fact that the applicant agrees to it does not make the condition reasonable.

The proposed condition would not serve the purpose for which it is intended for these reasons. I consider that the suggested condition would not meet the legal tests for conditions and do not recommend it to the Ministers. The full wording as suggested is provided at the end of the schedule of conditions in case it is required by the Ministers.

Benefits of the Proposal and the Planning Balance

534. I will now consider the exceptional circumstances advanced by the applicant in terms of the need for an ERF in the region. In summary they are: the outlined benefits of the proposal including (amongst others) electricity generation, possible supply of heat, economic benefits and the carbon savings compared to landfill.
535. I have concluded above that there would be shortfall in capacity to deal with residual waste in the Mid and South West Wales region in 2034/35. That the proposal would largely address this shortfall carries significant weight in my assessment.
536. The proposal would generate up to 12.8 MW of electricity, most of which would be exported to the National Grid network. It is stated that electricity could be provided to a small number of existing businesses in the quarry site. I note that the proposed operator and One Carbon as investor have been involved in the project and this DNS process. I afford the electricity generation of the proposal significant weight.
537. As noted above there was considerable debate about whether the generation of electricity would be low carbon. The composition of the waste material would determine the carbon generation. Based on the evidence before me, I conclude that it would not be low carbon because it would generate electricity by burning waste material. There is also an element of confusion as to whether EfW is renewable energy. There was a definition of renewable energy in previous editions of PPW that did not include energy from waste. LDP Policy RE1 contains references to that definition. However, there is no such definition in PPW 11 or elsewhere in planning policy, as far as I can see. The applicant refers to the fact that EfW is listed as a source of renewable energy in the Welsh Government's Energy Generation in Wales reports as evidence that EfW is renewable energy. After consideration of the available evidence, I find that the proposal would not be a form of renewable energy but would lie somewhere between renewable and fossil (waste) fuel energy.
538. The WRATE assessment shows that the development would save around 31,900 tonnes of CO₂ per annum compared to landfilling, which is the equivalent of taking 11,350 cars petrol cars off the road. This is a benefit of the proposal, reflecting its higher status in the waste hierarchy than landfill. However, as Wales moves towards its 2050 zero waste ambition by phasing out residual waste through actions on waste prevention and sustainable consumption and production so that the only waste produced is reused or recycled, the significance of the proposal's benefit in these terms would progressively diminish.
539. The proposal would create around 300 construction jobs and 30 full-time jobs. The socio-economic chapter of the ES concluded that this would have a positive effect

and that was not considered to be significant for the local and wider area. I note that the ES concludes that the socio-economic benefits of the proposal would be positive for the construction period but negligible during operation. The objectors contend that the socio-economic benefits of the proposal in terms of job creation would not be significant. Nonetheless, the capital investment and job creation are economic benefits that carry modest weight. There was some anecdotal evidence of concerns and some objections from local businesses regarding the potential adverse effect of the proposal on tourism and the number of patrons using their facilities. These concerns are noted but were not supported by any convincing evidence and I afford them little weight in the overall balance.

540. The plant would be capable of supplying heat (CHP ready). The existing market for that heat close to the plant would be limited. Much of the employment allocation would be used for construction of the plant. The applicant's claims that proposal would be a catalyst for further employment are not supported by any substantive evidence. The applicant outlined some speculative potential outlets for a heat supply, which would comply with FW Policy 16 (Heat Networks). However, there were no firm proposals to provide a district heating network or secure potential customers and so these potential benefits should not be taken into account. In these circumstances, I consider that the proposal would not accord with the requirements of the Strategic Assessment in this regard, which reduces the scheme's sustainability credentials.
541. I conclude that, taken together, the energy, environmental and socio-economic benefits described above would carry substantial weight in the overall balance.
542. As noted above, the direction of travel of waste policy means that the long-term solution is a move away from incineration. The Strategic Assessment projections are that the All-Wales need will be between 40,000 of over-capacity to 165,000 tonnes of under-capacity by 2034/35. The moratorium announcement states that the Welsh Government considers there to be no need for large scale EfW plants (above 10 MW). In addition, sustainability is an important part of Welsh Government policy in the context of the declared climate emergency. It is also important in relation to the achievement of the WBFGA and Welsh Government's well-being objectives. I conclude that the proposal would not be in a sustainable location for the reasons given above. A possible small-scale alternative exists that would be more sustainable in terms of transport emissions, and beneficial use of waste heat. The proposal would be contrary to Policy W2 and the proximity principle for this reason. The proposed ERF at Buttington would have adverse effects on sustainability due to the locked in transport emissions that would result from transporting most of the waste long distances by road in order to meet the region's need. This is a significant dis-benefit of the proposal to which I afford considerable weight.
543. I have set out the adverse landscape and visual impacts of the proposal on receptors. My conclusions have taken the proposed mitigation into account. I have found that these adverse effects would be significant in extent. This is an important consideration to which I attach considerable weight.

544. There would be minor adverse impacts on several heritage assets, which I accord limited weight against the proposal. Notwithstanding the suggested materials management condition, I consider that the absence of firm proposals for the 162,000 m³ of removed material and the beneficial re-use of the IBA to be adverse impacts of the proposal. The potential adverse effects on air quality can be adequately addressed by the necessary environmental permit. Fear about the consequences of the proposed development on the health of local residents is a material consideration in this case, and I have given it some limited negative weight. The negative impacts of the proposal on nature conservation interests can be mitigated. The proposed habitat creation within the site as outlined above would be a benefit of some weight. There would be no unacceptable effects in terms of noise and vibration, highway safety or geotechnical matters.
545. Drawing all these competing considerations together, I have weighed the need for and benefits of the proposal as set out by the applicant against the adverse sustainability, landscape and visual and other impacts of the proposal. The direction of travel of Welsh Government waste policy and continued efforts to reduce and eliminate waste have led to a decision that no further large scale EfW plants are required in Wales. The evidence of continued success of waste reduction policies and the Government's commitment to securing ambitious future targets means that the balance of considerations is such that planning permission should be refused.
546. In reaching my conclusion I have considered the extent to which my recommendation accords with the well-being goals of the Well-being of Future Generations Act. I have set out the issues that contribute towards an assessment of the proposal against the goals. The principal Welsh Government well-being objectives pursuant to the well-being goals are to "build a stronger, greener economy as we make maximum progress towards decarbonisation" and "embed our response to the climate and nature emergency in everything we do". The Programme for Government 2021-26 responds to these objectives by focussing on infrastructure investment for a zero-carbon economy, increasing waste reduction and expanding re-use and repair. I consider that, by reason of its consistency with the Towards Zero Waste strategy, as supplemented by Beyond Recycling and the Strategic Assessment, my recommendation is consistent with the well-being goals and objectives.

Recommendation

547. For the reasons given in this report, I recommend that planning permission for the proposed ERF on land at Buttington Quarry (DNS Application 3214813) be refused.
548. If, notwithstanding my recommendation, the Minister decides to grant permission, then I recommend that conditions are imposed as set out in the Annex A.

A L Mc Cooley

Inspector

ANNEX A – SCHEDULE OF RECOMMENDED CONDITIONS

Conditions to be attached to planning permission for proposed Energy from Waste Plant at Buttington Quarry (DNS/3214813):

1. The development to which this permission relates shall begin no later than the expiration of five years beginning with the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. Unless otherwise amended by conditions attached to this planning application, the development hereby permitted shall be carried out in strict accordance with the following submitted plans, reports and particulars validated on 19 April 2021:

- i. Planning Application Form dated 26/02/2021
- ii. Design and Access Statement February 2021
- iii. Environmental Statement February 2021
- iv. Waste Planning Statement February 2021
- v. Revised Planning Statement (September 2021)
- vi. Planning Boundary Plan, Ref: ECL-BQ-000
- vii. Location Plan, July 2020
- viii. Site Plan, Drawing number 0201
- ix. General Arrangement Plan, Drawing number 0202
- x. Level 00m GA Plan, Drawing number 0205
- xi. Level 7.5m GA Plan, Drawing number 0206
- xii. Level 22m GA Plan, Drawing number 0207
- xiii. Roof GA Plan, Drawing number 0208
- xiv. Elevations, Drawing number 0210
- xv. GA Building Sections, Drawing number 0211
- xvi. GA Gate House Offices Mess Plans and Elevations, Drawing number 0212
- xvii. GA Workshop Plans and Elevations, Drawing number 0213
- xviii. GA ACC Plans and Elevations, Drawing number 0214
- xix. GA EFW & Turbine Buildings Plans, Drawing number 0215
- xx. GA EFW & Turbine Building Elevations 1of2, Drawing number 0216
- xxi. GA EFW & Turbine Building Elevations 2of2, Drawing number 0217
- xxii. GA Sub Station Transformer Compound, Drawing number 0220
- xxiii. GA Sprinkler Tank Plans & Elevations, Drawing number 0221
- xxiv. Bunker Floorplan, Drawing number 0222
- xxv. Wastewater Plan, Drawing number 0223
- xxvi. Site Access Junction Arrangement, Drawing number IT 1921/TA/02

Reason: To ensure development is carried out in accordance with the permitted application details, to ensure that the development is carried out with the minimum harm to the local environment and to comply with Policies DM2, DM4, DM13, W1 and W2 of the Powys Local Development Plan.

3. Throughout the development of the site and its operation and subsequent restoration/decommissioning phase, a copy of this permission, including all documents hereby approved, or subsequently approved, and forming part of the permission, shall always be available at the site office for inspection during normal working hours.

Reason: To assist effective monitoring and compliance with the conditions set out in this planning permission and to comply with Policies DM2, DM4, DM13, W1 and W2 of the Powys Local Development Plan.

4. The developer/operator of the facility shall notify the Local Planning Authority in writing within 14 days of the dates of the following events:
 - i. Commencement of development/implementation of this planning permission;
 - ii. Commencement of the erection of fencing;
 - iii. Commencement of improvements of the access to the site;
 - iv. Completion of the access improvements;
 - v. Commencement of the installation of external lighting;
 - vi. Commencement of ground clearance on the site;
 - vii. Commencement of piling works required and/or the use of vibro-compacting machinery;
 - viii. Commencement of construction of the approved facility;
 - ix. Completion of construction of the approved facility;
 - x. Commissioning of the facility;
 - xi. Commencement of importation and processing of waste;
 - xii. Commencement of production of electricity, steam, heat;
 - xiii. Permanent Cessation of processing of waste;
 - xiv. Cessation of production of electricity, steam, heat;
 - xv. Commencement of decommissioning of the facility;
 - xvi. Completion of decommissioning of the facility;
 - xvii. Commencement of restoration of the site;
 - xviii. Completion of site restoration.

Reason: To enable the Local Planning Authority to control the development and to monitor the site to ensure compliance with the planning permission and timescales set out within it and to ensure that the development it carried out in accordance with the approved documents to comply with Policies DM2, DM4,

DM13, DM10, DM15 W1, W2, RE1 and M5 of the Powys Local Development Plan.

5. All operations and uses associated with the development hereby approved shall cease no later than the 31st December 2050.

Reason: To define the life of this permission and to facilitate the Welsh Government policy of Zero Waste by 2050. This condition ensures that the planning permission would comply with the requirements of Waste Planning Policy set out in Planning Policy Wales and Technical Advice Note 21, and Policies W1 and RE1 of the Powys Local Development Plan.

6. Within 24 months of commencing the development hereby approved, an outline decommissioning, restoration and aftercare scheme and method statement shall be submitted for the written approval of the Local Planning Authority. Within 12 months of notification of the cessation of processing of waste, and the cessation of production of electricity, steam, and heat, the final decommissioning, restoration and aftercare scheme and method statement shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full throughout the decommissioning phase of the development.

Reason: In the interests of the proper restoration of the site, the visual amenities of the area and to avoid dereliction. To ensure that the site is returned to a condition suitable for future redevelopment and to comply with Policy W2 of the Powys Local Development Plan

7. Prior to the commencement of development, a scheme that includes detailed design drawings and calculations of the proposed new highway cutting, a catch ditch to prevent scree from obscuring highway visibility and exposure of rock formations of geological interest shall be submitted to and approved by the Local Planning Authority. This submission must be prepared by a Geotechnical consultant in accordance with DMRB HD22/08 "Managing Geotechnical Risk" and be accompanied by a Geotechnical Certificate signed by the applicant's Geotechnical Advisor. The approved scheme shall be implemented in full.

Reason: To ensure the formation of a safe and satisfactory means of access to the site, that adequate visibility is provided for the life of the development in the interests of maintaining highway safety and to comply with Policies DM10, DM13, T1 and W2 of the Powys Local Development Plan

8. Prior to the commencement of the development hereby approved, including site clearance works, a Construction Traffic Management Plan shall be submitted to and approved by the Local Planning Authority. The approved Construction Management Plan shall be implemented as approved for the duration of the construction period and shall provide details of:

- i. Contact names and numbers of personnel responsible for adherence to the monitoring the plan;
- ii. Contact name(s)/number(s) for any site related enquiries including out of hours times;
- iii. Anticipated duration of the construction works;
- iv. Typical working days and hours of construction operations;
- v. Proposed signage types and locations;
- vi. Any barriers/gates preventing vehicles from proceeding further into the site during construction hours shall be at least 12 metres from the public highway to allow queuing of vehicles off the public highway.
- vii. The access and egress route with appropriate traffic monitoring in order to control traffic movements;
- viii. Measures to avoid depositing mud, or other debris onto the public highway by traffic movement;
- ix. The timings of deliveries and main construction traffic arrivals and departures to avoid periods such as school arrival/leaving times;
- x. Site notices informing construction workers and other site operatives of agreed working hours and routes;
- xi. The parking of vehicles of site operatives and visitors;
- xii. Loading and unloading of plant and materials;
- xiii. Storage of plant and materials used in constructing the development;
- xiv. A scheme for recycling and disposing of waste resulting from construction works;
- xv. Details of any wide or unusual loads which may be required to deliver construction materials.

Reason: To ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety, the free and safe movement of pedestrians and traffic onto the adjoining highway and to comply with Policies DM13, T1 and W2 of the Powys Local Development Plan.

9. Prior to the commencement of development, an Operational Traffic Management Plan, including a full Travel Plan and Transport Implementation Strategy (including details of HGV routing), shall be submitted to and approved by the Local Planning Authority. The approved Operational Traffic Management Plan shall be adhered to throughout the life of the development hereby approved, subject to any minor amendments or updates as may be agreed in writing with the Local Planning Authority.

Reason: To encourage the use of active travel and to comply with Policies DM13, T1 and W2 of the Powys Local Development Plan.

10. Prior to the commencement of any site clearance, construction works or development a Construction Environmental and Management Plan (CEMP) shall

be submitted to and approved in writing by the Local Planning Authority in order to manage the impacts of construction. The CEMP shall include:

- i. an implementation programme for the construction of the roads and footways;
- ii. details of construction traffic management, which shall include: identification of the routes that construction vehicles would take and measures to regulate the routing of construction traffic; times within which traffic can enter and leave the site; times of deliveries, site access, loading and unloading of plant and materials; access within the site including measures to ensure safe and convenient pedestrian, cycle and vehicular access through those areas not under construction or where construction is complete; wheel washing facilities; and details of parking for contractors' vehicles, site operatives and visitors;
- iii. details of the storage of plant and materials, construction compounds and any temporary facilities for construction staff;
- iv. details of site hoardings (including their erection, maintenance, security and any decorative displays);
- v. details of restrictions to be applied during construction including timing, duration and frequency of works and measures to control the emission of dust, dirt, vibration and noise during construction;
- vi. details of site waste management for the recycling and/or disposal of all waste resulting from construction works;
- vii. a construction drainage scheme including the attenuation tank indicating how surface water and land drainage flows will be controlled to prevent contamination, nuisance, subsidence or flooding to land, buildings, watercourses or adjacent highways during the construction period;
- viii. details of fuel and chemical storage and containment; details of water consumption, waste water and energy use. Provision for safe storage of the proposed fuel storage and urea offloading areas;
- ix. demonstrate how relevant guidelines for pollution prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan;
- x. invasive species management, species and habitats protection, avoidance and mitigation measures (including a detailed lighting plan showing type and siting of lighting and light spill reduction measures, use of 2m high acoustic fencing, warning signs and site toolbox talks to ensure all key habitat retention and sensitive areas are protected and remain unaffected by construction works);
- xi. details of topsoil strip, storage and amelioration for re-use;
- xii. ecological clerk of works to ensure construction compliance with approved plans and environmental regulations;

- xiii. list of on-site contacts, their roles and responsibilities;
- xiv. contact details for local community liaison;
- xv. protocols for adverse weather conditions;
- xvi. biosecurity risk assessment; and
- xvii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to sensitive receptors during construction (may be provided as a set of method statements).

The approved details shall be complied with in full throughout the construction period. Management of all extracted material will be controlled by Condition 33 (Materials Management Plan).

Reason: To ensure that impacts of the construction is mitigated and maintained to an acceptable level, stability issues and site development can be undertaken safely, in the interests of residential amenity, nature conservation and to comply with Policies DM2, DM4, DM7, DM10, DM13, T1 and W2 of the Powys Local Development Plan.

11. Prior to the commencement of the development hereby approved, an Ecological Compliance Audit Scheme and a Great Crested Newt Conservation Plan shall be submitted to and approved by the Local Planning Authority. Upon written approval of the Local Planning Authority, the scheme shall be implemented in full.

Reason: To ensure that impacts of the construction is mitigated and maintained to an acceptable level in the interests of nature conservation, the amenity of the local area and to comply with Policies DM2, DM4 and DM7 of the Powys Local Development Plan.

12. Prior to the commencement of construction, an Ecological Management Plan and Site Clearance Ecology Method Statement shall be submitted to and approved by the Local Planning Authority, that shall include (but not limited to):
- i. a pre constructional survey and report to ascertain the presence of Great Crested Newts, Bats, Birds, Dormice, Otters, Badgers, Reptiles and Invertebrates on site prior to their removal.
 - ii. Risk assessment of potentially damaging construction activities.
 - iii. Details of Pre-commencement Surveys, including methodologies and timing.
 - iv. Identification of “biodiversity protection zones”.
 - v. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts to features of ecological importance during construction (may be provided as a set of method statements).

- vi. The location and timing of sensitive works to avoid harm to ecological features of importance.
- vii. The times during construction when specialist ecologists need to be present on site to oversee works.
- viii. Responsible persons and lines of communication.
- ix. The role and responsibilities on site of an ecological clerk of works or similarly competent person.
- x. Use of protective fences, exclusion barriers and warning signs.
- xi. Identification of receptor sites (where required)

Upon written approval of the Local Planning Authority, the scheme shall be implemented in full.

Reason: For the avoidance of doubt, to ensure that impacts of the construction is mitigated and maintained to an acceptable level in the interests of nature conservation and to comply with Policies DM2, DM4 and DM7 of the Powys Local Development Plan.

13. Mitigation measures as detailed within the approved Ecological Management Plan and Ecological Compliance Audit Scheme shall be implemented through the life of the development. The approved mitigation plan includes lighting, security fencing, temporary acoustic barriers, and planting, the implementation of a Construction Environmental Management plan (which includes a construction Noise and Dust Management Plan), avoidance measures for protection of the water environment, rapid response protocol and pollution prevention plan.

Reason: To ensure that impacts of the development are mitigated and maintained to an acceptable level in the interests of nature conservation and to comply with Policies DM2, DM4 and DM7 of the Powys Local Development Plan.

14. If during construction, operation and/or decommissioning of the site, contamination is found to be present; immediate contact must be made with the Local Planning Authority and no further development shall be carried out in that area until the developer has submitted an investigation and risk assessment for the written approval of the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared, which is subject to further written approval of the Local Planning Authority. Following completion of the remedial works identified in the approved remediation scheme, a verification report demonstrating compliance with the agreed remediation objectives and criteria shall be produced, for the written approval of the local planning authority, prior to recommencement of the development in that area. The site is in an area of potentially contaminative past uses.

Reason: To protect the water environment, human health, in the interests of protecting wildlife conservation and to comply with Policy DM10 of the Powys Local Development Plan.

15. Prior to their installation on site, details of colours of the external finishing materials and samples of the cladding shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: For the avoidance of doubt, to ensure that the landscape and visual impact of the building is mitigated and minimised in the interests of visual amenity and to comply with Policies DM4, DM13 and W2 of the Powys Local Development Plan

16. Prior to the installation of any external lighting, details of the lighting shall be submitted to and approved by the Local Planning Authority. The lighting shall be designed to minimise impacts of light pollution and on nocturnal animals. The approved lighting shall be installed and maintained as approved. No external lighting shall be installed that has not been approved in writing.

Reason: To ensure that lighting is designed to an acceptable level in which controls light pollution from the site, in the interests of residential amenity, nature conservation and to comply with Policies DM7 and DM13 of the Powys Local Development Plan.

17. No development shall take place until the details of a Construction Noise and Vibration Mitigation Plan (CNVMP) setting out the use of best practice measures to mitigate and minimise construction noise and vibration levels is submitted and approved in writing by the Local Planning Authority. The approved plan and mitigation shall be implemented in full as approved.

Reason: To ensure that noise during construction of the facility is maintained to an acceptance level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

18. Construction works shall take place between 07:00 – 19:00 Mondays to Fridays and 0700 to 1200 hours on Saturdays and not at any time on Sundays, Public or Bank Holidays.

Reason: To ensure that noise during construction of the facility is maintained to an acceptance level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

19. Prior to any commencement of work on site, an updated Noise Assessment Report including details of proposed mitigation shall be submitted to and

approved in writing by the Local Planning Authority to show compliance with noise limits provided in Condition 20 (Noise Limits). Thereafter the approved plan and mitigation shall be implemented in full before the site becomes operational and shall be retained for the lifetime of the development. For the avoidance of doubt the report shall also include tonal noise assessment (e.g. BS4142:2014 +A1 2019 reference method) to show no tonal character and low frequency noise assessment (i.e. to show compliance with DEFRA NANR 45 criteria within sensitive rooms of receptors), along with details of any specific mitigation measures proposed to control noise character.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptance level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

20. Operational noise from the Proposed Development at any pre-existing residential receptors as listed in Table B shall not exceed the maximum permissible levels detailed in Table A below when assessed at a height of 1.2m to 1.5m above ground and at least 3.5m away from the nearest reflecting surface other than the ground. This is to be determined either by way of direct measurement at the stated locations, or where extraneous ambient noise precludes this, by way of a combination of measurement and calculation.

Table A: Maximum Permissible Levels

Period	Rating Level Limit (in accordance with BS4142:2014+A1:2019)
Daytime (07:00 – 23:00)	Representative Background LA90,1 h + 4 dB
Night (23:00 – 07:00)	30dBA LAeq,15mins or representative background LA90,15 min +4 dB (whichever is higher)

Table B: Maximum Permissible Levels

Receptor	Time	Representative Back-ground Level LA90 dB	Max. Permissible Level LAeq,T	Measurement Time Period
R1. Lower Cefn	0700-2300	42	46	1 hour
	2300-0700	25	30	15 mins

R2. Cefn Cottage	0700-2300	42	46	1 hour
	2300-0700	25	30	15 mins
R3. Cefn Farm	0700-2300	42	46	1 hour
	2300-0700	25	30	15 mins
R4. Sale Farm	0700-2300	32	36	1 hour
	2300-0700	20	30	15 mins
R5. Green Farm	0700-2300	33	37	1 hour
	2300-0700	23	30	15 mins
R6. Whitehouse	0700-2300	33	37	1 hour
	2300-0700	23	30	15 mins
R7. Brookside	0700-2300	42	46	1 hour
	2300-0700	31	35	15 mins
R8. York House	0700-2300	42	46	1 hour
	2300-0700	27	31	15 mins

The above limits would exclude any safety valve tests, which unless under emergency conditions, should be limited to testing within daytime hours and the steam vent noise level should not exceed a sound power level of 96dB(A).

Reason: To ensure that noise during the operation of the facility is maintained to an acceptance level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

21. Within the first 3 months of the plant becoming fully operational the operator shall undertake a noise survey to verify compliance with the approved noise limits including low frequency criterion according to NANR45. A noise compliance monitoring scheme should be agreed in writing with the Local Planning Authority prior to commencement of the noise survey to enable site contributory noise to be determined. This may involve monitoring at a near field position and agreed calculation method to show compliance. Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects. The results of the noise survey shall be submitted to the Local Planning Authority within a written report for approval

in writing. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within the report and implemented as agreed and approved in writing by the Local Planning Authority.

The mitigation as approved shall thereafter be retained and maintained throughout the lifetime of the development in accordance with the details approved.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptable level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

22. In the event of a justifiable complaint being received by the Local Planning Authority, regarding operational noise emissions from the development hereby permitted, the operator shall undertake a noise survey within 1 month of a written request by the Local Planning Authority for such a survey to be undertaken. Any such noise survey will be undertaken in accordance with BS4142:2019 and the noise levels checked against those defined in Condition 20 (Noise Limits). The results of the noise survey shall be provided to the Local Planning Authority for its written approval within 1 month of the survey being completed. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within the report and implemented as agreed and approved in writing by the Local Planning Authority. The mitigation as approved shall thereafter be retained and maintained throughout the lifetime of the development in accordance with the details approved.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptable level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

23. The loading doors shall be fitted with a fast-acting closing system that ensure they are closed immediately following the passage of a vehicle into / out of the building. During daytime hours (07:00 – 19:00 inclusive) loading doors may only be opened when required for HGV movement into / out of buildings or for maintenance or in an emergency. Outside these hours, the loading doors shall not be opened except when required in an emergency. Doors which allow the movement of personnel into and out of the buildings shall be fitted with self-closing mechanisms that ensure closure when people are not passing through.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptable level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

24. No vehicles and mobile plant used exclusively on site shall be operated unless they have been fitted with and use white noise reversing alarms. Tipping lorries shall either be fitted with and use white noise reversing alarms, or other non-tonal alarms, or be routed and managed to minimise reversing manoeuvres.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptable level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

25. No arrival, departure, loading or unloading of waste feedstock vehicles or Incineration Bottom Ash shall take place outside the hours of 0700 – 1900 Monday to Friday, 0700 – 1200 Saturday and at no time on Sundays or Bank Holidays.

Reason: To ensure that noise during the operation of the facility is maintained to an acceptance level in the interests of residential amenity and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

26. Prior to the commissioning of the facility, an Operational Environmental Management Plan shall be submitted in writing to the Local Planning Authority for written approval and shall be implemented as approved throughout the operational phase of the project. The approved plan/scheme shall also include a monitoring / mitigation and management plan for dust, fugitive litter and odour for the operational phase of the development.

Reason: To ensure that impacts of the facility is mitigated and maintained to an acceptable level in the interests of residential amenity and nature conservation and to comply with Policies DM13 and W2, of the Powys Local Development Plan.

27. Prior to the commencement of construction, a landscaping scheme based on or broadly in accordance with the submitted Landscape Masterplan shall be submitted in writing for the written approval of the Local Planning Authority. The approved landscaping scheme shall include a timetable for planting indicating when the planting shall be undertaken and shall be implemented as approved in writing by the Local Planning Authority.

Reason: To ensure that impacts of the construction is mitigated and maintained to an acceptance level in the interests of visual amenity and nature conservation and to comply with Policies DM4, DM13 and W2 of the Powys Local Development Plan.

28. Any tree or shrub forming part of a landscaping scheme approved in connection with the development under Condition 27 (Landscaping Scheme) of this permission that dies, is damaged, diseased or removed within the duration of 5

years following planting shall be replaced during the next available planting season (October to March inclusive) with a tree or shrub to be agreed in advance in writing by the Local Planning Authority.

Reason: In the interest of the amenity of the local area and nature conservation and to ensure development is adequately screened and to comply with Policies DM4, DM13 and W2 of the Powys Local Development Plan.

29. Prior to the erection of any temporary and permanent fencing at the Site, details of the location and specification/finish of the fencing shall be submitted in writing for the written approval of the Local Planning Authority. The approved temporary fencing shall be erected as approved prior to any construction operations and maintained for the construction period. The approved permanent fencing shall be erected as approved prior to the start of operations and maintained for the life of the development.

Reason: For site security, in the interests of nature conservation, to ensure that the design is appropriate and adequately screened and to comply with Policies DM2, DM4, DM13 and W2 of the Powys Local Development Plan.

30. All waste shall be delivered to the site in suitably enclosed vessels / containers / trailers and no delivery vehicles shall be permitted to leave the site unless the vessels / containers / trailers are suitably enclosed.

Reason: In the interests of local amenity and to ensure that no waste or fugitive odour and litter is released and / or emitted during transportation and to comply with Policies DM13 and W2 of the Powys Local Development Plan.

31. The stack shall be lit with medium intensity red obstacle lights as specified by CAP 168 licensing of aerodromes.

Reason: In the interest of aircraft and aviation safety and to comply with Policies DM7, DM13 and T1 of the Powys Local Development Plan.

32. Prior to the commencement of development, the following shall be submitted to the Local Planning Authority for written approval:

- i. Construction drawings and a geotechnical design report for areas of proposed cut slopes, including:
 - a) proposed stabilisation measures and erosion control measures on the rock face;
 - b) details of any other containment measures to protect the development from rock slope instability; and
 - c) analysis of excavation method for rock.

- ii. Method Statement confirming how rock shall be excavated i.e. digging, ripping or blasting.
- iii. A comprehensive ground investigation and geotechnical design report for all areas where fill material placement is proposed, with particular attention paid to existing slopes, areas of scree and / or areas of made ground associated with placement of overburden from past quarrying activities.
- iv. Slope stability assessments and construction method statements for all areas where fill is proposed to be placed over areas of scree slopes and areas of made ground.
- v. A method statement stating how fill material shall be placed and constructed over existing slopes.
- vi. Earthworks Specification for the development.

Reason: To manage geotechnical risks during the construction phase and to comply with Policies DM10, DM13, DM15 and W2, of the Powys Local Development Plan.

33. Prior to the commencement of any site clearance, construction works or development a Materials Management Plan shall be submitted to and approved in writing by the Local Planning Authority, including:

- i. Details of stockpile locations and management, including how different materials would be graded and separated;
- ii. Details of water management, including surface water, run off, and silt traps;
- iii. Details of how materials will be processed; and
- iv. Details of Environmental Management, including of dust and noise.

The approved Materials Management Plan shall be adhered to throughout the life of the development hereby approved, subject to any minor amendments or updates as may be agreed in writing with the Local Planning Authority.

Reason: To ensure safe and sustainable use of excavated materials at the site and to comply with Policies DM13, DM15 and W2 of the Powys Local Development Plan.

34. No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work shall be carried out in accordance with the requirements and standards of the written scheme.

Reason: To secure preservation by record of all archaeological remains which will be impacted by the development and to comply with Policies DM13 and W2 of the Powys Local Development Plan

35. The Energy Recovery Facility hereby approved shall not treat in excess of 167,000 tonnes of residual waste per annum.

Reason: The environmental and traffic impacts of the development hereby approved have been assessed against this tonnage limit.

The Applicant's Suggested conditions – not accepted by the Inspector

Duration of the planning permission

The development hereby approved must operate as a net zero Scope 1 carbon emissions plant (as defined by the GHG Protocol at the time of consent) by 2050 (utilising carbon capture, usage and storage technology). The developer / operator of the facility shall notify the Local Planning Authority in writing on or before 1st January 2049 that this has been achieved. In the event that notification of zero carbon emission operation is not provided to the Local Planning Authority in writing on or before 1st January 2049, all operations and uses associated with the development shall cease on or before 31st December 2050

Reason: For the avoidance of doubt, to define the life of this permission and to ensure that the facility is only able to operate beyond 2050 if it is operating as a zero carbon emissions plant, or if it is still required due to the availability of residual waste in line with Waste Planning Policy set out in Planning Policy Wales and Technical Advice Note 21, and Policies W1 and RE1 of the Powys Local Development Plan.

Source of Waste to be from within the Mid & South West Wales waste region

The development hereby approved shall source a minimum of 70% ('the annual target') of the waste going to site each year from within the Mid & South West Wales waste region (as defined in the Welsh Government's March 2021 Strategic Assessment).

Following the notification of the commencement of the importation and processing of waste as required by Condition 4, the operator of the facility shall submit copies to the Local Planning Authority of its statutory Annual Waste Acceptance Returns (as submitted to Natural Resources Wales), in line with Natural Resources Wales' timing requirements. The first return must be submitted to the Local Planning Authority by the first 31st January in the year following the commencement of the importation and processing of waste, and annually thereafter for the life of the facility (in line with reporting requirements to Natural Resources Wales). Any amendments to the reporting date or the annual target shall be agreed with the Local Planning Authority in writing and tonnages processed after that time will be in line with the amendments agreed.

Should the operator fail to meet the annual target for more than 5 continuous years, the operator will have a period of 24 months ('the compliance period') to modify the operation of the facility and achieve the annual target (based on Annual Waste Acceptance Returns submitted to Natural Resources Wales). If the operator fails to achieve the annual target within the compliance period, all operations and uses associated with the development shall cease within 12 months of the end of the compliance period. Should operations cease at the site as a result of this condition, the operator is required to provide the Local Planning Authority with evidence of contracts secured within the Mid & SW Wales region that will comply with the annual target in order for operation to recommence. The operator would then be subject to the annual return provisions set out under this condition.

Reason: To ensure that the facility contributes to meeting the needs of the Mid and South West Wales waste region and to comply with Policies W1 and W2 of the Powys Local Development Plan.

ANNEX B – APPEARANCES

Applicant

Ben Lewis BSc MSC MRTPI	Energy consenting specialist of Barton Willmore
Sarah Burley BSc MSc MRSC	Technical Director of ECL
Alistair Hilditch-Brown	CEO of Broad Energy (Wales) Ltd
Dominic Noel-Johnson BA (Hons) MBA	Low Carbon Investments
Dr Bryony Turner	Filkin EHS
Kai Lieball PhD	HZI (proposed Operators)
Matthew Reed QC	Landmark Chambers
Dean Kettlewell MSc MIOA MAE I.Eng	Noise consultant, MD of NVC
Dr Gwyn Lake BSc PhD CGeol FGS	Geotechnical of Terrafirma
Justin Bass MSc MCILT MCIHT	Transport, Director of Intermodal
Rick Bright BA (Hons) Dip LA CMLI	Landscape Architect of Bright and Associates
Owain Gabb MCIEEM CEnv MSc BSc	Ecologist BSG Ecology
Roger Buisson BSc PhD	BSG Ecology

Local Planning Authority

Robin Wynne Williams BA, MA, MPLAN, MRTPI	Main Witness
Senior Minerals & Waste Planning Officer, North Wales Minerals & Waste Planning Service	
Daniel Stykuc BSc MSc MCIEH	Environmental Health Officer
Alan Jones BSc MSc CGeol	Geotechnical Consultant
Phil Russel-Vick Dip LA CMLI	Landscape Architect, Director, ENPLAN

NRW

Bryn Pryce MRTPI MSc BSc	Senior Development Planning Advisor
Neil Parker CEnv MCIEEM MSc BSc (Hons)	Team Leader DPAS MID
Simon Bareham BSc., MSc.	Principal Adviser (Air Quality and Biodiversity)
Jeremy Walters BSc Chemistry	Analytical Chemist, Environmental Regulatory Policy
Anna Griffiths MSc (EIA) BA (Hons) PIEMA	NRW Technical Lead for the Installations and RSR Permitting Team

Interested Parties

Cllr Amanda Jenner	Ward Member Powys CC
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Buttington Incinerator Impact Group (BIIG)

Dave Morrell, M.A.(Oxon), MSoc.Sci

Dr Christine Ashton, BA Hons (Keele) - Geography & Geology, PhD

Dr Mary K. Phillips-Jones, BSc Hons (Microbiology), PhD

Ian Thompson, BSc (Hons), CIFPA

Simon Boyes, BA (Oxford), MSc in Environmental Conservation (Edin)

Karin Thompson, MA (Edin), Diploma in Probation & Childcare, CQSW, FETC

ANNEX C

APPLICANT'S LEGAL POSITION STATEMENT

OPINION OF COUNSEL ON THE WELSH GOVERNMENT MORATORIUM ON LARGE SCALE ENERGY FROM WASTE PLANTS (MARCH 2021) IN THE MATTER OF THE WELSH WRITTEN MINISTERIAL STATEMENT DECLARING A MORATORIUM ON LARGE SCALE ENERGY FROM WASTE FACILITIES AND IN THE MATTER OF BUTTINGTON QUARRY

LEGAL POSITION STATEMENT ON THE WELSH GOVERNMENT MORATORIUM ON LARGE SCALE ENERGY FROM WASTE FACILITIES

1. This Position Statement deals with the following matters:
 - 1.1. The weight to be placed upon Moratorium.
 - 1.2. Whether exceptional circumstances exist in the present case, if the Moratorium is to be given weight.

The Background

2. Broad Energy (Wales) Limited (“BEWL”) has made a planning application (“the Application”) for the construction of an energy from waste (“EfW”) facility (“the Project”) at Buttington Quarry (“the Site”), near Welshpool, close to the border with England.

3. The Application is accompanied by a Waste Planning Statement (“the WPS”) produced by Carter Jonas which addresses, amongst other matters, the need for the facility. The WPS was updated in order to take into account the matters dealt with below and was submitted to the Examination as Appendix 1 to the “*Buttington Energy Recovery Facility Response to Letter Ref: DNS/3214813*” report (ECL Ref: ECL.001.01.02/RTL), dated 19th April 2021 (“the Updated WPS”).
4. The Project is designed to receive 167,000 tonnes of residual municipal commercial and industrial waste per annum.
5. BEWL is currently in discussions with Powys County Council (“PCC”) and is seeking to agree a number of conditions to be attached to the planning permission, if it is granted.
6. A number of policy documents have set out the Welsh Government’s (“WG”) consistent interest in reducing the amount of waste produced in Wales and driving waste up the waste hierarchy.
7. In 2010, the WG published *Towards Zero Waste* (“TZW”). The document set out two milestones; at 2025, “towards zero waste” (zero waste is defined as an aspirational endpoint where all waste that is produced is reused or recycled as a resource, without the need for any landfill or energy recovery). “Towards zero waste” means that waste will be significantly reduced “through actions on sustainable consumption and production and will manage any waste that is produced in a way that makes the most of our valuable resources. This will mean that we will maximise recycling and minimise the amount of residual waste produced, and eliminate landfill as far as possible”¹. The second is, by 2050, achieving zero waste; this means “we will reduce the impact of waste in Wales to within our environmental limits (which we define as ‘one Wales: one planet’ levels of waste, roughly 65% less waste than we produce now), aiming to phase out residual waste through actions on waste prevention and sustainable consumption and production so that the only waste that is produced is reused or recycled as a resource (thus meeting the aspirations of the ‘zero waste’ philosophy)”. Part

¹ pg. 45

of the means of achieving the 2025 target is by way of waste prevention which seeks to reduce waste arisings across all sectors by around 1.5%.

8. A stepped diagram showing some of these aims is included in the document. This indicates² that, by 2025, the intention is that “residual waste is phased out of landfill to high energy efficiency Energy from Waste plants”. It also states that, by 2050, “100% recycling, no residual waste, no Energy from Waste”.
9. An important aim of TZW is to reduce the amount of landfill. TZW notes that ½ of the 1.4 billion tonnes of carbon dioxide-equivalent emissions from waste come from landfill sites.
10. TZW indicates that the waste prevention targets will be delivered through the Sector Plans (“SPs”)³.
11. The TZW referred to a number of principles deriving from European law relating to waste and noted the need to comply with the proximity principle contained in the Waste Framework Directive (“the Directive”); the Directive’s proximity principle requires the establishment of an integrated and adequate framework of waste disposal installations to enable waste to be disposed of, in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health⁴. TZW states that the proximity principle must be applied in Wales when decisions are taken on the siting of appropriate waste facilities⁵.

(a)

12. It is to be noted that in the TZW Progress Report (2015) energy from waste is defined as follows⁶:

technologies include anaerobic digestion, direct combustion (incineration with energy recovery), use of secondary

² pg. 46

³ pg 65

⁴ Pg. 20.

⁵ Pg 21.

⁶ Pg. 81.

recovered or refuse derived fuel (an output from mechanical and biological treatment processes), pyrolysis and gasification (including plasma gasification). Any given technology is more beneficial if heat and electricity can be recovered. The Waste Framework Directive considers that where waste is used principally as a fuel or other means to generate electricity it is a recovery activity provided it complies with certain criteria, which includes exceeding an energy efficiency threshold.

13. In July 2012, the WG published the *Collections, Infrastructure and Markets Sector Plan, Towards Zero Waste* (“the CIM Sector Plan”). The CIM Sector Plan is stated to be part of the “waste management plan” (“the WMP”) for Wales alongside the TZW, regional waste plans and local development plans. The WMP is produced under the Waste (England and Wales) Regulations 2011 (“the 2011 Regulations”).

14. The introductory section of the document indicates that its purpose is to set out the steps to achieve Wales’ sustainable development goal. It states, in part, as follows:

Until we reach our 2050 goal of a zero waste society we will need to continue collecting some wastes that cannot be effectively recycled. For these wastes, efficient energy recovery that produces heat and electricity in properly controlled and regulated facilities is preferable to continued landfilling. Here, we recognise there is a difficult balance to be struck to ensure we have sufficient capacity to deal with our waste arisings in the short term without impeding the achievement of our long-term goals. Our proposed measures to increase recycling and limit other forms of disposal or recovery such as landfill or energy from waste, will ensure that we achieve this.

15. The Plan makes an assessment of the recovery capacity which will be required by 2024-2025. It states⁷:

There is a need across Wales to develop more residual waste treatment and recovery facility capacity. The future needs for residual mixed waste treatment and recovery cannot be predicted with any complete certainty due to the variety of factors that will affect future tonnages and a variety of factors that affect actual existing capacity. A range of best estimate capacity requirements for each region and Wales as a whole for 2024-25 is summarized as:

North Wales: 203 to 468 thousand tonnes per annum.

South East Wales: 411 to 861 thousand tonnes per annum.

South West Wales: 34 to 327 thousand tonnes per annum.

Wales total: 648 to 1,656 thousand tonnes per annum

16. The following observations were made on these estimates:

The aim is to establish enough facilities to ensure an integrated and adequate network (which must also take account of spatial needs) whilst aiming at the same time to avoid over provision (which then has the potential to undermine the waste hierarchy).

⁷ Pg. 83.

It must be noted that this section and the data therein contain a number of estimates, caveats and assumptions. It represents the best data available to the Welsh Government at the present time. Great care will need to be exercised in the use of the information provided herein; it is likely when making decisions on residual waste facilities that this data will need to be supplemented by other data, including more regional and locally derived data and other relevant considerations, as appropriate.

The information also represents a snapshot in time. The position will change significantly as new facilities come on line and existing ones close. Therefore careful monitoring will be necessary to ensure that under/over provision is not made (and therefore the forecasted needed capacity ranges may change).

The Welsh Government will need to publish periodic updates of this information and analysis to reflect changes in waste production quantities, recycling rates, new planning permissions, new environmental permits, closures of existing facilities and any other relevant changes (including commercial decisions from waste facility operators).

17. The positive role of EfW in dealing with waste is set out in the CIM Sector Plan⁸:

d. Energy recovery for “difficult” wastes

The Welsh Government will encourage the development of appropriate energy from waste routes for separated combustible wastes that are difficult to recycle where this is the best environmental option as determined by life cycle thinking. Guidance on allowable deviations from the waste hierarchy has been published by the Welsh Government.

18. And again⁹:

Evidence gathered by the Welsh Government indicates that the treatment method most likely to deliver best the sustainable development outcomes identified in One Wales, One Planet and in ‘Towards Zero Waste’ for residual waste is the “Use as a fuel of the residual municipal waste left after recycling in energy recovery plants with high energy efficiency”.

Treatment of residual waste in high efficiency energy from waste facilities yield significant reductions in greenhouse gas emissions as compared to other treatment options that include an element of landfilling, as verified by life cycle assessment studies.

19. This is reiterated in the following section¹⁰:

The Welsh Government recognises that in the medium term (until all products are designed in way that can be recycled and the markets are available to recycle all of them) there will be waste arisings in Wales which cannot be recycled easily or cost effectively. These residual wastes need to be collected appropriately and treated in a sustainable way in Wales as far as possible, in accordance with the waste hierarchy which places priority to “other recovery” over disposal.

⁸ Pg. 213.

⁹ Pg. 218.

¹⁰ Pg. 224.

Studies undertaken by the Welsh Government and the Wales Regional Waste Groups determined that high efficiency energy from waste options are the optimal management route for these wastes that cannot be prevented or recycled.

In order to ensure that the recovery of residual waste activities in Wales deliver the key sustainable development outcomes identified in 'Towards Zero Waste', that they deliver the objectives identified in Section 3.6.3 above, and that the gaps in provision identified in Section 2 are addressed, effort needs to be focussed on the following actions in respect of collecting residual waste, infrastructure to recover it and markets to use the outputs from the recovery process.

20. The Plan sets out how high efficiency EfW facilities will be delivered¹¹.
21. The document sets out a number of steps to assist with reuse, recycling and recovery¹². Regarding recovery, the actions include, in part:

-Provide support for the local authority procurement of capacity to treat residual municipal waste in Wales, and for the development of capacity to treat residual waste from other sectors.

-Support the development of appropriate energy recovery options for the optimal recovery of energy from residual waste in Wales, including the development of markets for heat output and processed combustion as well as electricity.

22. The application of the proximity principle in the delivery of EfW facilities is also set out in the Sector Plan¹³.

23. The WG published Technical Advice Note 21 ("TAN21") on waste in 2014. This made clear the role of EfW facilities¹⁴:

The recovery of energy from mixed municipal waste in high efficiency facilities is considered by Welsh Government to be a vital component of the waste management system in Wales. Such facilities are currently considered to represent the most sustainable outcome for mixed municipal waste.

24. The document indicated the need for the nearest appropriate installations for waste

¹¹ Pg. 225.

¹² Pg. 12.

¹³ Pg. 233.

¹⁴ Para. 2.7.4.

facilities required by article 16 of the WFD¹⁵; again, national policy sets out the need to comply with the proximity principle.

25. On the issue of the need for recovery facilities, the document states as follows:

4.8 Although it is difficult to predict with complete certainty the future needs for residual mixed waste treatment, recovery and for the disposal of waste due to the variety of factors that affect future tonnages and actual existing capacity, the Collections, Infrastructure and Markets Sector Plan sets out the continued need for increased recovery of residual mixed waste which are incapable of being recycled, in the short to medium term but recognises that waste disposal needs will reduce. Therefore, across Wales a need exists to develop more residual waste treatment and recovery facilities and to ensure that sufficient disposal capacity is maintained at a level appropriate to support the overall aims of Towards Zero Waste and Collections, Infrastructure and Markets Sector Plan.

4.9 There are likely to be social, economic and environmental benefits in favour of proposals which seek to address an identified need. The presence of facilities outside of Wales or a region defined in the Collections, Infrastructure and Markets Sector Plan should not be used as a reason to refuse an application which can be shown to be required to satisfy an identified need in the area in which it is being proposed.

4.10 Whilst the Collections, Infrastructure and Markets Sector Plan seeks to encourage the provision of sufficient capacity of recovery infrastructure, this has to be complementary to the overall aim of driving the treatment of all waste further up the waste hierarchy. It models a set of forecast scenarios for mixed municipal waste quantities for 2024/25 and 2049/5025 and presents these at a regional level. When determining applications planning authorities should give consideration to the circumstances prevailing at any given time, however, the upper threshold of the capacity ranges identified in the Collections, Infrastructure and Markets Sector Plan (or any subsequent update) is likely to represent the point at which the extent of provision in a region can be considered to be sufficient.

...

4.16 Applicants should clearly justify why a proposal is necessary and where it cannot be clearly demonstrated that there is a need for the proposal it may be appropriate to consider refusing planning permission. This is likely to be the case where the level of provision exceeds the upper range identified in the Collections, Infrastructure and Markets Plan for any given region.

26. In 2015, the WG published *Towards Zero Waste: Progress Report*. The Report indicates that progress has been made against a number of the targets contained in TZW.
27. In 2019, the WG published the consultation draft of its National Development Framework ("the NDF"). Following consultation and evidence gathering, the NDF was published in February 2021 under the title *Future Wales: the National Plan 2040* ("FW"). FW has development plan status and is described as the highest tier of the development plan

¹⁵ Para. 2.99.

hierarchy in Wales. It provides a national development framework setting the direction for development in Wales to 2040. It is described as a spatial plan¹⁶. It includes a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of communities. The document recognises waste heat (such as energy from waste plants) as an effective, efficient fuel source for heat networks¹⁷.

28. Policy 17 deals with renewable and low carbon energy and associated infrastructure. It states, in part¹⁸:

The Welsh Government strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs.

29. Policy 18 deals with nationally significant developments and states, in part:

Proposals for renewable and low carbon energy projects (including repowering) qualifying as Developments of National Significance will be permitted subject to policy 17 and the following criteria:

30. There then follow a series of criteria which relate to the proposal not affecting various material matters.

31. In 2020, the WG published an updated version of *Energy Generation in Wales* (“EGW”). The document states that it sets out the current energy generation capacity in Wales and analyses how it has changed over time¹⁹. It assesses various technologies, including those under the general heading of “Low Carbon”. Energy from waste is not included in that list. However, importantly, the document states the reason for this²⁰:

We have not reported on some technologies this year as there has been little or no material change from 2018. These include biomass electricity and CHP, energy from waste, landfill gas, nuclear, solar thermal, sewage gas and pumped

¹⁶ Pg. 1.

¹⁷ Pg. 93.

¹⁸ Pg. 95.

¹⁹ Pg. 13 and following.

²⁰ Pg. 31.

hydropower storage.

32. In February 2021, the WG published edition 11 of Planning Policy Wales (“PPW11”). The WG’s approach to waste management facilities is set out in the following terms:

5.13.4 The Welsh Government’s policy for waste management is contained in Towards Zero Waste and associated sector plans. Planning authorities should, in principle, be supportive of facilities which fit with the aspirations of these documents and in doing so reflect the priority order of the waste hierarchy (see Figure 11) as far as possible.

33. Figure 11 depicts the waste hierarchy and, under the heading “other recovery”, includes “incineration with energy recovery”²¹.

34. PPW11 reiterates the importance of the proximity principle in waste management decision-making:

(b)

5.13.10 Planning authorities must support the provision and suitable location of a wide ranging and diverse waste infrastructure which includes facilities for the recovery of mixed municipal waste and may include disposal facilities for any residual waste which cannot be dealt with higher up the waste hierarchy. The extent to which a proposal demonstrates a contribution to the waste management objectives, policy, targets and assessments contained in national waste policy will be a material planning consideration.

5.13.11 The ‘Nearest Appropriate Installation’ concept and the principle of self-sufficiency will only be applicable in relation to wastes covered by Article 16 of the revised Waste Framework Directive and should guide the provision of an integrated and adequate network for the treatment of such wastes. The network should include all necessary supporting facilities such as waste transfer stations and processing facilities.

35. PPW11 also reiterates the regional approach to the delivery of waste management²².

36. In the context of energy delivery, PPW11 states in relation to low carbon energy development²³:

Local authorities should facilitate all forms of renewable and low carbon energy development and should seek cross-department co-operation to achieve this. In doing so, planning authorities should seek to ensure their area’s full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved. Planning authorities should seek to maximise the potential of renewable energy by linking the development plan with other local authority strategies, including Local Well-being plans and

²¹ Pg. 104.

²² Para. 5.13.9.

²³ Para. 5.9.1.

Economic/Regeneration strategies.

37. PPW11 refers to the WG Practice Guidance, *Planning for Renewable and Low Carbon Energy – A Toolkit for Planners* (“TfP”) for guidance on how to develop an evidence base for such facilities²⁴. The TfP was published in 2015 and includes EfW facilities as either renewable or low carbon in nature²⁵.

38. On 2 March 2021, the WG published *Beyond Recycling, a strategy to make the circular economy in Wales a reality* (“the BR”). The BR reiterates the goal set out in TZW that Wales will become zero waste by 2050²⁶.

39. The BR identifies that goal but then states:

Given the urgency of the challenges facing us and the imperative to act, this Strategy has been updated since the consultation to further define our pathway. By 2050, Wales will be a country which instinctively thinks and plans to use as few resources as possible, keeps those resources in use for as long as possible and then finds new uses for these resources at the end of their first useful life. Consumption will increasingly happen within biological cycles, where food and products using biologically-based materials, like wood, are designed and used to feed back into the system and where technical cycles involving manufactured materials such as metal, glass and plastic will recover and restore products through re-use, repair and re-manufacture.

40. The strategy contained in the BR is stated to have derived from the learning from the previous strategy and feedback from consultations (which is referred to further below) as well as analysis and evidence underpinning the WG’s work²⁷.

41. As part of the aim of achieving higher recycling rates, the document indicates that three quarters of residual commercial and industrial waste is easily recyclable and that “we therefore need to capture this material and stop sending recyclable waste to landfill or energy from waste plants and recycle it instead”²⁸.

²⁴ Pg. 93.

²⁵ Pg. 23.

²⁶ Pg. 3.

²⁷ Pg. 13.

²⁸ Pg. 22.

42. The BR includes a section, “Investing in Infrastructure”, which notes in part²⁹:

As repair, re-use and recycling continue to expand, we want to ensure the capacity we have for generating energy from waste is in line with the capacity needed during our transition to a circular economy, with the long-term solution being to move away from incineration. We also want to see our towns across Wales demonstrate circular approaches by having repair and re-use hubs as well as other important infrastructure including refill points, zero waste shops and resilient green infrastructure.

43. Under the heading, “Government levers”, the BR indicates the powers which the WG has used to achieve various environmental aims. It then states³⁰:

We want to optimise the use of government levers to support and drive progress along our pathway to a circular economy. In doing so we want to derive the maximum benefit to Wales, not just environmentally but economically and socially so that it is not only helping to address the climate emergency and the decline in biodiversity but is also at the heart of a green recovery.

To support the delivery of the Strategy we will work to align our levers and make the best use of our powers. In terms of legislation, this will mean bringing forward legislation to deliver key schemes. In relation to funding, we want to invest in the infrastructure that will support our transition to a circular economy whilst continuing to support the delivery of innovative, scalable projects which prevent waste and recognise surplus materials as a resource. We also want to further use our fiscal powers to spend in a way that supports a more resilient circular economy.

In essence, this means that we want to make sure the resources we use as a Government and as a public sector support our move towards a circular economy. In doing so, we want to not just drive good practice, but for that good practice to become the norm so that in considering value for money it reflects whole lifetime costs and the benefits derived, the materials used, their carbon impact and the supply chains involved. We want the procurement of re-used, remanufactured and high recycled content and sustainably sourced items to be the default, ‘business as usual’ approach.

44. The BR then states what it needs to do, including the following³¹:

Place a moratorium on any future large scale energy from waste developments, as the increase in recycling and reduction in waste already seen means that we will not need any new large scale energy from waste infrastructure to deal with the residual waste generated in Wales. We will also work with the UK Government to explore whether the introduction of an incineration tax would be desirable as a means to support progress along the transition to a circular economy.

45. The BR was originally produced as a consultation document in December 2019 (“the CBR”). The CBR contained a section headed “Government Levers”. It made a number of

²⁹ Pg. 26.

³⁰ Pg. 32.

³¹ Pg. 32.

observations but did not suggest that there would be a moratorium on any form of EfW facilities³². Rather, it stated only in relation to such facilities, “We will legislate to ensure that separated key recyclables are banned from energy recovery or landfill”³³. It also referred to exploring an incineration tax to increase recycling³⁴. Both references implied the continuation of EfW facilities, not a ban on their provision.

46. On 11 September 2020, the WG published a document setting out a summary of the responses to the CBR (“the CBRS”). The CBRS indicated that some responses had argued that the strategy should be to ban or phase out incineration³⁵ and that incineration was incompatible with a circular economy³⁶. The WG expressed no view on these responses.

47. On 24 March 2021, the WG published two documents. The first was a written statement (“WS”) which indicated that the WG was putting in place an immediate moratorium on EfW facilities of more than 10 MW (“the Moratorium”):

The actions form a key part of Wales’ drive towards becoming a zero-waste, carbon net-zero nation by 2050, or earlier.

These include increased funding to roll out of electric collection vehicles and circular economy projects across Wales, an immediate moratorium on new large scale energy from waste and upcoming game-changing reforms on plastic.

This month will also see electric vehicles being rolled out for recycling and waste collection services in Newport, Cardiff and Ponys.

As well as being good for the environment, the vehicles generate lower running costs and less noise, with the Welsh Government allocating an extra £3m to expand the programme.

The Welsh Government is also building on the success of its support to innovative projects across Wales through its Circular Economy Fund – which is already supporting 180 innovative projects in all parts of Wales.

The additional support being made available will bring the funding to more than £80m.

³² Pgs 18 – 19.

³³ Pg. 19.

³⁴ Pg. 19.

³⁵ Pgs 26 – 27.

³⁶ Pg. 24.

Last year, Wales achieved its highest ever recycling rate, at over 65% - and has set out ambitions to become the world leader. As a result the need to burn waste, or send it to landfill, will reduce and the Welsh Government is putting in place an immediate moratorium on new large scale energy from waste plants. The new moratorium will cover new energy from waste plants with capacity of 10MW or more, and will come into effect immediately.

The moratorium will also mean small-scale plants, of less than 10MW, will only be allowed if applicants can show there is a need for such facilities in the regions in which they are planned. Small plants would also need to supply heat, and – where possible – be carbon-capture and storage enabled, or ready.

Action is also being taken to tackle plastic pollution, with two upcoming consultations covering game-changing reforms for plastic packaging and a new Deposit Return Scheme for drinks containers. These measures are being developed jointly with the other Governments within the UK and will see less waste generated, more items re-used and recycled, and less litter. They will also incentivise better design and an increase in the use of recycled materials in packaging.

Lesley Griffiths, the Minister for Environment, Energy and Rural Affairs, said:

We are proud that we are well on our way to making Wales a zero waste and carbon net-zero nation.

We are already a global leader when it comes to recycling, but today's announcements show how we are taking action to go further and accelerate Wales's move to a Circular Economy.

This means not just recycling well, but taking bold action to get the most value out of the materials and avoid waste arising in the first place.

From electric collection vehicles on our streets to the Circular Economy Fund supporting re-use shops and repair cafés in our communities, people across Wales will see important changes from these actions in their communities.

The moratorium on large-scale energy from waste and the upcoming consultations on plastic packaging and deposit return are a clear statement of our intent. Collectively they show how we are taking action to make the circular economy a reality in Wales by keeping resources in use and avoid all waste

These actions aren't only tackling the climate emergency and a biodiversity crisis, but are also crucially building resilience in our economy and our communities as we look to recover from the pandemic.

48. The WS was accompanied by a document entitled *Strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales* (“the SA”). The SA stated that it replaced the strategic assessment for the need for new energy from waste capacity provided in the CIM Sector Plan at section 2.3.4³⁷. The SA also stated that it was part of the WMP alongside PPW11, the CIM Sector Plan, BR and TZW³⁸.

³⁷ Pg. 2.

³⁸ Pg. 2.

49. The SA indicated that there is a need to update the tables contained in s. 2.3.4 of the CIM Sector Plan. This, it stated, has arisen from the changes contained in the BR, including an increased recycling trajectory of around 80% in the mid-2030s. The waste prevention targets to 2050 contained in TZW and the CIM Sector Plan remain the same. There are also two EfW plants operating in Wales, one in Deeside (in North Wales) and one in Cardiff (Trident Park) which are stated to have capacity to manage other residual wastes generated by businesses and the public sector that are not collected by local authorities³⁹.

(c)

50. The document then cites the Moratorium, in the following terms:

Importantly, Beyond Recycling contains an action for Welsh Ministers to put in place a moratorium on any future large scale energy from waste developments, as the increase in recycling and reduction in waste already seen means that we will not need any new large scale energy from waste infrastructure to deal with the residual waste generated in Wales.

The moratorium was put into immediate effect in a Ministerial Written Statement issued on 24 March 2021. This moratorium means the Welsh Government does not consider there to be a need for any new large scale energy from waste plants of 10MW or greater. Small scale energy from waste plants of less than 10MW will only be allowable if the applicant can demonstrate need for such a facility for the non-recyclable wastes produced in the region. Any new small scale facilities must also supply heat, and where feasible, be carbon capture and storage enabled or ready. This would therefore mean a small scale plant would not be allowable if waste is to be imported from outside of the proposed region (unless in close proximity to a region), in order to also avoid locking in transport emissions and associated pollution.

51. The SA states that the updated assessments should be used by applicants when making the case for and assessing the need for a new small-scale facility (less than 10 MW) and a “material consideration in the wholly exceptional circumstances where large scale energy from waste proposals of 10 MW or greater have, or may, come forward”⁴⁰.

52. The document states that a waste flow model has been developed (“the WFM”) for the three economic regions. It states that the scenarios employed include the 70% recycling target in 2025 and the BR commitment that recycling levels will need to increase beyond 2025. Scenario 1 (“Scenario 1”) is stated to be based on the annual waste arising prevention targets contained within Annex 1 of TZW. For Scenario 2, waste reduction is stated to be set to

³⁹ Pg. 5.

⁴⁰ Pg. 6.

zero.

53. Scenario 1 shows that for the Mid & South West region (which has been stated⁴¹ to include Powys within which the Project is situated) there is a residual capacity of 300,000tonnes per annum in 2019 – 2020, falling to 170,000 tonnes by 2034 – 2035⁴². There are surpluses in the North and South East Regions by 2035 totalling 210,000 tonnes per annum.

(d)

54. Under scenario 2, the Mid & South West region has a capacity shortfall in 2034 – 35 of 220,000 tonnes (from 300,000 tonnes in 2019 – 20). The aggregate surplus of the North and South East in 2034 – 35 is 55 tonnes⁴³.

55. The SA reiterates the point made in TAN21 that the justification for a proposal will bewhere the level of provision falls below the upper range identified in the SA for any given region⁴⁴.

56. A number of queries were raised with the WG on the SA and the Moratorium by Ms Sarah Burley, technical director of ECL, an expert consultant acting on the Project. Ms Burley asked if the Moratorium applied only to planning applications submitted after 24 March 2021. Ms Joanne Smith, in the Planning Policy Branch of the WG, answered that is a material consideration in “all relevant cases”.

(e)

57. Ms Burley also asked how the Moratorium sat alongside policies 17 and 18 of FW. Ms Smith answered: “The moratorium applies to new large scale energy from waste plants of 10MW or greater. The list from page 13 onwards in the document ‘Energy Generation in Wales’ [i.e. EGW], at the link below, outlines the thinking on the scope of policies 17 and 18”.

⁴¹ *Email from Joanne Smith, Planning Policy Branch, Welsh Government dated 15 April 2021, confirming that the current regions reflect the Economic Action Plan areas.*

⁴² Table 2, pg. 7.

⁴³ Table 4, pg. 8.

⁴⁴ Pg. 10.

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58. In answer to a question from Ms Burley as to the availability of a decision document setting out the detailed reasoning for Moratorium, Ms Smith answered⁴⁵: “Towards Zero Waste 2010, Beyond Recycling (the Circular Economy Strategy) 2021 and Planning Policy Wales 2021 provide the policy context, and the 24 March Written Statement and Strategic Assessments explain the specific rationale for the moratorium”.
59. The Updated WPS for the Project notes that the facility will make a significant contribution to meeting the need identified in the SA for the Mid and South West Wales region.
60. It is not wholly clear why the Moratorium was introduced so soon after the production of PPW11. However, the chronology appears to be as follows.
61. A petition was submitted to the WG by Councillor Amanda Jenner (reference P-05-1040) which comprised 938 signatures (“the Petition”). The petition sought a moratorium on all waste incinerators (irrespective of their size) because of the consultation responses arising from BR.
62. A research brief (“the Research Brief”) was produced for the Petitions Committee meeting of 17 November 2020. This summarised the position around the role of EfW plants in managing waste. It noted that there have been numerous calls for a moratorium on incinerators in the Senedd over the last 2 years (5 occasions are listed). The Research Brief states that the WG’s response has followed that which was provided to the Petition on 23 October 2020 by a letter of Julie James, the (then) Minister for Housing and Local Government (“the MHLG”).
63. That response indicated that the provision of EfW facilities is a transitional step and stated as follows:

Examination of DNS applications is undertaken by a Planning Inspector on behalf of the Welsh Ministers.

⁴⁵ Email, 24 May 2021.

The Planning Inspectorate operate to ensure a fair process for all parties. Decisions on such applications are made by the Welsh Ministers and there is a statutory requirement to have regard to the development plan, as well as other considerations material to the application. This includes current and extant policy, such as Planning Policy Wales (Edition 10) which sets out the waste policy and supports the decarbonisation pathway established in the Environment Act 2016.

It is vital we take responsibility for the disposal of the waste we generate which cannot be recycled. For this reason, the Welsh Government has invested in the infrastructure to extract electricity and heat from this material and dispose of it safely to the highest environmental standards and in line with the waste hierarchy. This not only ensures the maximum benefit can be extracted from this waste, but also prevents it from becoming a problem elsewhere.

The incineration of waste for heat and power is, however, a transitional step. The Beyond Recycling consultation on a new circular economy strategy was clear the long-term solution is to keep resources in use for longer and reduce all waste. In the interim there is a need to deal effectively with non-recyclable waste in a way which prevents it from either polluting the environment or sees the problem being exported.

64. A response to that letter was written by Councillor Jenner on 9 November 2020. This made a number of points:

- 64.1. There is growing international scientific concern around incinerators and their environmental impact;
- 64.2. Incinerators produce high levels of greenhouse gases
- 64.3. Landfill need not be worse than incineration, depending on what is landfilled.
- 64.4. A study by Zero Waste Scotland in October 2020 found that EfW incinerators can no longer be considered a low carbon technology.
- 64.5. The provision of heat with EfW facilities rarely happens.
- 64.6. The merits of R1 classification facilities are rebutted by a scientific article.
- 64.7. With regard to the transitional approach of the WG:
 - As recycling rates increase, there will be more capacity going to existing incinerators.
 - To be commercially viable, facilities need to operate at full or close to full capacity.
 - EfW facilities will source waste from England and beyond.
 - The production of particulate matter from EfW facilities is

dangerous.

- The commitment to additional facilities will lead to over-capacity.

65. A note has been produced by Steve Filkin (of Filkin & Co. EHS Limited) to address these various points. This note is appended to Barton Willmore's Planning Statement.

66. At the meeting of the November Petitions Committee, it was decided by the Committee that it should write to the Minister for (in part): "full reasoning as to why the Minister feels the moratorium on the development of new incinerators would not be appropriate at this time".

67. A response was provided by Lesley Griffiths, Minister for Environment, Energy and Rural Affairs ("the MEERA") by a letter dated 21 January 2021. This stated that:

As outlined in the Minister for Housing and Local Government's letter to you of 23 October, our aim is for Wales to become a zero waste nation and to move to a circular economy. The incineration of waste is a transitory step, with high efficiency energy from waste facilities, which can provide energy and heat from what would otherwise waste material, being an important way of dealing with the waste which cannot be recycled, in line with the waste hierarchy.

Planning for waste infrastructure is an ongoing process with regional monitoring of progress towards the provision of a network of installations which implement the waste hierarchy and apply the 'proximity principle' as laid down in UK law. The proximity principle requires the energy recovery of mixed municipal waste to take place in one of the nearest appropriate installations. Decisions on individual projects will therefore be informed by the latest level of need identified through the regional monitoring. Recycling targets, however, apply to waste produced in Wales, so any waste imported into Wales would not count towards the statutory minimum targets.

68. Councillor Jenner responded, stating that the MEERA had not provided any reasoning as to why the WG would not put in place a moratorium on waste incinerators.

69. There is no other record to justify the WG's change of position from that set out in the

responses above to the introduction of the Moratorium except that contained in the WS and BR.

70. The development plan for the Site is the Powys Local Development Plan (“the LDP”), adopted in 2018. As this position statement is dealing only with the Moratorium, no substantial comment is made on the LDP. Buttington Quarry is identified as suitable for waste uses; policy W1 allow for waste management proposals which are within employment sites identified in the plan. In the open countryside (which the Quarry is not within), proposals for management which meet an “identified need at the regional level” will in principle be allowed. It is notable, however, that the “region” considered in the LDP in 2018 is the South-East and North region. This no longer applies to the need calculations identified in the SA which puts Powys in the Mid and South-West region.

Analysis

(a) The Weight to be placed upon the Moratorium.

71. No real weight should be placed upon the Moratorium.
72. There are a number of legal errors apparent in the production of the document. While the Moratorium has not been formally challenged in the Courts, and a decision is presumed to be valid until it is quashed, it is trite law that the weight to be placed upon any particular policy document is a matter of judgment for the decision-maker. The existence of manifest errors of law in the production of the document is material to the weight to be placed upon it. In any event, even if the issues that have been specified below cannot be taken into account as errors of law, the failings which they display go to the substantive merit of the decision-making process and should, in any event, be taken into account when deciding the weight to be placed upon the policy stance adopted by the WG.
73. The defects may be categorised as follows:
- 73.1. Failure in the consultation processes.
 - 73.2. Failure to take into account national policy when deciding to issue the Moratorium or misunderstanding such national policy.

- 73.3. A lack of justification for restricting large-scale EfW facilities.
- 73.4. Lack of rational justification for restricting large-scale EfW facilities but allowing small scale facilities and/or no proper reasons for that decision.
- 73.5. Failure to take into account the proximity principle.
- 73.6. Failure to take into account the policy support for EfW in PPW11 and FW when issuing the Moratorium or taking into account an immaterial consideration by deciding that EfW facilities are not low carbon proposals.
74. *(aa) Consultation.*
75. Before considering the Moratorium, it is necessary to assess the point at which the Moratorium was effective. That is either at the time of the production of the BR or the SA. The BR was the first time that the intention to put the Moratorium in place was set out; it was carried into effect by the SA (although it is stated to be by way of the written ministerial statement accompanying the SA). As a result, the consultation processes associated with the BR and the SA need to be considered.
76. The BR is stated in the SA to be part of the WMP for Wales under the Waste (England and Wales) Regulations 2011 (“the 2011 Regulations”). The SA states that the information the SA includes is to replace part of the CIM Sector Plan. The Sector Plan is also part of the WMP, as the SA confirms. Consequently, the consultation framework of the 2011 Regulations are engaged for both BR and the SA.
77. Consultation of the general public in respect of either a WMP or its modification is required under the 2011 Regulations unless (under regulation 11(1)):
- 77.1. The plan is designed for the sole purpose of serving national defence or taken in case of civil emergencies. This is inapplicable to the present situation.
- 77.2. A public participation procedure is carried out under either Part 3 of the Environmental Assessment of Plans and Programmes Regulations 2004 or Part 3 of the Environment Assessment of Plans and Programmes (Wales) Regulations 2004; there is no evidence that a consultation on the SA was carried out under these regulations; or

77.3. The plan contains “only” provision relating to paragraphs 8 – 11 of Schedule 1 of the 2011 Regulations.

78. Paragraphs 8 – 11 of Schedule 1 to the 2011 Regulations relate to a series of measures, as follows:

8. Policies in relation to separate collection of waste

Measures to promote high quality recycling including the setting up of separate collections of waste, subject to regulation 13.

9.— Policies in relation to bio-waste

As appropriate, measures, in accordance with the objectives in paragraphs 2 and 3—

(a) to encourage the recycling, including composting and digestion, of bio-waste in a way that fulfils a high level of environment protection and results in output which meets relevant high-quality standards;

(b) to encourage home composting; and

(c) to promote the use of materials produced from bio-waste.

10.— Policies in relation to re-use

Measures to be taken to promote preparing for re-use activities, in particular—

(a) measures to encourage the establishment and support of preparing for re-use and repair networks;

(b) measures to facilitate, where compatible with proper waste management, the access of preparing for re-use and repair networks to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities;

(c) the use of economic instruments;

(d) the use of procurement criteria;

(e) the setting of quantitative objectives.

11.— Preparing for re-use and recycling targets and landfill reduction targets

Measures to be taken to ensure that—

(a) the preparing for re-use and the recycling of municipal waste is a minimum of—

(i) in relation to a national waste management plan relating to Wales—

(aa) 55% by weight by 2025;

(bb) 60% by weight by 2030;

(ii) in relation to any national waste management plan, 65% by weight by 2035;

and

(b) the amount of municipal waste landfilled is reduced to 10% or less of the total amount of municipal waste generated (by weight) by 2035.

79. The adoption of a moratorium on large-scale energy from waste facilities would not fall under any of these paragraphs. In particular:

79.1. It could not be regarded as a step promoting recycling.

79.2. It could not be regarded as encouraging the recycling of biowaste.

79.3. It could not be regarded as promoting preparing for re-use activities.

79.4. It could not be regarded as a measure taken to ensure that preparing for re-use and the recycling of municipal waste is at a number of minimum levels.

80. Further, and even if any of the matters raised in paragraphs 8 – 11 of the Regulations are engaged, the adoption of a moratorium on EfW facilities will necessarily fall within parts of paragraph 6 of Schedule 1 so that the Moratorium is not “only” dealing with matters specified in paragraphs 8 – 11.

81. In particular, the Moratorium will fall under the following:

As appropriate and taking into account the geographical level and geographical area to which the plan relates, provisions relating to

...

(c) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with the objective in paragraph 4;

...

(f) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;

(g) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems.

...

(i) appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery.

82. As a result, the 2011 Regulations are engaged.

83. Under the relevant parts of the Regulations, the WG was required, “as soon as reasonably practicable after preparing proposals for a national waste management plan or for the modification of such a plan”, “to take such steps to bring the proposals to the attention of the persons” who in the WG’s opinion are likely to be affected by the plan or have an interest in it (Schedule 1, para. 14(1)(b)). Such persons are to be given such time as will enable them to give an “effective opportunity” to express their opinion on the proposals (Schedule 1, paragraph 14(2)). Before a decision on the plan is made, the WG was required to take into account any opinion expressed by those consulted (regulation 15(1)).

84. There was no consultation upon the Moratorium whether as it was set out in the SA or the BR. The Moratorium was issued within 1 month of the BR and with no consultation. The Moratorium was not consulted upon as part of the production of the BR – it was issued in

the final BR but the CBR itself did not propose the Moratorium. In fact, as is dealt with above⁴⁶, the CBR indicated the continued need for EfW facilities. The Moratorium was not proposed in the CBR to enable consultees to have an “effective” opportunity to comment on the proposals. The CBRS did mention some stakeholders’ suggestions that incineration should be banned, but there was nothing in that document to indicate the WG endorsed that view at that stage.

85. As a result, the proposals in BR to impose a Moratorium and the SA’s expression of the Moratorium engaged the 2011 Regulations consultation requirements, and they were not complied with.
86. The issue which next arises is whether this has caused substantial prejudice to BEWL. There was plainly such prejudice in this case.
87. The further legal errors which are dealt with below highlight the lack of substantive merit in imposing the Moratorium, in particular, a lack of a justification for a Wales-wide hold on further large-scale EfW facility applications when the need and capacity information is properly taken into account, the inconsistency between the Moratorium and the remaining parts of the WMP which supported EfW facilities and the failure to align the Moratorium with the proximity principle.
88. The problem with the lack of any consultation is that there is no clear basis for understanding precisely why the Moratorium has been put in place and BEWL has (alongside others) been denied the opportunity of responding to the proposal. As is dealt with below, the WG have sought to justify the Moratorium on the basis of a lack of “need”, but this does not stand up to objective scrutiny. All of the issues identified at paragraph 87 above could have been raised with the WG. Had the various points been properly understood and/or taken into account by the WG, the Moratorium could not rationally have been adopted.
89. The specific justification for the Moratorium is stated to be based upon need. It is not suggested by the WG that the arguments put forward by Councillor Jenner⁴⁷ formed any

⁴⁶ Para. 44.

⁴⁷ Paragraph 64

basis for the WG's position. In any event these are addressed in the expert report prepared by Simon Filkin (of Filkin & Co. EHS Limited). Should the WG's decision be based upon these arguments, there is plainly a defect in the WG's reasons for the Moratorium and answers to those arguments which were necessarily material and should have been taken into account.

90. *(bb) Failure to apply the need information contained in the SA or an irrational reading of the SA need information and/or national policy.*
91. BEWL have been told by the WG that there is no specific separate document setting out the reasons for the decision (see above at paragraph 50). The reasoning is stated to be found in TZW, the BR and "Planning policy" (again, see para. 50).
92. The essence of the reasoning in the BR is that there is no need for a new large-scale EfW facilities because of the increase in recycling and reduction in waste. It is not possible to identify anything in TZW which would justify a moratorium. Nor is there anything within TAN21 (to the extent that this is WG's reference to planning policy in its response) to do so.
93. The SA itself was a document which updated part of the CIM Sector Plan, dealing with the capacity for EfW plants. The SA indicates that it applied the guidance contained in TAN21 with regard to establishing the need for a proposal.
94. The SA identifies need by region and in relation to Wales as a whole. If the proper analysis was to look at Wales as a whole, then there would be no need for further EfW – the capacity at 2034-5 balances with need.
95. However, a national approach to determining need is unjustified by any policy document and inconsistent with policy. Rightly, the SA states that the TAN21 need analysis is tied to a region⁴⁸; this is clearly the case⁴⁹.
96. Moreover, the need identifiable against a region is to be judged against the upper limit of the capacity assessment, as per the Sector Plan (see above at para. 54) .

⁴⁸ See pg. 10.

⁴⁹ See the SA itself, at page 10; TAN21 at para. 4.16 and PPW11 at para. 5.13.9.

97. On a regional basis, the SA states there remains a very significant need for EfW at 2034-5 for the Mid and South-West Wales region within which the Project is situated of some 220,000 tonnes for the Mid & South West region.
98. The Mid and South Wales area includes Powys under the Economic Action Plan and represents the up-to-date position on the appropriate regions for analysis. The SA makes clear that the approach it is adopting is based upon a different regional analysis to that which applied previously under TAN21.
99. It is to be noted that there is no EfW facility in the Mid and South Wales region. All this waste will either go outside the region for treatment, contrary to the proximity principle (as expressed by the regional requirement in TAN21) or will go to landfill. It is also to be noted that the planned capacity in Wales has declined from that contained in the CIM. In 2012, it was noted that a gasification plant had received permission⁵⁰. This is no longer contained within the identified levels of planned capacity. Further, there has been no dramatic reduction in the level of need which was identified in the Sector plan and as at the publication of the Strategic Assessment.
100. In addition, as the statement of Barton Willmore makes clear, the need calculation in the SA is defective or problematic by not taking into account population and business growth - the correction of these factors is likely to increase the capacity gap.
101. Correctly applying the policy position set out in TAN21, PPW11 and the CIM Sector Plan, the capacity analysis contained in the SA cannot reasonably justify a Wales-wide moratorium. TAN21 requires need to be shown and, if shown, subject to any other matters like effects on amenity etc, permission should be granted. TAN21 is also part of the WMP and the imposition of the Moratorium is patently inconsistent with the test contained in TAN21: it is not possible to reconcile TAN21's evaluative approach by reference to regional need with the Moratorium's prescriptive position.
102. The WG's reasoning for the Moratorium in BR is inconsistent with the remaining parts of the WMP as expressed by TAN21. The only possible basis for reaching a conclusion that there was no need for-large scale EfWs was by considering need on a national basis,

⁵⁰ Pg. 67.

inconsistently with TAN21.

103. Consequently, the WG has failed to properly apply the guidance contained in TAN21 and PPW11 and/or misunderstood that guidance and has failed to take into account a material consideration when deciding to issue the Moratorium, namely the central role of regional analysis for calculating the quantitative need for EfW facilities.
104. ***(cc) Failure to take into account the proximity principle or irrational conclusion on that issue.***
105. Allied to the issue of the need to take into account the capacity gap on a regional basis, the WG has, in issuing the Moratorium, failed to take into account the proximity principle.
106. The regionally-based capacity analysis set out in the SA and the CIM Sector Plan and the requirement in TAN21 that need should be established on a regional basis are each reflective of the proximity principle. This is made clear in PPW11⁵¹.
107. If (which is the only basis for identifying a need, albeit contrary to policy – see (bb) above) the WG’s conclusion on need has been based upon Wales as a whole, the WG has failed to take into account the proximity principle when deciding to impose the Moratorium. The WG cannot have taken into account the proximity principle by looking at need on this basis. Alternatively, it is not rationally possible to conclude that the existence of facilities in one part of the country (wherever it is located) to meet a shortfall in another part of the country is consistent with the proximity principle – but that is the position taken by the WG.
108. Equally, the WG have failed to take into account the potential for an appropriately located facility to also process waste produced by local authorities that are in close proximity to the Wales-England border. It is irrational to take an approach which effectively disapplies the proximity principle across administrative borders.
109. ***(dd) Lack of rational justification for restricting large scale EfW facilities and/or no proper reasons for that decision.***

⁵¹ Para. 5.13.9.

110. Irrespective of the lack of justification for any moratorium on EfW facilities in general terms, the documents relied upon do not justify why large-scale EfWs are to be prevented but small-scale facilities are not; nor is there any other purported justification for this approach.
111. The rationale for the Moratorium is based upon a lack of need. However, if (as is indicated above) the need case is based upon the capacity analyses contained in the SA, this would justify a single-large scale EfW facility or several smaller ones. There is no basis within the SA (or any other document) for reaching the conclusion that a large-scale facility moratorium is required when the SA need calculation justifies a large-scale facility – in short, in the absence of any other reasons, the decision appears arbitrary.
112. There are no reasons given in the BR as to why small-scale facilities may come forward but large-scale facilities may not. There is some reasoning in the SA as follows:
- This moratorium means the Welsh Government does not consider there to be a need for any new large scale energy from waste plants of 10MW or greater. Small scale energy from waste plants of less than 10MW will only be allowable if the applicant can demonstrate need for such a facility for the non-recyclable wastes produced in the region.*
113. Thus, the reasoning appears to be that small-scale facilities can come forward if a need for them can be shown in the region in question. Yet, even though there may be sufficient capacity to justify a need for a large-scale facility in the same region – as is the case for the Mid & South West region – the Moratorium prevents such a scheme coming forward.
114. This reasoning indicates an irrational inconsistency in the application of the need case – need may be used for a number of small-scale facilities, but the same need cannot be used to justify a large-scale facility. It also indicates an inconsistency in the application of the capacity/need data contained in the SA. Small-scale facilities are judged against a regional need but a lack of need for large-scale facilities could only have been justified on the basis of a national need calculation.
115. ***(ee) Failure to take into account the policy support for EfW in PPW11 and the FW when issuing the Moratorium or taking into account an immaterial consideration by deciding that EfW facilities are not low carbon proposals.***
116. PPW11 and FW are supportive of low carbon proposals. PPW11 is supportive in general terms of EfW facilities – there is no suggestion that they cannot come forward. As a low

carbon energy facility (which is clear from the TffP) there is clear support for EfW facilities.

117. The WG has indicated in its response to the questions from Ms Burley that it does not consider EfW facilities to be low carbon in nature (following the EGW). For the reasons indicated above⁵², this is mistaken – the EGW omitted reference to EfW facilities; it was not exhaustively setting out what amounted to a low carbon facility.
118. For the above reasons, the Moratorium should be given no real weight.

Whether Exceptional Circumstances Exist if the Moratorium is to be given weight

119. The Moratorium has been set out in the SA in part. This makes clear that large-scale facilities may exceptionally come forward and that the need analyses contained in the SA will be taken into account as part of the considerations as to whether such exceptional circumstances have been established. It is to be noted that the introduction of an “exceptional circumstances” test puts the level of restriction on such facilities equivalent to development in the Green Belt⁵³, without any justification and without any consultation.
120. If the Moratorium itself is to be given no real weight, the need for exceptional circumstances does not arise. Should, however, they become relevant, the approach to be taken towards need must be undertaken the correct basis.
121. As has been dealt with above, there is clearly a regional need for the Project under either scenario considered in the SA. There are no other Mid & South West facilities proposed. It is beyond doubt that there is a need up to 2034 in the Mid & South West region.
122. As to the period after 2034, there are clearly questions over whether the WG’s objective of achieving zero waste by 2050 is realisable; indeed, at the present time there are no further capacity projections between 2035 and 2050.
123. However, BEWL is willing, if necessary, for planning conditions to be imposed to govern the operational life of the Project to ensure that it does not undermine the WG’s objective to achieve zero waste. BEWL is currently in discussions with PCC to agree the appropriate

⁵² Para. 31.

⁵³ See PPW11, para. 3.74.

content and wording of such conditions.

124. With the introduction of such conditions, the Proposal would align with the obvious need for EfW facilities which exists at the present time and up to 2035 but would also allow for the delivery of WG's aims to 2050.
125. Moreover, if the WG's ambitions up to 2050 are not realised, the proposal will address the shortfall and, importantly, prevent a substantial amount of waste going to landfill or being transported out of the region, contrary to the proximity principle.
126. On this basis, if necessary, there is clearly an exceptional case for the Project.

Conclusions

127. The Moratorium is unlawful or, alternatively, should be given no real weight.
128. If the Moratorium is to be given weight, there are exceptional circumstances in this case to justify the scheme.

MATTHEW REED QC

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23 September 2021

ANNEX D – DOCUMENTS

APPLICANT

Design and Access Statement
Grid Connection statement
Pre-Application Consultation Report
Shadow Habitats Regulations Assessment
Waste Planning Statement (updated)

ENVIRONMENTAL STATEMENT

1 Introduction to the Development
TA1-1 Drawings; TA1-2 Consultant Expertise and Qualifications
2 Key Environmental Aspects and Assessment Methodology
3 Need and Alternatives
TA3-1 Market Appraisal Report; TA3-2 Alternative Sites Assessment
4 Description of the Development
TA4-1 Drawings; TA4-2 Lighting Strategy
TA4-3 Construction Environmental Management Plan
5 Existing Environment
6 Air Quality
TA6-1 Air Quality Assessment; TA6-2 Air Quality Assessment of Road Emissions; TA6-3 Dust Assessment
7 Socio-Economic
8 Highways and Transportation
TA8-1 Transport Impact Assessment
TA8-2 PICADY Outputs – Decommissioning Phase
TA8-3 TRANSYT Outputs – Temporary Traffic Signals
9 Landscape and Visual
TA9-1 Landscape and Visual Impact Assessment

10 Ecology

TA10-1 Legislation; TA10-2 Figures and Target Notes
TA10-3 Methodology; TA10-4 2020 Bat survey report

11 The Water Environment

TA11-1 Drawings TA11-2 Surface Water Management Plan

12 Archaeology and Heritage

TA12-1 Heritage Assessment

13 Geotechnical

TA13-1 Geotechnical and Geo-Environmental Site Investigation Report
TA13-2 Slope Stability Report; TA13-3 Pre-application Consultation and Response

14 Noise and Vibration

TA14-1 Noise Technical Terms; TA14-2 Noise Instrumentation and Survey Detail
TA14-3 Baseline Noise Survey Results; TA14-4 Construction Plant Inventory
TA14-5 Assumed Noise Levels for Site Plant and Cladding
TA14-6 Noise Mapping; TA14-7 Response to Pre-Application Comments

15 Overall Health Impact

TA15-1 Comprehensive Health Impact Assessment

16 Cumulative Impacts and Mitigation Summary

TA16-1 Stage 1 – Identified Other Developments

Responses to formal request for Further Information – All 2021

April Letter Response to Planning Inspectors queries ECL.001.01.02/RTL

August Response to the comments provided by the National Trust, the Local Impact Report (“LIR”) and the Buttington Incinerator Impact Group (“BIIG”).

Appendix 1: Response to Landscape and Visual Matters (Bright and Associates)

Appendix 2: Technical Note on Noise (Noise and Vibration Consultants)

Appendix 3: Technical Note on Geotechnical (Terrafirma)

Appendix 4: Critical review of BIIG responses to dispersion modelling report
(Cambridge Environmental Research Consultants)

Appendix 5: Written Statement on Economic Issues Raised (Filkin and Co)

Appendix 6: Response Regarding Heritage Matters (Orion Heritage)

September Response on Policy Matters. Response to the LIR and BIIG on Need

Appendix A: Issues Raised in the LIR that would be Covered by the Environmental
Permit (ECL)

Appendix B: Email correspondence with Welsh Government Planning Division

Appendix C: Legal Position Statement of Matthew Reed QC

Appendix D: WRATE Assessment Report (Filkin EHS)

Hearing Statements

Hearing Statement 1 Need

Appendix A: Rolling 12-month – waste by management method (Stats Wales)

Appendix B: Carbon Footprint Note (Filkin EHS)

Appendix C: Waste Acceptance Procedures (ECL)

Hearing Statement 2 Highway Safety/ Air Quality/ Noise/Geotechnical

Appendix A: Proposed Noise Conditions (Noise and Vibration Consultants)

Appendix B: Note on Geotechnical Stability (Terrafirma)

Appendix C: Note on Cefn Bridge (Intermodal Transportation)

Hearing Statement 3 Landscape and Visual Impacts and Ecological Issues

Appendix A: Note on Landscape and Visual Impact (Bright and Associates)

Appendix B: Note on Ecological Issues (BSG Ecology)

Hearing Statement 4 Conditions – CEMP/other controls

Appendix A: Correspondence from Natural Resources Wales (NRW)

Appendix B: Draft Planning Conditions

Appendix C: NRW Environmental Permits for Parc Adfer and Trident Park

Local Planning Authority

LPA1 Local Impact Report and Appendices incorporating Council Officers comments and Landscape Input by ENPLAN and Geotechnical Consultants Assessment

LPA2 Hearing Statement

LPA3 Appendices Hearing Statement

LDP Review Report

Draft Conditions

Letter from David Williams Technical Manager Potters Waste Management

Lawful Development Certificate – lawful commencement of ERF facility at

Potters Yard, Welshpool and copies of consents.

LPA4 Hearing Statement Session 3 Landscape and Visual Impact by Mr Russell-Vick, Enplan

BIIG

BIIG1 Hearing 1 Statement – Need, Policy and Sustainability

BIIG2 Hearing 2 Statement – Air Quality and Addendum by Dr Phillips-Jones

BIIG3 Hearing 2 Statement – Air Quality Tables by Dr Phillips-Jones

BIIG4 Comment by BIIG on Proposed Condition 32

Cllr Jenner

CAJ1 Further Submission (December 2021)

CAJ2 Hearing 1 Statement – Policy, Need and Sustainability

CAJ3 Hearing 4 Statement

CAJ4 Comments on Proposed Condition 32