

**DEVELOPMENT CONTROL AND REGULATION COMMITTEE**  
**1 December 2022**  
**A report by the Executive Director for Economy and Infrastructure**

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**Application Reference No. [1/21/9007](#)**

Application Type: Section 73 Application to Vary or Remove Planning Conditions

Proposal: Section 73 application to vary condition 2 of planning permission ref. [1/20/9013](#) to alter the design and layout of the approved buildings (including adjustments to the footprint and siting of the proposed extensions and an increase in height of part of the proposed southern extension element).

Location: Unit B, Kingmoor Park Rockcliffe Estate, Rockcliffe, Carlisle, CA6 4RW

Applicant: North West Recycling

Date Valid: 1 August 2022

Reason for Committee Level Decision: Objections received from consultee and representees.

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## **1.0 RECOMMENDATION**

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

## **2.0 THE PROPOSAL**

2.1 Planning permission was granted on 19 February 2021 for the extension and recladding of the Unit B building at the Kingmoor Park Rockcliffe Estate, Rockcliffe, Carlisle (Ref. 1/20/9013). Planning permission is now sought to vary the siting and design of the approved scheme (Condition 2) of planning permission reference 1/20/9013 to allow alterations to the layout and massing of the previously approved buildings. The key changes proposed are adjustments to the footprint and siting of the proposed extensions and an increase in height of part of the proposed southern extension element. It is also proposed to adjust the position of doors, update the drainage scheme to reflect the changes and other miscellaneous minor adjustments (such as position of roof lights).

2.2 The existing Unit B building is currently used by the applicant to house waste processing equipment which is used to produce a Solid Recovered Fuel ("SRF"). Associated with this, housed in Unit B, is a waste reception area and an area for finished product and other storage. The current arrangement is limited by space and access / circulation areas for wagons and mobile plant. The Unit B building is also in a poor dilapidated condition. These factors prompted the original application made in 2020 (Ref. 1/20/9013) as the applicant is seeking to invest in the infrastructure of their waste management business in order to ensure its long-term prosperity.

2.3 The applicant's agent explains that the need for adjustments to the design of the previously approved extension have arisen due to matters that have come forward during the detailed design process. They explain that the main factors that have prompted the proposed changes are the size of waste processing equipment to be sited within the southward extension element (and need for

greater space above and around these for access, circulation, safety and use); the recommendations of an operational fire risk assessment; and the results of further exploratory ground investigation work which have uncovered the extent of the foundations and buried drainage of the original Unit B building. The latter aspects have resulted in a slight adjustment to the positioning of the proposed western element of the extension.

- 2.4 The previously approved extension involved two different building volumes – a higher and wider pitched roof volume extending off the existing western elevation of Unit B to form a new waste reception hall and a shorter lower roofed element extending off the southern elevation of Unit B to accommodate the equipment for the SRF process line. The former projected 45m westward from the western elevation of the existing building and then measures 73.72m in length along the proposed new element of western elevation frontage. This waste reception hall element was approved to measure (above ground level) 9.1m to eaves height and 13.1m to ridgeline height. The southern SRF process-line extension element was approved to project approximately 23.1m south from the existing Unit B southern elevation and extend for the full length of the existing Unit B elevation (i.e., 92.5m) with its eastern extent terminating/matching the existing eastern elevation building-line. The approved plan shows this element measuring approximately 5.6m to eaves and 8.1m to its ridgeline. The southern SRF extension element combined with the western waste reception hall resulted in an approved southern elevation with a uniform building line spanning approximately 137.1m.
- 2.5 The proposed waste reception hall extension is now proposed to project 45.92m westward from the existing elevation of Unit B (a 0.92m increase from that approved) and to measure 75.9m in length (a 2.18m increase). As a result of this the eaves and ridgeline heights have reduced slightly from that previously approved to, respectively, 8.8m and 12.84. Its northern gable end elevation has also been set 1.1m further south than originally approved.
- 2.6 The southern SRF Process Line extension element is now proposed to project approximately 26.6m south of the existing southern elevation of Unit B (a 3.5m increase from that previously approved). The full length of the proposed southern elevation is now proposed to measure 138m in length (i.e. an approximately 0.9m increase which ties in with the increase in width of the western waste reception hall element). The roof arrangement and height of part of the southern extension advance is proposed to be changed. It is proposed to be increased in height so that it measures to 10.5m above ground level (agl) to eaves and 12.9m agl to ridgeline. This heightened roof element would then be tied into the ridgeline of the waste reception building to its west, resulting in an approximately 84m length of heightened roof (as measured along the ridgeline). The rest of the roof of the southern extension element (to its eastern most side for a 31m length) would remain 8.1m in height agl to ridgeline as previously approved, although the eaves height would increase slightly by 0.2m to 5.8m agl.
- 2.7 The above changes have led to the adjustment of the position of all roof lights and some doors on each elevation of the extensions. A roller shutter vehicle access door has been relocated from the southern end of the western elevation to the western end of the southern elevation. Three new personnel doors have also been added to the southern elevation. The changes have also resulted in some consequential adjustments to the surface water drainage provision for the site, albeit with the drainage strategy remaining anchored around the installation

of two new underground attenuation tanks.

**Table: Summary of Proposed Changes to Dimensions of the Extensions.**  
All measurements in metres (m)

Building Extension Element	Approved	Proposed under this application	Difference
<b><u>Western Waste Reception Hall</u></b>			
Width:	45	45.9	+0.9
Length:	73.7	75.9	+2.2
Height to Eaves:	9.1	8.8	-0.3
Height to Ridgeline:	13.1	12.8	-0.3
Northern Elevation Building Line: (i.e., distance set back from Unit B's existing northern elevation building line)	13	14.3	Moved 1.3 southward*
*This combined with the amended length pushes the proposed southern elevation 3.5m southward from that approved.			
<b><u>Southern SRF Process Line</u></b>			
Width:	23.1	26.6	+3.5
Length:	92.5	92.5	0
Height to Eaves:	5.6	10.5 & 5.8	+4.9 &
Height to Ridgeline:	8.1	12.9 & 8.1	+0.2 +4.8 & 0
Notes: 1. The lesser change in roof height spans for a 31m length. 2. The increased ridgeline would be tied into that of the Waste Reception Hall.			

- 2.8 The extensions would remain of steel portal frame construction with profile steel cladding for walls and roofs as previously approved. Similarly the metal roller shutter doors and steel-clad personnel door-sets would persist as previously approved. The proposed new roof over Unit B remains unchanged – that is to say the proposed new roof would comprise of five parallel ridged roofs with profile steel cladding measuring just over 8m high to the ridge.

### 3.0 SITE DESCRIPTION & BACKGROUND

- 3.1 The application site is located towards the rear of the Kingmoor Park Rockcliffe Industrial Estate [hereinafter referred to as the Rockcliffe estate or the estate], which was a site established in connection with the RAF Carlisle 14th Maintenance Unit (14MU). The 14MU erected various industrial type buildings used for the storage and maintenance of equipment and associated office / administration buildings across a number of sites to the north of Carlisle. After the closure of 14MU, Carlisle City Council granted planning permission for B2 & B8 use (i.e. General Industrial and Storage or Distribution) of the site without restrictions on operating hours or intensity of use. The Rockcliffe estate is now a mixed use estate containing both industrial and office based business elements and currently accommodates a builder's yard and two other waste related companies – North West Recycling and Andidrain. The applicant undertakes waste recycling operations across three areas of the estate linked by internal roadways. These comprise two buildings known as unit A and unit B and an area of open hardstanding used for inert waste recycling known as site K. Unit A operates under one planning permission (Ref. 1/19/9005) while unit B & site K operate under a different planning permission (Ref. 1/19/9006). The applicant's head office and a central staff car-parking are also present on the estate, situated to its western side along with unit A. Unit B is situated on the south-eastern side of the estate with site K present to its south-east.

- 3.2 Unit B itself is an older style of industrial building measuring 65m wide x 90m long x 8.3m high. It is constructed partially of brick and clad in cement bonded fibre sheets (which contain asbestos). The cladding is in a variable state of repair. The roof comprises five parallel monitor style clerestory roofs.
- 3.3 Since 2016 Solid Recovered Fuel (SRF) has been produced within Unit B. The production of SRF involves materials recovery facility (MRF) processes (i.e. sorting and pre-treatment) and physical processing treatments such as the shredding, filtering and drying of solid waste.
- 3.4 The red line planning application area is the same as that of planning permission ref. 1/20/9013. The application area is bounded to the west by the unit occupied by Andidrain. To the south it is bounded in part by agricultural land and in part by site K. To the east, within the estate confines, are high voltage power lines and a grassed amenity area with an agricultural field unit adjoining the estate. Beyond this field unit is the west coast mainline railway. To the north is the fire damaged shell of Unit D. To the northwest is a builder's yard. The western side of this builder's yard is bounded by a circa 2.5m high grassed bund and line of mature trees.
- 3.5 The estate is accessed via the C1015 from the north and from the C1016 from the south. Both these roads connect onto the A689 Carlisle Northern Development Route (CNDR). The C1015 connects to the eastern end of the CNDR at the Parkhouse Roundabout via the C1022. The C1016 connects onto the CNDR at the Kingmoor Bridge West (i.e. Cargo) Roundabout which is situated 3km south of the estate to the western side of the CNDR Bridge over the West Coast Mainline Railway. The highway access onto the estate is achieved from the final northern straight of the C1016. The estate is partly bounded to the west by the C1016 and is bounded on all other sides by agricultural land. The junction of the C1016 with the C1015 lies just under 500m north of the site. The 30mph speed limit signs for Rockcliffe village measures 20m northwest of this junction. The route available from the site to the Parkhouse Road roundabout via the C1015 does not go through the sign-posted extents of the village. It is noted that the C1016 forms part of National Cycle Route Numbers 7 and 10.
- 3.6 At its closest point, the western boundary of the estate measures approximately 400m from the River Eden, which is designated as both an internationally protected Special Area of Conservation (SAC) and a nationally protected Site of Special Scientific Interest (SSSI) and thus afforded the highest level of protection in law. The river Eden outflows into the Solway Firth which is also designated as an SAC (the designated extent of which measures over 1.6km north-west of Unit B) and an inshore Marine Conservation Zone (MCZ). The boundary of this MCZ extends along the river Eden to Cargo and matches the boundary of the River Eden SAC for this section of tidal river corridor.
- 3.7 The nearest residential properties and their approximate distances and direction from the existing Unit B building are as follows:
- Bank End Farm Properties - the nearest garden curtilage of which lies just over 165m to the south. Farm-buildings, a slurry store and silage pit present between these dwellings.
  - Holme View - 400m south.
  - Crookdyke Farm - the garden curtilage of which lies approximately 425m North, with a farm building partly in between.

- Moss View & Melldrone House – these two dwellings lie approximately 460m to the North-north-west of Unit B.
- 3.8 Rockcliffe village is approximately 800m to the northwest of Unit B. To a greater extent the whole of the Rockcliffe Estate is screened from Rockcliffe Village itself by topography, mature trees and hedges. The aforementioned farms and nearest houses are less well screened.
- 3.9 The estate is situated in a landscape categorised by the Cumbria Landscape Character Guidance and Toolkit (CLCGT) as 5d – Lowland Urban Fringe. This landscape type in this broad area is characterised by long term urban influences on agricultural land. Immediately to the west of the site, the CLCGT categorised the land as 2C – Coastal Margins – Coastal Plain, which is characterised as being “flat and slightly undulating coastal plain.” The Solway Coast Area of Outstanding Natural Beauty (AONB) is around 650m to the west of the site. The site is within the Visual Impact Zone of Hadrian’s Wall World Heritage Site (WHS). At its closest, the WHS is around 2km to the south west of the site. The nearest listed building is a grade II listed farmhouse at Becklands over 600m to the North of the site.

#### **4.0 SITE PLANNING HISTORY**

- 4.1 Conditional planning permission was granted on 19 March 2009 (*Ref. 1/09/9002*) for the development and operation of a materials recycling facility to enable the sorting and recycling of waste materials (*Sui Generis use*) at Unit A. Planning permission was granted for waste management operations to take place within unit B and on site K on 17 February 2016 (*Ref. 1/15/9006*). Previous to this unit B benefitted from a certificate allowing B2 (Light Industry) and B8 (Storage and Distribution) use.
- 4.2 On 8 December 2017, planning permission was granted for the installation of a biomass fuelled boiler and drying plant along the northern elevation of unit B (*Ref. 1/17/9014*). The planning permission for the boiler and drying plant has not been implemented and the applicant no longer wishes to progress this biomass boiler and drying plant scheme.
- 4.3 Two planning permissions (*Refs. 1/17/9018 & 1/17/9019*) were granted on 30 May 2018. These allowed working within, respectively, unit A and unit B between the hours of 07.00 and 22.45 on weekdays for a 12-month trial period. With no evidence put forward that these changes had an adverse impact on residential amenity, the changes were subsequently made permanent by the grant of a further two planning permissions on 13 August 2019 (*Refs. 1/19/9005 & 1/19/9006*).
- 4.4 An application to realign the vehicle and pedestrian entrance to the Kingmoor Park Rockcliffe Estate and install new weighbridges was granted on 12 July 2021 (*Ref. 1/21/9001*). The weighbridge has been installed but works to modify the access have not yet been progressed.
- 4.5 An application was lodged in March 2021 by Waste Knott Energy Ltd for the creation of a waste processing facility to produce a pelletised waste derived fuel at the Rockcliffe Industrial Estate. This proposal involved the erection of a new building and an extension to and recladding of the existing Unit D building. This application was withdrawn in April 2022 following a fire in Unit D which led to this building being condemned. A prior notification application for the demolition of

Unit D was granted Prior Approval on the 6 May 2022. The applicant advises that they are currently looking to commence demolition work on Unit D in February/March 2023. The applicant has confirmed that there is currently no intention to resurrect their proposal for producing pelletised fuel from this site and that alternative future uses of Unit D and its surrounding land are currently being investigated.

- 4.6 The Council is aware of two separate sets of proposals from different companies for the establishment of waste pyrolysis plants on industrial estates to the north of Carlisle that are at the pre-application stage. The pyrolysis process involves the thermal dismantling of organic substances at high temperatures (circa 400-650 degrees) under exclusion of oxygen. In other words, heat is used to 'crack' chemical bonds in the hydrocarbon polymers, producing smaller molecules which become a synthetic gas vapour some of which can be condensed to oil at low temperatures. One of the proposals concerns land at the Kingmoor Park Rockcliffe Estate while the other concerns land at the Kingmoor Park Heathlands Estate. It is currently understood that the proposed pyrolysis plant at the Rockcliffe Estate would be configured to primarily use baled waste plastic (predominantly agricultural farming waste plastic - films, silage wrap, etc...) as its feedstock (but that it may also be set-up to use some other waste streams) to produce a recovered oil fuel. The Heathlands Estate proposal is currently understood to be predicated on the use of imported granules of waste rubber derived from vehicle tyres as its feedstock to produce pyro-oil, activated carbon black and pyro-gas. The prospective applicants for both pyrolysis plant proposals are understood to have undertaken some pre-application public community engagement in respect of their proposals. It is currently understood that the prospective applicants are aiming to submit planning applications in respect of their respective proposals in 2023.
- 4.7 North West Recycling have set out that neither the Waste Knott pelletised waste derived fuel scheme nor the pyrolysis proposal on the Kingmoor Park Rockcliffe Estate have any link to the Unit B extension or production/use of SRF. For the above pyrolysis proposal, they indicate that baled plastic waste would come from the existing operations in Unit A.
- 4.8 Planning Permission was granted on 19 February 2021 for a built extension off the southern and western elevations of Unit B and for remedial work to the existing roof and re-cladding of the remaining externally facing walls of Unit B (*Ref. 1/20/9013*). This permission has not yet been implemented. It is the design details of this permission that this section 73 planning application seeks to vary.

## **5.0 CONSULTATION RESPONSES AND REPRESENTATIONS**

- 5.1 This application proposal was first consulted upon and publicised in autumn 2021. The application was re-consulted upon and re-publicised with a clearer proposal description in summer 2022.

### ***Responses from Consultees***

- 5.2 Carlisle City Council Planning Department: No objection subject to two observations. The first observation is that the site is within the Hadrian's Wall World Heritage Site Buffer Zone and that the view of the County Council's Historic Environment Officer should be sought. The second is that the development would be situated approximately 160m from the nearest property known as Bankend. Consequently they set out that they raise no objection

subject to no adverse comments being received from their Environmental Health department in respect of noise impacts, odour and air emissions. Responded to the re-consultation stating that they have no further comments to add to those previously made.

- 5.3 Carlisle City Council Environmental Health Department: Provided comments in respect of dust, noise, odour, pest control and land contamination, suggesting conditions in respect of the latter. In respect of dust, they note that it is necessary to protect any nearby residents or sensitive receptors from statutory nuisance being caused by dust from the site and comment that it would be advisable to consider all appropriate mitigation measures. Consider that a report detailing the expected levels of dust and on-site mitigation measures should be supplied as part of the application. In respect of noise they recommend that the applicant carries out a full noise impact assessment in accordance with British Standard BS4142, using the one-third octave method and that this should be submitted for approval to the local planning authority as part of this application. Furthermore they comment that “suitable restrictions on hours of operation should be imposed in order to protect the amenity nearby residents, including vehicle movements”. Highlight that odours from site should be managed in such a way as to prevent causing a statutory nuisance and that an Odour Management Plan should be included as part of the application. Set out that a report should be submitted detailing how pests, including flies and rodents, will be controlled on site. Note that the site is former Ministry of Defence land, so in addition to other potential contaminants there is potential for unexploded ordnance to be present and/or radiation. Set out that this should be taken into account in relation to any proposed site investigation. Suggest that planning conditions in respect of site characterisation and remediation be considered for use.
- 5.4 Cumbria County Council (CCC) as Local Highway Authority (LHA): No objection. Initially considered that inadequate information had been supplied and replicated their response to the original application for full planning permission (Ref. 1/20/9013). This set out that the Cumbria Development Design Guide recommends that a B2 Use Class development of over 4,000m<sup>2</sup> be supported by a Transport Assessment (TA) and Travel Plan (TP). As such they initially considered that the applicant should produce a TA and TP to determine if the proposed development will have a detrimental effect on highway safety in the vicinity. Consider that these requested documents should consider any other increase of traffic movement to and from the Industrial Estate that this extension and associated site within the Industrial Estate may influence. Responded to the August 2022 re-consultation to explain that they have reconsidered the proposal and information provided and that “considering the existing use and the minimal impact this proposal will engender that we have no objection to this application as it is considered that it will not cause a severe impact on the highway network nor will it create an unacceptable highway safety impact”.
- 5.5 CCC Lead Local Flood Authority (LLFA): No objection. Initially requested further updated information. Satisfied that the revised drainage strategy and updated drainage layout plan subsequently submitted are acceptable. Notes that suitable soakaway tests have been undertaken and that these demonstrate that the ground conditions at the site are not suitable for a soakaway and that the proposed discharge of surface water into the nearby unnamed ordinary watercourse (through an existing outfall) can now be justified in line with the hierarchy of drainage discharge options. Notes that a maximum discharge rate of 6.3l/s is proposed and that this is below the greenfield runoff rate of 6.5l/s.

Satisfied that the drainage calculations submitted demonstrate that attenuation is being provided on site to accommodate rainfall from a 1 in 100 year storm event with a 40% climate change multiplier. Observes that prior to entering the proposed attenuation tanks, surface water is proposed to flow through a fuel and oil interceptor to treat it. Responded to the August 2022 re-consultation to confirm that the drainage details provided are in order and that they have no objection.

5.6 Environment Agency: No objection. Set out that their previous comments in relation to application reference 1/20/9013 still apply. Their response to 1/20/9013 expressed no objection to works on the roofs and walls and noted there was little detail regarding the surfacing of the yard. It recounts that general ground investigations and risk assessment were undertaken to allow development at this former RAF 14MU site in the past; but that a site specific investigation and assessment is normally required for an individual development application. They considered that a standard contaminated land condition would be too onerous for the work proposed as there may be no / minimal disturbance and therefore proposed a bespoke condition requiring that if any contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted, approved and implemented. They continue that the tarmac surfacing proposal to improve vehicular access suggests the surface is level and therefore no need for cut and fill to improve topography. Limited excavations (if required) need to be assessed for contamination due to the sites former use and that any contaminated material would need to be appropriately characterised, handled and disposed of in line with waste management legislation. Flag that this proposal may necessitate a variation to the sites' Environmental Permit (for example to extend the permitted area or increase the total annual quantity of waste that can be accepted at this site). Their initial response to this section 73 application (Ref. 1/21/9007) in September 2021 set out that their comments and recommendations made in response to 1/20/9013 are still acceptable. However, it then appeared to contradict this statement by suggesting that evidence of findings from ground investigation should be provided (in light of the design progression which had involved trial holes and site investigations associated with foundations and services) in order to confirm the existence or absence of contamination, and that details of any remediation (if required) needed validation. The Environment Agency subsequently recognised that this latter request "*conflicted with our response to application 1/20/9013 which took a more pragmatic approach given the known site history*". The Environment Agency's Planning Officer sets out that "*I have discussed the conflict between these different consultation responses with my contaminated land colleague. He has confirmed that if any subsequent approval of 1/21/9007 includes our recommended condition relating to unsuspected contamination, it will be the responsibility of the applicant to ensure that they undertake all reasonable measures to ensure that they comply with this condition. This could include a consideration of the chemical and physical status of the soils. However, such information would not be required prior to the determination of the application and further information would only be necessary should unsuspected contamination be found on site during development*".

5.7 Cumbria Fire and Rescue Service: No objection. Responded on 8 November 2022. Confirm that they have examined the application proposal with regard to access of the site and water supplies and have no objection. Set out that in the

event the applicant is in a position to progress this development then Cumbria Fire and Rescue Service (CFRS) will liaise with Building Control to ensure stated fire safety measures within the application are in place. Continue that comments will be made under Approved Document B Vol. 2 and a fire safety audit of the site and relevant paperwork undertaken on occupation in accordance with The Regulatory Reform (Fire Safety) Order 2005. Further to this the CFRS Fire Protection Team Leader sets out that he has discussed the information provided in respect of the application with CFRS Professional Leads and Senior Management and that they are *“of the opinion that the measures being taken by the applicant should potentially prevent a fire of the scale seen in 2021. Ultimately, waste sites by nature of work undertaken are unpredictable and require strong management procedures being implemented and followed, the fire detection and deluge systems suggested... are designed to apply early intervention therefore preventing a fully developed fire”*.

5.8 Rockcliffe Parish Council (RPC): Register a strong objection to the application. Responded to the first consultation on this application in 2020 to comment that their concerns raised in relation to the previous application (Ref. 1/20/9013) still apply and remain relevant. The concerns raised in respect of 1/20/9013 were summarised in the committee report on that application as *“questioning the nature and the source of the waste; colour of the cladding; exterior lighting; lack of landscaping proposals; noise; traffic generated by the number of employees and shift pattern; hours of operation; vehicle routing and numbers and relationship to the Hespun Wood site; litter; odour & dust; and flood risk. The representation concludes questioning the suitability of the site due to its rural location, proximity to homes and poor road access and should be assessed alongside other development planned for the estate”*. Responded to the August 2022 consultation on this application on 8 September 2022 to register a strong objection on “general and specific” grounds.

5.9 The general grounds cited are that the amended scheme exacerbates the concerns raised by RPC in respect of 1/20/9013. Consider that the following issues are not satisfactorily addressed: the colour of the cladding, embankment around the perimeter, visual impact, noise abatement, smell, dust, drainage, contaminated run-off effluent, vehicle movements & lighting. The response then proceeds to set out a number of matters that RPC perceive to constitute *“non-compliance with existing license and exacerbation of PC concerns”*. These include perceived poor management of waste that resulted in the fire that occurred on the estate in winter 2021; plastic waste entering hedgerows due to poor transport containment; poor vehicle cleanliness resulting in the deposit of mud on the highway between the site and Cargo Hill Farm; poor driver management; *“pollution of run-off effluent resulting in Environment Agency involvement – potential SSSI Contamination”*; and *“poor management of waste separation leading to plastic contamination of Building waste being deposited at Cargo Hill Farm and potentially Demesne Marsh”*. They state that a number of complaints and investigations into the above issues are ongoing. State that the applicant is discussed at every PC meeting and that the common theme throughout is poor management. Set out that RPC, *“the Parish residents, and those using the adjacent National Cycle route have lost faith in the operator’s ability to co-exist in a sustainable, environmentally conscious manner with the parish. This is far from NIMBYism, we have relatively few issues with Andidrain, Renewi, Jenkinsons, Hespun Wood etc. all of whom deal with processing waste within the Rockcliffe Parish”*.

5.10 In terms of “specific” matters, the following six matters are raised by RPC:

1. Control of Pollution/Nuisance: Perceive that parts of the waste management process would still take place outside of the building and that this means the proposal does not control dust, mud, noise, pests and smell as required by schemes associated with permission ref. 1/15/9006.
2. Contaminated Land: The recent fire and potentially polluted run-off have not been addressed.
3. Exterior Lighting: *“The increased height (over 13m), length and close proximity to adjacent land necessitates increased lighting which adversely affects the existing planning condition. The revised application should improve not be detrimental to what has already been proposed”*.
4. Landscaping (Visual Impact and Biodiversity): The amended proposal would leave *“no space for hedgerows, verges, trees etc. when the site is viewed from the National Cycle Route within the AONB from Cargo to Rockcliffe... [as it] is too close to the boundary to allow this. Removing the mature trees that provide some shielding from noise, dust & smell is contrary to the National Planning Policy & the NERC biodiversity duty. It is acknowledged saplings are being planted elsewhere – these will do nothing to reduce the visual impact of the scale of building being proposed”*
5. Cladding (Visual Impact); Consider that, regardless of the type of cladding proposed, *“that the size and height of the new proposal will have no affect of ameliorating the visual impact of the scheme”*.
6. Hours of Operation & Transport: Observes that the planning conditions for Unit B states a 52 HGV movement weekday limit (with 14 only on Saturdays) and that no vehicles shall leave the site so as to give rise to the deposit of mud on the public highway. Consider that the site operator cannot control mud and dust as it stands and that *“an expansion of such magnitude will lead to increased vehicle movements and increased risk of highway problems – pollution, dust & mud”*. Continues that *“the existing parking for the HGVs is a dust bowl during dry weather and increases the risk of loose debris being deposited on the roads. This was particularly evident last year when the operator began moving recycled building waste from the site to Cargo Hill farm.”*

5.11 RPC perceive that this application is inextricably linked to the proposal for establishment of a pyrolysis plant elsewhere on the Rockcliffe Estate and consider that this application needs to be considered as part of that proposal and not as a separate entity. Believe that the application proposal as it stands would *“erode the planning process and circumnavigate the very planning conditions which serve to protect the environment, communities, wildlife and way of life enjoyed by the Parishioners residing within close proximity to the development”*. Considers that *“the scale of the amended proposal is like applying to build a shop and then requesting an amendment to build an entire shopping development. ... The development in our opinion should be delayed until a revised full application is made to the new Cumberland Council. The new full application should consider the suitability of the site based on how many waste operators already reside in the Parish, how sustainable it is to move waste from county to county using HGVs and if there genuinely is an appetite to operate a Poorly Managed Waste Facility adjacent to a SSSI, an AONB, a National Cycle route and a small rural English Village”*.

- 5.12 Kingmoor Parish Council (KPC): Provide comments and raise concerns. Set out that their concerns remain the same as those raised to the original 2020 planning application (Ref. 1/20/9013) – namely “*the unsuitability of the roads within the parish which will need to be used to access this site, [that] the site is in a rural location and the current road infrastructure is unsuitable for increased HGV use*”. Observe that Parkhouse road has a footpath which ends just past the junction of Crindledyke lane, after which pedestrians have to either walk on the carriageway or on the grass verge where possible. Consider the proposal is one of a number of developments which will lead to increased traffic on Parkhouse road and that a suitable footpath and improved street lighting are therefore a must. Queries whether the Council are proposing any traffic control measures to facilitate the flow of traffic in and out of the junction of Parkhouse Road and Crindledyke Lane. Considers that the C1016 is a minor country road and note that it is part of the national cycle network, express concern that that this road in its current condition with no pavement would even be considered acceptable for increased HGV usage and that this should be taken into account when considering this application. Query whether the council will be taking into account road traffic accident data for Parkhouse road and the C1016 when reconsidering this application? Request that “the council confirm the operating times of the plant, and are there any time restrictions on when HGV vehicles can enter and leave the site”.
- 5.13 CCC Ecological Consultant: No objection. Satisfied that any ecological impacts arising from the altered layout will be very minimal. Considers that the impacts can be readily addressed by a planning condition requiring submission and agreement of a soft landscaping scheme (and maintenance of the implemented scheme for a minimum five year period).
- 5.14 CCC Historic Environment Officer: No objection and does not wish to make any recommendations.
- 5.15 CCC Minerals and Waste Planning Policy Officer: In light of the representations received, provides comments on the application and interpretation of Policies SP3, SAP2 and DC9 of the Cumbria Minerals and Waste Local Plan 2015-2030 (CMWLP); background in respect of the production of the CMWLP and its predecessor – the Cumbria Minerals and Waste Development Framework (CMWDF); and the Council’s position on the status of the policies of the CMWLP. Highlights that Policy SP3 of the CMWLP identifies a need for additional waste treatment and management facilities to be brought forward within the Plan period in order to achieve required rates of waste recycling and recovery and thus reduce the amount of waste being disposed to landfill. Some sites are allocated in Policy SAP2 to meet this need. These are specific Site Allocations on a defined parcel of land that are identified as suitable for particular waste management facilities. In addition, some Broad Areas are listed in Policy SAP2. These are existing industrial estates which “*have the potential to support further waste management provision, if facilities are appropriate to the type and scale of estate, and proposals conform to other relevant policies of the Plan*”. Stresses that the list of sites in Policy SAP2 (including the Broad Areas) is not intended to be used exclusively. That is to say, proposals for new waste management and/or treatment facilities on unallocated sites will be considered in accordance with other relevant policies and if they would meet an identified need in a timely manner. It was also recognised that proposals for developments requiring smaller sites, extensions to existing waste management sites and proposals to treat or manage waste arising at commercial and industrial premises are likely to

come forward during the Plan period. Proposals for waste management facilities on unallocated sites (including Broad Areas) will be assessed on their merits in accordance with the criteria set out in Policy DC9.

- 5.16 The Kingmoor Park Rockcliffe Estate is identified as a Broad Area (BRO5) within Policy SAP2. Set out that this is a material consideration when assessing the suitability of proposals for waste management facilities on this estate. However, unlike a Site Allocation where a specific parcel of land has been identified as suitable for particular waste management facilities, Policy SAP2 requires proposals for facilities on Broad Areas to be assessed having regard to whether they are appropriate to the type and scale of estate, and conform to other relevant policies of the Plan (including Policy DC9). Observes that the approved scheme and this application proposal involves development on an existing waste management site on an industrial estate. Considers that it is therefore a suitable location in principle having regard to policies SAP2 and DC9.
- 5.17 In relation to comments made in representations in respect of the Broad Areas and BRO5 the Officer provides the following background. The Kingmoor Park Rockcliffe Estate (BRO5) is one of five Broad Areas listed in Policy SAP2. Whilst the listing of Broad Areas was not included within Policy text box of SAP2 during early stages of consultation on the current CMWLP, the concept of Broad Areas was introduced into Policy SP3 with the Kingmoor Park Rockcliffe Estate included as an example of a suitable broad area within the supporting text. This was included in the Draft Plan that was publicly consulted upon in 2015 between February and May and within the Pre-Submission Draft version of the plan that was publicly consulted upon in 2016 between May and July. During the Examination Hearings of the CMWLP at the end of 2016, the Inspector noted that whilst the Broad Areas were referred to in the supporting text, it was not clear in the Plan what status was intended for them and this made reference to them ineffective. In response to this it was proposed to include a new section in Policy text box of Policy SAP2 for clarity, giving policy support to appropriate locations within the identified industrial estates and adding explanatory text. This change (MM71 and MM72) was publicised in the proposed Main Modifications version of the CMWLP which was subject to a formal public consultation which ran from 27 March to 5 May 2017. Responses to this consultation were taken into account by the Inspector in her Final Report on the CMWLP. No responses were received in relation to the Kingmoor Park Rockcliffe Estate during any of these three public consultations for the CMWLP (Draft; Pre-Submission Draft or Main Modifications).
- 5.18 It is noted that the Kingmoor Park Rockcliffe Estate had previously been put forward as a Site Allocation (CA28) during the preparation of the portfolio of local development plan documents known as the Cumbria Minerals and Waste Development Framework (CMWDF) between 2004 and 2012. The CMWDF was the predecessor to the current CMWLP and looked to plan for minerals and waste development up to a time horizon of 2020. During the production of the CMWDF the Kingmoor Park Rockcliffe Estate came forward as proposed Preferred Site in September 2009, then later a Reserve Site in the recommended consultations of December 2009-February 2010. When consultation on the Site Allocations under the CMWDF recommenced (October-December 2011). The Rockcliffe Estate was removed, along with some other sites, from the site allocation process. The reason given for the removal of the Rockcliffe Estate at this time was the cumulative impact of the number of existing or proposed waste management sites in the area at that moment in time; impact of lorry traffic;

distance from the Carlisle Northern Development Route, and issues raised in representations. Emphasises that it is important not to conflate the publicity or assessments undertaken for the CMWDF and then for the CMWLP.

- 5.19 The Minerals and Waste Planning Policy Officer emphasises that identifying a site as a Broad Area is not the same as making it a specific Site Allocation. It simply identifies it as an existing industrial estate with potential for further facilities to be developed, subject to consideration of appropriate type and scale. Even if the Kingmoor Park Rockcliffe Estate were not identified as a Broad Area, proposals for waste management facilities on this site would still be capable of support from CMWLP Policy DC9 in line with the policy approach of considering proposals on unallocated sites on their own merits in accordance with the other policies of the plan.
- 5.20 The Minerals and Waste Planning Policy Officer highlights that point made above is picked-up in the review of the CMWLP undertaken as part of the [Cumbria Minerals and Waste Development Scheme \(October 2022\)](#). Explains that this review identifies that; whilst there is no immediate need to update CMWLP Policy SAP2 given the clear direction that policy SAP2 is not to be applied exclusively and that proposals on any other suitable non-allocated site (including industrial estates) are supported with reference to the criteria in policy DC9; specific reference to identified Broad Areas could be deleted from policy SAP2. Expresses the view that deletion of reference to identified Broad Areas would make it clearer that the Broad Areas identified do not have any particular status over and above being considered to have potential; so, in that sense are treated no differently to in policy terms to any other suitable employment or industrial estate. Whilst this recommended update would provide more clarity, the policy SAP2 as currently worded remains consistent with national planning policy and the weight attached to this policy should be unaffected.
- 5.21 Electricity North-West: Note that the proposal could have an impact on their infrastructure as it may be adjacent to or affect their operational land or electricity distribution assets. Set out that where development is adjacent to their operational land the applicant must ensure that the development does not encroach over either the land or any ancillary rights of access or cable easements and that if planning permission is granted they should verify such details by contacting them. Advise that the applicant should take great care at all times to protect both the electrical apparatus and any personnel working in its vicinity. Flag that should there be a requirement to divert the apparatus because of the proposed works, the cost of such a diversion would usually be borne by the applicant.
- 5.22 Local Member: The application site falls within the County Council electoral division of Longtown. At the time this application was first lodged and consulted upon Mrs Val Tarbitt represented this division. No response was received from Mrs Tarbitt before she sadly passed away in January 2022. The electoral division of Longtown has been vacant since.
- 5.23 Adjacent Local Member: The application site also falls in close proximity to the County Council electoral division of Dalston and Burgh. The councillor representing this division, Mr Trevor Allison, has been consulted. For clarity, the redline boundary for this application is wholly within the Longtown division, but part of the wider industrial estate site that is within the applicant's control is within Mr Allison's division.

## **Representations**

5.24 When this application was originally publicised in autumn 2021, one representation was received. The initial communication from this representee objected to the application and raised a wide range of comments of varying relevance to this application. The representee considered there were a number of inconsistencies in respect of the plans submitted (in terms of building positioning, positioning/layout of doors, building measurements specified). The representee highlighted the need for the drainage proposals to be updated to reflect the changed building dimensions and siting. The representee expressed the belief that the allocation of the Rockcliffe Industrial Estate as a Broad Area suitable for waste development was not carried out correctly in accordance with legislation. They set out that it is “*appreciated that waste management developments have already been granted planning permission at this industrial estate, the site should not be considered suitable for further waste processing development nor enlarged waste processing developments*”. The planning officer handling this application at the time provided a response to the queries raised by the representee. The representee subsequently raised the following additional points in September 2021:

- That the proposed changes result in the building projecting further to the south and that this may be enough to bring the building into conflict with:-
  - i) overhead power lines which are shown to be running near-by on the location;
  - ii) a nearby tree (and if one or more trees need to be felled then the ecological impact should be considered)
- The application form submitted does not specifically reference any planning conditions of the planning permission and is therefore not a valid section 73 application and should not be granted.

5.25 A total of 40 letters of representation have been received as a result of the application being re-publicised. All of these object to the application. One individual who is a member of the Cumbria Residents Against Incineration (CRAIN) group has made six representations.

5.26 Of the above 40 representations 25 are chain-letters with no additional tailored points. The chain letter makes the following ten points:

1. Inappropriate Development: The proposed increase in area and height of the industrial building over “*the already very considerable increase granted by planning application 1/20/9013*” is not appropriate for the local area.
2. Local Plan Flaws: That local residents were not adequately consulted on the allocation of the site as a “Broad Area” for waste developments in the Cumbria Minerals and Waste Local Plan. It continues to allege that: “*the Council had previously recognised that the site was not suitable for further and larger waste developments and did not include the change that it made to the site’s status in its list of modifications when the Cumbria Minerals and Waste Local Plan was being finalised. The Council is aware of issues with the consultation process on site allocations (including issues that were raised by the independent report into the Council’s handling of the incinerator planning process), yet the Council has not reconsidered and re-*

*consulted on the Cumbria Minerals and Waste site allocations”.*

3. Need: That the proposed increase in size and height of the industrial building *“is not needed. The plant is operating close to its permitted throughput limit and the applicant has said no increase in throughput is proposed. The Council has already approved permission to approximately double the floor space so there is no need for yet another increase in the mass of the building when the plant is already operational and able to process waste up to its throughput limit”.*
  4. Climate Change: Use of high carbon materials for the expansion and the felling of semi-mature trees will have an unnecessary and unacceptable impact on the climate.
  5. Fire Risk: Note that the applicant’s storage of waste on the estate resulted in a fire that burnt for about a month late last year. That the smoke from this greatly impacted local residents and that *“it can be expected that the health of Rockcliffe residents was harmed by the inhalation of smoke”.* Considers that this incident demonstrates that waste stored by the applicant is an unacceptable fire risk and that the increase in building size would facilitate them to store more waste and present an unacceptable additional risk.
  6. Loss of Trees: Consider that the proposal would involve the felling of more trees. Considers that the ecological impact and potential visual, noise and dust impacts of removing these trees has not been adequately assessed.
  7. Stack Height and Emissions: That the proposal lacks information in respect of the height of the stack and any emissions from it.
  8. Noise: *“The proposal’s increase in new equipment, increased building height and size, removal of trees and new “extraction units” may all increase noise”* and present a risk that the proposal may be noise nuisance.
  9. Siting of Compensatory Tree Planting: *“The risks of planting trees so near overhead cables should be considered and the potential for the proposed trees to block emergency vehicle access to the building should also be assessed”.*
  10. Water Resource Re-Use: That there is no proposal to use the water runoff from the building and that this is contrary to CMWLP policy SP13 which requires proposals to demonstrate water use has been minimised.
- 5.27 A further 15 representations have been received that raise a number of additional and expanded points. These are summarised below. Please note that some comment groupings have relationships with other comment groupings (e.g. groupings of noise and dust are also of relevance to amenity):
- 5.28 Amenity: A representee notes that paragraph 8.3 of the officer report on the application for full planning permission for the extension (Ref. 1/20/9013) said that *“The proposal may have a limited impact on the visual and environmental amenity of the area”.* Highlight that this statement acknowledges the possibility of impacts on amenity but that it only considered visual and environmental aspects of amenity. Consider that the 1/21/9007 *“amendment, with its increased building height and area and removal of trees, can be expected to increase the impact on amenity. Such impacts are unnecessary since the production of SRF at capacity*

*already occurs and since consent has already been given to double the floor area. Any small benefits from further increases in the building mass are out of proportion to the further impact on amenity and the environment”.*

- 5.29 Application Boundary: That the application site boundary “appears incorrect because it doesn't include the drainage attenuation pond which is part of the proposal. Also, the site boundary shown on the Drainage Strategy Statement - Revision B differs from the site boundary shown on drawing number 21-C-15989-201E.”
- 5.30 Asbestos: That the existing Unit B building roof contains asbestos and queries what special measures are proposed to protect nearby residents from asbestos debris.
- 5.31 Boundary Fence: That the aging mesh boundary fence could be damaged by removal of trees.
- 5.32 Carbon Emissions and Net Zero targets: Considers that the proposal has not demonstrated that energy management and carbon reduction have been determining design factors as required by policy SP13 of the Cumbria Minerals and Waste Local Plan (CMWLP) or that the overall carbon footprint of the development has been minimised as required by policy DC2 of the CMWLP. Highlight that Cumbria County Council has stated that it aims to reduce net carbon emissions and is working in conjunction with The Zero Carbon Cumbria Partnership towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037. Notes that the application sets out that the quantity of material to be processed, vehicle movements and number of employees have not altered from the original approval, however a representee considers that “*any production of SRF waste produced for incineration represents a consequent carbon emission increase wherever this takes place. Whether this is in a future Carlisle-based incinerator or exported out of county, the increased emissions (compared with landfill options – however undesirable) do not address the stated aims of the 2037 net zero target. There is no guarantee that once planning permission is granted, the applicant would not seek further throughput of material to maintain commercial viability. In view of this, I would say it is imperative that a condition that prohibits any increase in throughput of the plant is included, so that the impacts of any throughput increase (which may include climate, noise, odour and fire risk) can be properly considered should any increase in throughput be proposed in the future. I also do not consider the condition on 1/20/9013 that limits traffic adequate for this purpose because the permitted number of vehicles allows a considerable increase in throughput and because of the difficulty of enforcing the planning condition for any HGV movements between units of the Rockcliffe Industrial Estate. If, as originally stated, there is to be no increase in throughput, then there are still climate objections:*
- *The high-carbon materials required for an increased building size when the further enlargement is unnecessary (because the plant can already process waste up to its permitted maximum throughput).*
  - *The removal of semi-mature trees that can be expected to be near the peak of their carbon sequestration — again when the further building enlargement is unnecessary for the same reason.*
  - *The potential for climate impacts from the undisclosed emissions from the stack.”*

Considers that *“the basis for using an SRF/waste processing facility as presented in this application is very confused with respect to mitigating climate change. It needs to be totally rethought or abandoned”*.

5.33 Another representee considers climate issues should be given considerable planning weight because the climate crisis has been declared “code red for humanity” and because the application has not demonstrated compliance with CMWLP policies SP13 and DC2. They observe that *“from the information available, the proposal does not change the nature of waste processed nor the quantity. The proposal is therefore unlikely to result in significant change to the plant's direct (and indirect) greenhouse gas emissions that arise from the plant's operational machinery. The operational greenhouse gas impacts are, however, only part of the overall climate impacts of the proposal. The following can be expected to have a negative impact on the climate:*

- 1. The larger building, especially when the building is made from steel - a high carbon material, will have a negative impact on the climate because of the carbon emissions that will arise from manufacture of the additional building materials.*
- 2. The larger building may require additional electricity to heat or cool which can be expected to increase carbon.*
- 3. The new and larger equipment proposed for within the building will require significant energy for its manufacture and therefore will have a negative impact on the climate.*
- 4. The removal of trees will have a negative impact on the climate. The applicant has described the trees as "semi / early mature trees". Trees of this age can be expected to sequester significant quantities of carbon. Whilst the applicant is proposing to plant new trees, it will be a long time before the proposed new trees will match the carbon sequestration of the existing trees. Given the urgency of the climate crisis and the necessity to reduce carbon now, the impact of the tree removal on carbon over the next years should be considered significant and damaging.”*

5.34 Cumulative Impacts: That Rockcliffe is “already surrounded by waste sites” and that “on damp warm mornings pungent smells can be smelt, flies can be an issue until complaints are made [and] the verges have disappeared thanks to all the lorries”. That the proposal would result in increased traffic on the local highway network.

5.35 Dust: That the existing trees provide a degree of containment of dust from the site and that their removal would lead to increased fugitive emissions of dust.

5.36 Ecological Considerations: A range of points have been raised as follows:

- That the proposal will affect the nearby SSSI and have an impact on local wildlife.
- That the proposal will require the removal of a significant number of mature and semi-mature trees and that this would reduce biodiversity and take away *“valuable habitat that has a knock-on effect for birdlife, bats, insect biodiversity and pollination/foraging corridors”*.
- That recent research shows that the replacement of mature trees takes many decades in order to reach an equivalent biodiversity value.

- Highlight the provisions of the Environment Act 2021 which provide for a mandatory minimum of a 10% biodiversity net-gain (calculated using the DEFA biodiversity metric) to be secured and for the habitat to be created to be secured for at least 30 years via planning obligations or conservation covenants.
- *“There is no evidence that this even seen as a modification of an existing consent, is exempt from the requirements of Biodiversity net gain (BNG) which aims to leave the natural environment in a measurably better state than it was beforehand”.*
- That the application plan just shows *“a crude block to represent where trees will be planted”* and no specification as to the species of trees that will be planted.
- That there has been *“no independent ecological assessment (botanical survey) carried out on the trees earmarked for removal and nor has there been a broader biodiversity survey using the Biodiversity Metric”.*
- That the loss of trees may impact on bats.
- Query how trees will be monitored and maintained (over at least 30 years) to ensure that they achieve BNG.
- Consider that the *“ecological impacts of the proposal have been glossed over and insufficiently planned for”.*

5.37 Fire Related Concerns: A local resident recalls that a fire broke out on the estate in the 2000's and claims that, due to the proximity of a ditch to the site that leads to the River Eden, the firefighters realised that any chemicals used in treating the blaze and water run-off from the sheds contents would end up polluting these watercourses. Asserts that this issue meant the firefighters could not actively deal with the winter 2021 blaze at Unit D for the same reason. Highlights that local residents *“endured almost a month of thick asbestos tainted smoke and choking plastic fumes”* from this latter blaze which involved stored waste and that the local primary school closed briefly as a safety precaution. Claims air quality was affected as far away as Gretna and Rosehill. Set out that, as advised, residents kept all windows and doors shut in their homes, but within their house *“every room still smelled like a burning tyre as parents to two young children it was a very nervous time”.* States that Policy CM5 seeks to protect the environment and amenity so that application proposals do not harm the community and that *“a month of noxious smoke across the city must surely be considered a health issue”.* Adds that the winter 2021 fire had a negative effect on local resident's health and significantly impacted local people. Note that permission has already been given for a considerable increase in building size which has the potential to store a very considerable quantity of waste. That *“the fire last year shows that extra waste stored by the applicant is an unacceptable additional fire and health risk”.* A representee considers that *“since fire is clearly a significant risk with significant public impact, a further increase in building size that can then store yet more waste, increasing fire risk and worsening the potential impact of any fire, should not be approved. Many Carlisle residents would potentially be exposed to smoke and other air pollutants if a fire were to occur”.* A representee queries what measures are in place to prevent any fires in the future.

5.38 A representee notes that there was a multi-agency inquiry to look at lessons to be learned from the fire at Unit D on the industrial estate and that this *“determined that “no offensive firefighting operations could be undertaken and that water supplies on and surrounding the incident site would not be sufficient for the copious amounts of water that were going to be required to attack the fire”.*

- 5.39 A representee is critical of the Fire Safety Statement (FSS) submitted by the applicant's agent and make the following points:
- a) consider an FSS should show that its author has appropriate qualifications and relevant experience and that this information is lacking. In this respect they cite government guidance which relates to FSS that are required for high rise residential and educational buildings that indicates an FSS should be produced by a suitably experienced/qualified engineer.
  - b) that it contains a general statement referring to smoke alarm/detectors in "the dwellings" and that this is irrelevant to the proposal.
  - c) that in places "*the statement is little more than a restatement of aspects of legislation, for example the requirements on fire doors*".
  - d) Consider "*that there is no mention of important matters relevant to this proposal such as: storage requirements to minimise fire risk for source waste, RDF and any extracted materials; no mention of maximum quantities, maximum storage times and separation distances between different materials; no measures to minimise risk of fire that may arise from the operational machinery, mobile plant and sources of heat*".
  - e) That it "*does not say that all asbestos would be entirely removed from the fabric of the building so that, in the event of a fire, smoke is not contaminated with asbestos*".
  - f) That the FSS "*does not prohibit the storage of other materials or sources of ignition in the building*".
  - g) That "*there still does not appear to have been any consideration of whether there would be sufficient water containment at the site to allow any fire at the site to be extinguished without the risk of contaminated water run-off*".
- 5.40 The same representee queries what standards the Council will use to assess the adequacy of the FSS and provides a link to the Greater London Authority guidance on Fire Safety Statements as an example. They continue to query "how the Council will ensure the risks of storing flammable materials in a building that may have asbestos materials have been properly assessed". Thirdly, they query "how the Council will assess whether water containment is adequate to contain the use of a large quantity of water sufficient to extinguish a major fire at the site".
- 5.41 The same representee highlights the context of their fire safety concerns flagging multiple fire incidents that have occurred at waste sites in north Carlisle within the last ten years as follows:
- 3 December 2012 - North West Recycling fire - [itv.com/news/border/update/2012-12-03/recycling-centre-fire-footage/](http://itv.com/news/border/update/2012-12-03/recycling-centre-fire-footage/); [Flickr.com/photos/whitto/7520220308](https://www.flickr.com/photos/whitto/7520220308)
  - 10 July 2014 - Kingmoor Road recycling centre fire - [itv.com/news/border/story/2014-07-10/cumbria-waste-management-fire/](http://itv.com/news/border/story/2014-07-10/cumbria-waste-management-fire/)
  - 14 July 2014 - Kingmoor Road recycling centre fire - [Bbc.co.uk/news/uk-england-cumbria-28289898](http://Bbc.co.uk/news/uk-england-cumbria-28289898)
  - 6 November 2014 - Hespian Wood fire - [itv.com/news/border/update/2014-11-07/waste-facility-to-re-open-monday-following-fire/](http://itv.com/news/border/update/2014-11-07/waste-facility-to-re-open-monday-following-fire/)

- 16 April 2017 - North West Recycling fire - [Newsandstar.co.uk/news/16754117.firefighters-dealt-with-carlisle-recycling-plant-blaze/](https://www.newsandstar.co.uk/news/16754117.firefighters-dealt-with-carlisle-recycling-plant-blaze/)
- 29 February 2020 - Hespian Wood fire - [Newsandstar.co.uk/news/18269528.firefighters-battle-blaze-carlisle-recycling-hub/](https://www.newsandstar.co.uk/news/18269528.firefighters-battle-blaze-carlisle-recycling-hub/)
- 4 October 2021 - Hespian Wood fire - [Newsandstar.co.uk/news/19624008.fire-incident-commercial-building-carlisle/](https://www.newsandstar.co.uk/news/19624008.fire-incident-commercial-building-carlisle/)
- 8 November to approx. 7 December 2021 - North West Recycling - [Letsrecycle.com/news/carlisle-fire-sees-500-tonnes-of-plastic-ignite/](https://letsrecycle.com/news/carlisle-fire-sees-500-tonnes-of-plastic-ignite/); [Bbc.co.uk/news/uk-england-cumbria-59211612](https://www.bbc.co.uk/news/uk-england-cumbria-59211612); [Cumbriacrack.com/2021/11/23/fire-at-carlisle-industrial-estate-still-burning-16-days-later/](https://www.cumbriacrack.com/2021/11/23/fire-at-carlisle-industrial-estate-still-burning-16-days-later/); [Cumbriacrack.com/2021/11/25/rockcliffe-industrial-estate-fire-latest/](https://www.cumbriacrack.com/2021/11/25/rockcliffe-industrial-estate-fire-latest/); [Bbc.co.uk/news/uk-england-cumbria-59561766](https://www.bbc.co.uk/news/uk-england-cumbria-59561766)
- 16 June 2022 Hespian Wood fire - [Newsandstar.co.uk/news/20214250.wood-fire-todhills-control---crews-still-scene/](https://www.newsandstar.co.uk/news/20214250.wood-fire-todhills-control---crews-still-scene/)

5.42 The representee highlights that three of the above fires took place at North West Recycling premises with the 2021 Unit D fire burning for about a month. Surmises that *“residents have a situation where licensed waste facilities catch fire with alarming frequency. Unfortunately, it seems fires at waste sites are considered normal and acceptable by the regulatory regime - certainly the regulatory regime, for whatever reason, does not prevent such fires (there are around 300 major fires in the UK each year: [Ukfrs.com/guidance/fires-waste-sites](https://www.ukfrs.com/guidance/fires-waste-sites)). Your reference to the Environment Agency Licensing/Permitting Regime is therefore not reassuring. I am also not aware of any significant changes to the regulatory regime that are likely to make such fires less likely in the future, nor am I aware of any prosecutions relating to fires at Carlisle waste sites. In my opinion, this makes the consideration of fire-related matters within the planning process even more important - especially if a fire at a proposed development could impact other land users. This is clearly the case for the North West Recycling site because the fire last year had a considerable adverse impact locally”*.

5.43 This representee then proceeds to *“suggest the following are important planning considerations:*

- a) what are the likely impacts of a fire at the site and how might this compare if the development were located somewhere else;*
- b) can a fire at this site be quickly and safely extinguished*
- c) have all appropriate steps been taken to minimise the risk of fire”*

5.44 Within this communication the representee continues to make a number of further points. These are reproduced in full below:

*“You said in your email that the land-use planning system cannot mandate building refurbishment. It can, however, prevent land use that would result in excessively high risk. In my opinion, storage and processing of flammable materials in an enlarged building with asbestos materials (thereby allowing more flammable materials to be stored and processed) is excessively high risk because:*

- a) *the risk could be reduced by a different location further away from residences and a major population centre*
- b) *the risk could be reduced by a different building that does not contain asbestos;*
- c) *the proposal does not minimise and limit the quantity of waste stored;*
- d) *fire safety measures regarding sources of ignition and waste storage have not been detailed;*
- e) *concerns remain over the adequacy of the water supply and*
- f) *concerns remain regarding the adequacy of water containment.*

*With regard to the last of these points, the minutes of the multi-agency debrief meeting... about the fire at North West Recycling in 2021 says the fire was left to burn because 'water supplies on and surrounding the incident site would not be sufficient for the copious amounts of water that were going to be required to attack the fire and that the amount of fire water run off could potentially have a detrimental effect on the surrounding water courses'. Your email mentioned two water tanks. Are these new tanks since the fire in 2021? If not, it would appear from the minutes quoted above that the quantities of water available in these tanks is not adequate. Are you able to reassure residents that Cumbria County Council will ensure that there is sufficient water available to allow a major fire to be extinguished? Given the fairly close proximity of units at the wider North West Recycling site, has consideration been given to the possibility that a fire at one unit may spread to another?*

*Regarding water run-off, your email shows the attenuation tank is sufficient for rainwater but makes no mention of it being sized to retain water needed to extinguish a fire. If the site/proposal is such that there is no guarantee that a fire can be safely extinguished, then I think the proposal is seriously lacking. Sufficient water containment should be provided to ensure that the problems in 2021 are not repeated. Consideration should also be given to water containment requirements in the event of a fire spreading from, for example, unit B to unit A (or vice versa). Are you able to reassure residents that Cumbria County Council will ensure that there is sufficient water containment to allow a major fire to be extinguished without a detrimental effect on surrounding water courses?*

*Your email says the Fire Safety Statement was "to try and assuage the concerns raised by yourself and the local community". Unfortunately, the fire safety statement has not assuaged the concerns. Given the serious fire just last year, one would hope that the applicant would be ensuring the highest levels of fire safety to prevent future fires and ensuring that any fires that may arise can be extinguished rapidly and safely. However, the Fire Safety Statement provided:*

- a) *does not address the water availability and water containment concerns above*
- b) *does not appear to meet recognised standards for authorship of Fire Safety Statements. Your email says that the Fire Statement Form published on the gov.uk website has to be "completed by a suitably qualified engineer with relevant experience/qualifications". Given the history of fires at the site, residents should be able to expect fire safety considerations at North West*

*Recycling will be handled by a suitable qualified engineer. If Cumbria County Council should consider it acceptable for fire safety matters, such as a Fire Safety Statement, to be handled by unqualified engineers without suitable experience, please explain.*

- c) mentions "house" and "dwelling". Is this just a generic statement or is the author unaware of the nature of the development? Neither possibility is reassuring.*
- d) does not consider sources of ignition and how any potential sources of ignition (such as vehicles that may have hot exhausts) can be prevented from coming into contact with flammable materials. Surely such considerations are basic and fundamental?*
- e) does not consider safe storage of flammable materials and how residence times of these flammable materials will be minimised. Again, surely these are basic and fundamental fire safety considerations?*
- f) does not consider the risk of a fire spreading from one unit to another*

*I am glad that you have raised the reference to house/dwelling with the applicant's agent. I trust that Cumbria County Council will consider what the submission of a statement with such references says about the applicant's ability/willingness to minimise fire safety risks. I hope that Cumbria County Council will also consider it appropriate to address the other Fire Safety Statement issues with the applicant's agent too.*

*Leaving these fire safety matters to the Environment Agency would ignore the severe adverse impacts on amenity that can be expected from the seemingly inevitable fires. Such impacts on amenity are a planning consideration much more than they are a permitting consideration. Leaving these matters to the EA would also prevent the consideration of important planning matters such as whether the water containment/drainage is adequate, whether the water supply is adequate and whether waste storage/throughput would be managed/limited to control risk.*

*Residents are keen to know how Cumbria County Council intends to address the fire safety concerns so I will pass on your response”*

5.45 In a further communication the same representee is critical of the officer response to their queries. They consider the response to them does not say how the council intends to take the matters they have raised into consideration nor how much weight will be given to these concerns in its planning assessment. They continue that: *“from your response, I understand that Cumbria County Council is... unable (or unwilling) to reassure residents that, should the Council grant 1/21/9007[:.]”*

- a) “the Council will ensure that there would be sufficient water available to allow a major fire to be extinguished”*
- b) “consideration will be given to the possibility that a fire at one unit may spread to another”*
- c) “the Council will ensure that there would be sufficient water containment to allow a major fire to be extinguished without a detrimental effect on*

*surrounding water courses”*

- d) *“that it requires fire safety documents, such as Fire Safety Statements, to be written by a suitably qualified engineer with relevant experience/qualifications”*
- e) *“to provide information on how the Council intends to address the fire safety concerns that have been raised regarding 1/21/9007”*

5.46 Highways Safety & Traffic Impact: That the increase in the size of the unit will increase traffic. That there are already frequent near-misses between lorries at the Shapwath junction. That trucks speed down the hill without consideration of the narrow bend and that this is intimidating and could result in an accident. Another representee notes that there is proposed to be no increase in vehicle movements but queries whether the size and weight of current vehicles increased. Set out that vehicles heading out of the site towards Cargo struggle to pass each other if there is one in each side of the road. Comment that a wood lorry once went over the bank on that road in around 2009 and that lorry traffic has increased since then.

5.47 Inadequate Local Plan Consultation: That local residents were not adequately consulted on the allocation of the Kingmoor Park Rockcliffe Industrial Estate as a Broad Area for Waste Developments in the CMLWP. State that: *“the Council had previously recognised that the site was not suitable for further and larger waste developments and did not include the change that it made in the sites status in the list of modifications when the CMWLP was being finalised. The Council was aware of issues with the consultation process on site allocations (including issues that were raised by the independent report into the Councils handling of the incineration planning process), yet the Council has not reconsidered and re consulted on the Cumbria Minerals and Waste site allocations”*. Another representee expands and alleges that *“for the bulk of the consultation process, Rockcliffe Industrial Estate was listed as “withdrawn” only for this to be changed in the last stages of the preparation of the CMWLP to being a site with “potential”. The “Main Modifications” highlighting the changes between the versions of the CMWLP did not draw attention to this change nor was it shown under “Minor Modifications”. The documents regarding the CMWLP at that time did not explain the change from “withdrawn” to a site with “potential” and show no evidence that the previous representations regarding the unsuitability of the site were considered* ([https://councilportal.cumbria.gov.uk/Data/Cabinet/20100330/Agenda/\(item%2028\)%20Cumbria%20Minerals%20and%20Waste%20Site%20Allocations%20Policies.pdf?nobdr=2](https://councilportal.cumbria.gov.uk/Data/Cabinet/20100330/Agenda/(item%2028)%20Cumbria%20Minerals%20and%20Waste%20Site%20Allocations%20Policies.pdf?nobdr=2)). *The Council will also be aware that a judicial review found the Council's Site Allocation process in relation to a site in Barrow had been inadequate. Since all sites had undergone a similar consultation process, it can be expected that the site allocation process for other sites may also have been inadequate but there is no indication that the Council has attempted to review the process it used for other sites and re-consult as necessary. The independent PAS report picked up on site allocation issues. The Council has not initiated a review and re-consultation even though more than a year has elapsed since the PAS review and despite the PAS report saying errors should be “rectified rapidly and transparently”. Until the flawed site allocation process is redone, no weight should be given to the current site allocation. Significant weight should be given to the Council's previous consideration of the unsuitability of the site for further waste developments. The CMWLP should not, therefore, be considered justification for what appears to be an unnecessary increase in size of this waste*

*processing building”.*

5.48 Internal Inconsistency: That the Drainage Strategy Statement - Revision B refers to the diagram J9483-PROP SBP-02 which it says is the "proposed floor/site plan" but this diagram is not completely consistent with 21-C-15989-201.

5.49 Intensification: Query that if there is no increase in employees, vehicles or materials processed why is such a dramatic increase in the size of Unit B needed?

5.50 Lack of Information: A representee considers that there is a lack of information in the application in respect of the “height of stack”, noise, odour and emissions. Another representee considers the application lacks information and detail in respect of important aspects of the proposal, citing the following:

- details of proposed new equipment;
- the maximum throughput that the two lines of proposed equipment could support;
- whether the building dimensions would make it possible to add one or more additional processing lines in the future;
- the height and purpose of the stack and whether there are any emissions from the stack (and if so what they are, how they will be minimised and what air dispersion modelling has been done so any impacts on air quality and amenity can be assessed);
- that the elevation diagrams do show a stack so its visual impact cannot be assessed;
- what the term “EFG” means on one of the plans;
- whether SRF will be loose unbaled material (as this has potential for dust and other impacts to be determined),
- whether materials transported from unit B (whether on or offsite) will be sheeted (to control dust);
- if SRF will be baled where would the equipment for this be sited and how will noise from a baling plant and other equipment be controlled to prevent nuisance to other nearby land users;
- how stored SRF will be managed when awaiting transport to minimise risk of flies, vermin and fire;
- that no expert ecological assessment has been submitted showing the impact of the loss of trees (including on bats).
- The exact location and extents of trees (noting positions of trees on submitted plans appear to differ from what can be seen on Google Earth);
- which specific trees are proposed to be felled;
- *“the risks posed by the proximity of the tree planting location to the overhead power lines”*
- emergency vehicle access to the building? (perceive that the proposed trees may block access);
- species of trees that would be planted;
- how trees would be maintained
- whether any trees that die would be replanted;
- what the extraction units will be extracting;
- the measures put in place to ensure the extraction units are not a nuisance or risk to other nearby land users
- *“whether the building extension encroaches on the proposed location of the attenuation pond”.*

- Whether new toilets in the unit will be connected to the Rockcliffe public sewer (not just that the foul water should utilise the existing foul water drainage)
- 5.51 In respect of throughput, the representee believes this information is required so that: *“should this amendment enable the possibility of a future Environment Agency increase in the permitted waste throughput, proper consideration can be given to the potential impact of such an increase on matters that are material planning considerations such as traffic, noise, odour, fire risk and dust”*.
- 5.52 Light Pollution: That the existing trees provide a degree of cover against the spot lights present on site, which a representee claims are on day and night, and that the loss of trees would worsen the visibility and effect of the lighting. That the extra height of the extension may cause lighting issues and that a nearby property is already affected with light nuisance from the site.
- 5.53 Litter: That the proposal would result in greater incidents of deposit of transported plastic waste in verges and hedgerows which in turns impacts/harms bird life and would result in the soil becoming irrecoverably contaminated. That the existing trees act as a barrier that help prevent litter escaping the site on to adjoining land and their removal to accommodate this proposal would increase incidents of fugitive litter from site.
- 5.54 Publicity: A number of representees express frustration that their homes are close to the proposed site and that they did not receive notice of the previous planning application (Ref. 1/20/9013).
- 5.55 Need / Intensification of Waste Throughput: A representee is of the view that the existing building, even without the extension granted by 1/20/9013, is sufficient to process waste up to the maximum permitted throughput. Requests details of the proposed equipment that necessitates such a large increase in building size. A representee refers to the officer report on 1/20/9013 and surmises that, *“assuming [it]... to be correct”*, that *“the consented planning application will not increase the amount of waste to be processed at the site nor did it propose any new processes that are not already carried out”*. Sets out that the existing plant in Unit B operates at near its maximum permitted throughput and that the 1/20/9013 permission approximately doubled the floor area. Notes the applicant’s supporting statement indicates that the quantity of material to be processed, vehicle movements and number of employees have also not altered from the 1/20/9013 approval. The representee emphasises that it is therefore set out that the proposal would *“not increase the amount of SRF processed and will not result in more employment. Permission has already been granted for approximately doubling the floor area to improve storage space, efficiency and make better fire provision”*. Notes the applicant’s explanation for the proposed increase in size sought via this application is that the confirmed order for the equipment required a third screen which has increased the stack height of the plant and access required above, below and to the sides for maintenance of the screens and filters on the plant. However they consider *“equipment sufficient to make SRF from the permitted quantity of waste fits into the existing and unextended unit B and the applicant has already been granted permission for a considerable size increase. Unnecessary equipment may be used to justify an enlarged building extension. If planning permission is granted, the increased building size may then be used to justify a request to the Environment Agency to increase the maximum throughput of the plant - an increase that the EA may*

*grant without the need for further planning consideration. Therefore, if the Council is minded to grant permission for the proposal, to ensure any future increase in throughput gives due consideration to matters that are material planning considerations, a planning condition should limit maximum throughput to that currently permitted prior to the 1/20/9013 consent”.*

- 5.56 Noise: That noisy diesel generators run day and night at the site (with a noise complaint having been registered with Carlisle City Council Environmental Health in respect of this) and that *“the removal of those trees will only increase the noise from the site”*. A representee states that they are reticent to open their windows at home because of the noise from the site that includes *“vehicle movement, reversing signals, and peeping horns... plus crushing stone machines”*. A representee fears that there will be more traffic noise at the south side of the site as a result of the development. One representee queries whether the application proposal is for new and bigger equipment and, if so, whether it is going to generate more noise. State that relaxing in their garden is not as pleasant as it should be. Another representee queries what the noise output of the new extraction units will be and who will be monitoring noise levels. A further representee notes that the extraction units will only be utilised within the hours of operation of the site which are 07:00-22.45, so operational noise from the units has the potential to disturb sleep. That the proposed stack may also be a noise source. Queries if the applicant will *“carry out a noise assessment to determine the cumulative noise impact from the plant (and its associated transport)”*. That the increases in the height of a significant part of the building may also increase the transmission of noise.
- 5.57 Odour: That the residents of a nearby property experienced *“acrid smells like the bottom of a skip”* from the existing site. Express concern that provision of new extraction units will surely mean pushing more odour out of the site for them to suffer. State that they dare not leave their windows open in the heat of the summer. Queries who will be monitoring odour levels.
- 5.58 Proximity to overhead Electric Cables: A representee highlights that a main electric line runs very near the proposed development and perceives that *“with the continued increase in the height of plant a handler bucket or trailer tipping could make contact with the overhead cables. Which could be fatal to the plant operator. Surely staff safety must be incorporated”*.
- 5.59 Visual Impact / Character and Appearance of the Area: That the proposed increase in building area and height over the increase already granted is not appropriate for the local area. A representee sets out the view that *“the site is essentially in an agricultural area near the Solway Coast Area of Outstanding Natural Beauty and within the potential Visual Impact Zone of Hadrian’s Wall World Heritage Site (WHS). I do not consider that the applicant has given sufficient grounds to justify any further increases to the mass of an industrial building in such an area and, when consent has already been granted for a considerable increase, this further increase should be refused”*. Another representee sets out that the proposed felling of trees will remove an important visual screen. That *“the visual impacts may include night-time light impacts because the applicant’s design and access statement for 1/20/9013 refers to ‘High levels of lighting will be provided to all areas’”*.

## **6.0 PLANNING POLICY**

- 6.1 [Section 38\(6\)](#) of the [Planning & Compulsory Purchase Act 2004](#) provides that

planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

6.2 The [Cumbria Minerals and Waste Local Plan 2015-2030](#) (CMWLP) was formally adopted on 6 September 2017. Policies relevant to the determination of the previous planning permission (Ref. 1/20/9013) are set out below. A number of these remain relevant to the determination of this application, in particular policies DC2, DC3, DC16, DC18, DC19 and DC20.

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Provision for Waste
- SP3 - Waste Capacity
- SP13 - Climate Change Mitigation and Adaptation
- SP15 - Environmental Assets
- DC1 - Traffic and Transport
- DC2 - General Criteria
- DC3 - Noise
- DC5 - Dust
- DC6 - Cumulative Environmental Impacts
- DC9 - Criteria for Waste Management Facilities
- DC16 - Biodiversity and Geodiversity
- DC18 - Landscape and Visual Impact
- DC19 - Flood Risk
- DC20 - The Water Environment
- SAP2 - Waste treatment and management facilities

6.3 The [Carlisle District Local Plan 2015-2030](#) (CDLP) - adopted 8 November 2016 also sets out planning policies for the area covered by this application. The following policies of the CDLP were considered relevant to the determination of 1/20/9013.

- SP1 - Sustainable Development.
- SP8 - Green and Blue Infrastructure.
- EC2 - Primary Employment Areas.
- IP2 - Transport and Development.
- CC3 - Energy Conservation, Efficiency & Resilience.
- CC4 - Flood Risk and Development.
- CC5 - Surface water Management & Sustainable Drainage Systems.
- CM5 - Environmental and Amenity Protection
- HE1 - Hadrian's Wall World Heritage Site
- GI1 - Landscapes
- GI2 - Areas of Outstanding Natural Beauty
- GI3 - Biodiversity & Geodiversity

6.4 A number of these above listed policies remain relevant to the determination of this application, in particular policies SP8, CC5, CM5, HE1, GI1, GI2 and GI3. Policy GI6 (Trees and Hedgerows) is also considered to be relevant.

6.5 [The National Planning Policy Framework](#) (NPPF) was published in a revised and updated form in July 2021. The national online [Planning Practice Guidance](#) (PPG) suite was launched in March 2014 and is continually updated. Both are material considerations in the determination of planning applications.

- 6.6 The following sections and paragraphs of the NPPF are considered to be of relevance to this application:-
- 2. Achieving sustainable development - Paragraphs 7-12.
  - 4. Decision Making - Paragraphs 38, 47, 49, 50, 54, 55 and 56.
  - 6. Building a strong, competitive economy - Paragraphs 81 and 83.
  - 8. Promoting healthy and safe communities - Paragraphs 92 and 97.
  - 11. Making effective use of land - Paragraphs 119 and 120.
  - 12. Achieving well designed places – Paragraphs 126, 130, 131 and 134.
  - 14. Meeting the challenge of climate change, flooding and coastal change – Paragraphs 152, 154, 157, 167 and 169.
  - 15. Conserving and enhancing the natural environment – Paragraphs 174, 176, 180, 183, 184, 185, 186, 187 and 188.
- 6.7 The following categories (and paragraphs) of the PPG are considered to be of particular relevance to this application and the representations made: -
- [Fire safety and high-rise residential buildings \(from 1 August 2021\)](#)
  - [Flexible options for planning permissions - Minor material amendments \(application under Section 73 TCPA 1990\)](#) – Paragraphs 013-018
  - [Flood risk and coastal change – Sustainable drainage systems](#) – Paragraphs 055-061
  - [Land affected by contamination](#) - Paragraph: 002 (Reference ID: 33-002-20190722)
  - [Light Pollution](#)
  - [Natural Environment](#) – [Green Infrastructure](#), [Biodiversity, geodiversity and ecosystems](#), and [Landscape](#) – Paragraph 042 (Reference ID: 8-042-20190721)
  - [Noise](#)
  - [Use of planning conditions](#)
  - [Waste - Determining planning applications](#) and [Regulatory regimes](#)
- 6.8 [The National Planning Policy for Waste](#) (NPPW), published on 16 October 2014, is also a material consideration and has also been taken into account. In doing so, particular attention has been paid to [Section 5 Paragraph 7](#) and [Appendix B](#) which concerns the determination of waste planning applications. More widely, it is noted that the NPPW sets out the Government’s ambition to work towards more sustainable and efficient approach to resource use and management through “*delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy*”. The NPPW should be read in conjunction with the NPPF, the [Waste Management Plan for England](#) and National Policy Statements for [Waste Water](#) and [Hazardous Waste](#). The [Waste Management Plan for England](#) (2021) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.
- 6.9 [The Waste Framework Directive 2018/851](#) makes amendments to Directive 2008/98/EC on waste (The Waste Framework Directive) which provides the legislative framework for the collection, transport, recovery and disposal of waste.
- 6.10 [The Waste \(England and Wales\) Regulations 2011](#) (as amended) requires

everyone involved in waste management to take all reasonable measures to apply the waste hierarchy in the transfer of waste.

- 6.11 Central Government's [2011 Review of Waste Policy in England](#) sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for efficient energy recovery from residual waste, not only in the context of waste management but also having regard to low carbon/renewable energy provision and climate change.
- 6.12 The [Resources and waste strategy for England](#) (2018) promotes efficient energy recovery from residual waste. It recognises that energy from waste is generally the best management option for waste that cannot be reused or recycled in terms of environmental impact and getting value from the waste as a resource. It sets out that *"we cannot increase resource efficiency without the right waste infrastructure. Waste infrastructure is used to extract value from items considered worthless by others and limits the burden that waste places on the environment"*. It highlights that *"there is still a need for greater domestic reprocessing capacity – particularly in recycling"* and seeks to *"help stimulate private investment in reprocessing and recycling infrastructure"*. It sets out that, given projections *"we continue to welcome further market investment in residual waste treatment infrastructure. We particularly encourage developments that increase plant efficiency [and] minimise environmental impacts..."*

## 7.0 PLANNING ASSESSMENT

### ***Procedural Considerations***

#### **- Section 73 Application Route**

- 7.1 This application has been made under section 73 of the Town and Country Planning Act 1990 and seeks to vary condition 2 (approved scheme) of planning permission reference 1/20/9013 in order to modify the design of the previously permitted extensions to the Unit B building. The variation proposed includes adjustments to the footprint of the extension (with associated alterations to drainage arrangements), roof heights (with some very slight decreases and a more notable increase) and various amendments to doors and roof lights.
- 7.2 Section 73 allows applications to be made to develop land without complying with a condition (or conditions) previously imposed as part of a grant of planning permission. The purpose of this application route is to allow an applicant to apply to a Local Planning Authority (LPA) for relief from any or all of the planning conditions imposed without the need to recourse to the planning appeal system (and thus face the associated risk that they may lose the planning permission granted by the local planning authority altogether as a result of the appeal process). Central government set out in the PPG that this application route provides valuable flexibility for an applicant to materially change aspects of a previously approved development.
- 7.3 Section 73 (2) of the Act sets out that "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted". [Paragraph 031 \(Reference ID: 21a-031-20180615\) of the PPG](#) expands on this setting out that *"in deciding an application*

*under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application”.* That is to say, the principle of the development, or other aspects of the development unaffected by the proposed changes cannot be revisited unless there has been a significant material change in planning circumstances since the original planning permission was granted. In other words, the determination of a section 73 application does not, in the vast majority of cases, involve the reconsideration of the merits of a development. In this particular instance the Local Development Plan remains unchanged from that applied to determine the original application for full planning permission and there have been no other significant changes in terms of the geographic or wider planning context of this site. It is noted that the policies of the CMWLP have recently been reviewed as part of the [Cumbria Minerals and Waste Development Scheme \(October 2022\)](#). Whilst this review has identified that eight policies (namely SP13, SP15, DC15, DC16, SAP1, SAP2, SAP4 and SAP5) would benefit from an update for the CMWLP to remain effective in delivering its objectives and to reflect incoming legislative changes such as minimum standards for Biodiversity Net-Gain; it concludes that they remain consistent with national planning policy and guidance at this time. As such I consider that the policies of the CMWLP remain sound for decision making purposes.

- 7.4 It is noted that an LPA can grant a Section 73 application unconditionally or subject to different conditions or they can refuse the application if they decide that the original conditions should subsist. It is important to note that the original planning permission will continue to subsist whatever the outcome of an application under section 73. That is to say, the original planning permission is not revoked and is not “amended”. It remains in full force in its existing state as granted without any amendment.
- 7.5 If a section 73 application is successful then its results in a new planning permission coming into existence for the same development but with different conditions (if any) attached. That is to say there would be two extant planning permissions for the same development but with differing conditions. The applicant is then entitled to choose which permission they wish to progress and implement. It is duly noted that a Section 73 application cannot extend the time limit for implementation of a planning permission. As such, should the Council be minded to grant this Section 73 application, then a condition must be imposed requiring implementation by the same date as that provided for by planning permission ref. 1/20/9013 – i.e. by 19 February 2024. If a Section 73 application is refused, then the original planning permission remains intact and unamended, but there will be no new additional alternative planning permission granted for the same development.
- 7.6 The submitted application documentation clearly establishes that the application seeks to vary plans that form part of the approved scheme so as to vary aspects of the siting and design of the proposal. The originally submitted application form did not explicitly reference any planning conditions, although it did reference the correct planning permission. The applicant’s agent subsequently updated the application form to make it explicitly clear that they are seeking to vary condition 2 (approved scheme) and a re-consultation on the application was undertaken in light of this. As such I am satisfied that the application relates to an identifiable condition.
- 7.7 The original planning permission to which this application relates (*Ref.*

1/20/9013) remains extant (i.e., it has not been implemented) and the time limit for implementation has not expired (it is required to be implemented by 19 February 2024). The development and land-use proposed by this section 73 application remains the same as planning permission reference 1/20/9013 – i.e., extensions to and recladding/re-roofing and other external adjustments to Unit B in order to provide further space to better facilitate the existing operations for production of Solid Recovered Fuel (“SRF”) from waste that take place in this building. As set out in the planning history section, planning permission Ref. 1/15/9006 established the acceptability of the use of Unit B for waste processing. The proposed design amendments are not considered to be significant within the context of the original approved development (*Ref. 1/20/9013*) and would not fundamentally alter the original planning permission. That is to say, the proposed amendments would not result in a fundamentally different development in terms of its nature or broad form. I note that the proposed design amendments would not exceed the maximum building height of 13.1m provided for under 1/20/9013. Whilst the footprint of the extensions proposed would be greater than those approved under 1/20/9013, the total additional floorspace proposed is considered to be minor in the context of the extension that was permitted and the proposed building footprint remains within the redline planning application area boundary. As such, I am satisfied that the scale and nature of this section 73 application proposal would not result in a development which is substantially different from the one which has been approved.

- 7.8 The red line planning application area for this proposal remains unchanged from that approved under planning permission reference 1/20/9013. It is noted that a number of planning conditions of 1/20/9013 provide scope for some works to be undertaken outside of the red line planning application within other land under the control of the applicant at the site (which is conventionally delineated by a blue coloured line). Section 70 of the 1990 Act allows planning permission to be granted either unconditionally or subject to such conditions as the LPA thinks fit. Pursuant to section 72(1), conditions may be imposed for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission. These sections provide the power to impose conditions on land within the red and blue line land. Condition 2 of 1/20/9013 required the development to be carried out in accordance with, amongst other documents, the Drainage Strategy Statement and Proposed Drainage Plan. This document and plan provided for the provision of associated new drainage infrastructure (including attenuation storage tank 2) within Site K which is under the ownership of the applicant.
- 7.9 In light of the above considerations, I am of the view that the Section 73 application route is appropriate and valid. Furthermore, it is important to bear in mind that the existing use of Unit B is established and that the permission for the extension will continue to exist unless it is not implemented in time. Therefore, the focus in making a decision on this proposal is the merits of the proposed design changes as assessed against current planning policy and other material circumstances.

**- EIA Screening**

- 7.10 The site is not within or directly adjacent to a sensitive area as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations

2017 (2017 EIA Regulations), however it is in relative proximity to such sensitive areas. The site processes residual waste to produce Solid Recovered Fuel (SRF). This is a waste recovery operation and no waste disposal is directly undertaken at the site. The proposal does not comprise Schedule 1 development and falls outside of Class 11 (Other Projects) of Schedule 2. However, the footprint of the extensions of Unit B, as approved and as now proposed, exceeds a total of 0.5ha which is the screening threshold for new built development as part of industrial estate projects. In light of these aspects a screening opinion has been undertaken in respect of this proposal. Having had regard to the characteristics of the development, the environmental sensitivity of geographical areas likely to be affected by it and the characteristics of potential impact and their significance, both singularly and cumulatively, the County Council's opinion as LPA was that the proposed project does not constitute EIA development.

### ***Key Planning Considerations***

- 7.11 The key planning issues relevant to the proposed schemes are considered to be:
- i. Has there been a significant material change in planning circumstances since the original planning permission was granted that warrants re-examination of the principle of the proposed development?
  - ii. Would the proposed design changes adversely affect fire safety considerations?
  - iii. Can the scheme still be appropriately and acceptably drained in light of the proposed changes and does it still provide adequate protection of the water environment.
  - iv. Would the proposed design changes have an unacceptable visual or landscape impact or result in adverse effects on a designated landscape?
  - v. Would the proposed design changes result in a greater or unacceptable impact on biodiversity?
  - vi. Would the proposed design changes result in a greater and unacceptable impact on local residential amenity? – (Including consideration of fugitive emissions).
- 7.12 Other key material considerations are climate change, contaminated land, and traffic.

### ***Has there been a significant material change in planning circumstances since the original planning permission was granted that warrants re-examination of the principle of the proposed development?***

- 7.13 The adopted local development plan documents (i.e. the CMWLP and CDLP) that were applied to determine the original planning permission (*Ref. 1/20/9013*) remain in full force and there are no new emerging replacement local plans covering the geographic area that this site is situated within. The County Council has recently reviewed the policies of the CMWLP. Whilst this review recognises that some policies would benefit from being updated it considers that all the CMWLP policies remain consistent with national planning policy and I consider they remain sound for decision making purposes. Carlisle City Council (CaCC) have not published any new draft local plans. CaCC recently ran a "Call for Sites"

– i.e. an invitation for submissions for potential new development sites across the district between 21 March 2022 and 25 April 2022 as part of the early formative stages of producing the St Cuthbert's Garden Village Local Plan (SCGV-LP). The SCGV-LP only covers land to the south of Carlisle. Consequently, the local planning policy framework remains unchanged for the geographic area to the north of Carlisle where this site is situated. As such it remains that the Rockcliffe Industrial Estate is a site that already hosts a range of existing waste development uses and that Policy SAP2 of the CMWLP identifies this estate as a Broad Area that has the potential to support further waste management provision if proposed facilities are appropriate to the type and scale of the estate (assigning it the reference BRO5). It is also noted that, irrespective of whether or not a site is identified as a Broad Area, proposals not present on specifically defined and allocated parcels of land must be considered against Policy DC9. That is to say proposals on Broad Areas and unallocated sites must be assessed in line with Policy DC9. Application Ref. 1/20/9013 was assessed against Policy DC9 and found to be on a suitable industrial estate with it being concluded that the proposed extension would not have any unacceptable impacts on housing, business uses, other sensitive land uses, or the landscape; and that potential adverse environmental impacts had been minimised to an acceptable level. The site is well related to the strategic highway network and could result in a reduction in waste miles. The proposal is in broad accordance with CMWLP Policy SP3 (Waste Capacity), which allows development not on allocated specific sites where opportunities arise that were not anticipated by the CMWLP. It is important to note that the approved development seeks to provide additional operational space for the existing waste processing (i.e. SRF production) operations that take place at Unit B. That is to say the planning permission 1/20/9013 that this application relates to simply concerns an extension of a building rather than establishing the principle of the use of an unallocated site to produce SRF from residual waste. The principle of the acceptability of the production of SRF from residual waste at Unit B was established by planning permission reference 1/15/9006.

7.14 Looking outside of the application site I am not aware of any major significant planning permissions that have been granted since planning permission reference 1/20/9013 was granted on 19 February 2021 that would fundamentally alter the potential impacts of the approved development. I am therefore of the view that there has not been a significant material change in planning circumstances since the original planning permission was granted that warrants re-examination of the principle of extending Unit B.

7.15 As this application seeks to alter elements of the approved design, the key issues of relevance to the determination of this application are considered to be those relevant to the proposed change to the footprint and massing of the extension.

**Fire Safety: Would The Proposed Design Changes Adversely Affect Fire Safety Considerations?**

7.16 The fire safety concerns raised by representees in respect of this site, and their wider context, are duly recognised and understood. There are multiple regulatory regimes responsible for different elements of fire safety at waste sites. The planning system can only manage fire safety matters that relate to land use planning such as details of layout, access for fire appliances and infrastructure servicing land. The Council has communicated with other public bodies responsible for other elements of fire safety to make them aware of the concerns raised in respect of this site. Paragraph 188 of the NPPF makes clear that the

focus of planning decisions should be on whether development proposals are an acceptable use of land, rather than the control of processes. It continues that planning decisions should assume that these regimes will operate effectively. The Environmental Permit (EP) regime, which is regulated by the Environment Agency (EA), provides regulatory control over waste management operations. As part of an EP an operator must have a Fire Prevention Plan (FPP). Further information in respect of FPPs can be found at: [Gov.uk/government/publications/fire-prevention-plans-environmental-permits/fire-prevention-plans-environmental-permits#fire-prevention-objectives](https://www.gov.uk/government/publications/fire-prevention-plans-environmental-permits/fire-prevention-plans-environmental-permits#fire-prevention-objectives). Section 5 of this guidance sets out that operators must keep their FPP under regular review. It is understood that the operator has recently updated their FPP and that this update was accepted by the EA in November 2022. The operator recognises that they must update their FPP to include the proposed new building layout and fire protection measures and has reported to me that they will do so before bringing any elements of the approved/proposed extensions into use. The EA have confirmed that an FPP requires demonstration of the availability of sufficient water to provide the best chance of extinguishing a fire, of appropriate separation distances between combustible waste piles, and containment systems for managing fire water run-off. In respect of this latter aspect, whilst it is acknowledged that it is a matter that would be fully regulated by the EA, it is noted that the approved and proposed development would provide for a new drainage system constructed to modern standards thus greatly improving collection, containment and treatment capacity for fire water run-off from that currently present. The approved/proposed attenuation tanks and underground pipework proposed have sufficient capacity to manage rainfall in a 1:100yr + 40% climate change storm event scenario. This system would provide 720m<sup>3</sup> of storage space (i.e. sufficient space to contain up to 720,000 litres of water).

- 7.17 There is already planning permission to operate from Unit B, produce SRF in that building and to extend the Unit B building. This application concerns changes to the currently approved design for that extension that provide for a slight volumetric increase in the size of extension. As set out at Paragraph 2.3 of this report, the main factors that have prompted the proposed design changes are the size of waste processing equipment to be sited within the southward extension element (and need for space above and around these for access and use), the recommendations of an operational fire risk assessment and to better take into account the extent of the foundations and buried drainage of the original Unit B building. The changes are not proposed to facilitate an increase in the amount of waste that can be stored in the building. The amount of wastes that can be processed and/or stored within a building is regulated by the EA.
- 7.18 Some misleading points have been raised by a representee in respect of Fire Statements (FS). A FS is only required to be produced to support a planning application for a limited range of “relevant buildings” that are prescribed by central government (see: [Fire safety and high-rise residential buildings \(from 1 August 2021\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/fire-safety-and-high-rise-residential-buildings-from-1-august-2021)). The relevant buildings such a statement is required for are residential buildings or educational accommodation of seven or more storeys or 18m plus in height. This requirement was introduced as a measure to seek to improve the safeguarding of human life present within high-rise buildings in the wake of the Grenfell Tower fire tragedy. The Fire Statement Form published on Gov.uk is focused upon and tailored to the above types of multi-storey high-rise development with vulnerable occupants. For this reason it seeks the form to be completed by a suitably qualified engineer with relevant experience/qualifications. To reiterate, there is no established requirement for

waste development proposals to produce an FS at the planning application stage. As it is not required there is no guidance specifying the appropriate form, content or credentials required for production of a fire safety related statement in connection with a planning application for waste development. In light of recent events and concerns raised, the applicant agreed to provide further detail in respect of their fire safety measures proposed for Unit B as extended/modified with a view to trying to assuage some of the wide-ranging fire safety concerns raised by representees. The statement submitted seeks to address the limited matters of fire safety that are relevant to planning and goes beyond this by making reference to matters covered by other regulatory regimes such as fire doors, internal fire resistant materials, alarm systems and extinguishers. Given the type of development and proportionally negligible increase in floor space and building surface area brought forward by this specific application proposal the Fire Safety Statement (FSS) submitted is considered adequate and proportional for land-use planning purposes.

- 7.19 A representee is critical of the FSS submitted by the applicant's agent as it does not say that all asbestos would be entirely removed from the fabric of the building so that, in the event of a fire, smoke is not contaminated with asbestos. The approved and proposed development provides for the removal and replacement of the entire existing roof covering to the Unit B building. This would reduce the amount of bound asbestos within this existing building thus lessening the risks with the scenario set-out by the representee and providing an improvement/betterment on the current situation. The land-use planning system concerns new development proposals and cannot mandate the internal refurbishment of existing buildings.
- 7.20 Turning to aspects of fire safety relevant to planning control, the revised extension footprint still provides adequate space for a fire appliance to be in reach of all external elevations for fire-fighting purposes. Unit B, as extended as now proposed, would result in this unit having a total gross floor space of approximately 11,840m<sup>2</sup>. Table 15.1 of [Building Regulations Approved Document B – Volume 2 Buildings other than dwelling houses](#) indicates that for a building of this size fire and rescue vehicle service access is required to 50% of the perimeter of the building. This proposal far exceeds this requirement. Fire appliances generally have a minimum width of 2.55m, however the association of Chief Fire Officers advise that a desired minimum width of 3.7m between the kerbs of public roads should be provided to allow for operating space at a scene. A 3.7m wide space is available around virtually the full extent of the building as proposed to be extended – the exception being an approximately 12m length of the southern elevation. The perimeter of the building as extended would amount to just under 460m. A 5m wide space would be available around all but 20m of this length. A condition is proposed to prohibit external storage alongside three elevations so as to ensure that over 50% of the perimeter of the building is accessible at all times. The internal roads around the building would be constructed to be suitable for skip-wagons and HGVs, so would have capacity to support a fire appliance.
- 7.21 The nearest existing building to Unit B as proposed to be extended is a building associated with Unit E which is occupied by Andidrain and stands over 29m to its north-west. This is considered to be a more than sufficient separation distance from a fire safety perspective. It is noted that Unit A measures over 105m north-west from Unit B as proposed to be extended. It is also noted that the well-developed fire that engulfed the Unit D building did not spread to a small ancillary

building that lies 5.5m to its east or the Unit B building which lies at least 45.5m to its south.

- 7.22 The estate benefits from a mains water supply and the applicant sets out that there are mains fire hydrants on the internal site road and the main road. In addition to this they report that there is a 450,000 litre fire tank located on the estate approximately 100m from Unit B which is accessible for fire engines to pump water from. There is also a water tank within the existing Unit B building that forms part of the existing fire prevention system within this building. This tank works in conjunction with Expansion Foam Generators (EFGs) which are sited above internal processed waste storage bays within the building. The applicant reports that this tank has a 20,000 litre capacity. The applicant indicates that a similar fire detection and deluge system would also be provided within the building extension. It is noted that such systems are designed to apply early intervention therefore preventing a fully developed fire. The applicant has also indicated that they are now minded to provide water tanks to harvest rainwater falling on the roofs of the building. This would make further water available for fire-fighting and control of dust. A condition is proposed to secure agreement of the detail of rainwater harvesting provision. Further to this, to provide appropriate modern drainage provision for Unit B, the applicant's drainage plan sets out that they will install two underground attenuation storage crate systems with a combined capacity of 695m<sup>3</sup>, thus providing additional water resource availability during the wet winter months.
- 7.23 Cumbria Fire and Rescue Service confirm that they have examined the proposals with regard to access and water supply considerations and have no objection to the application. In light of this and the above analysis I am satisfied that aspects of fire safety relevant to planning have been adequately and appropriately addressed.
- 7.24 It is emphasised that the concerns expressed in respect of fire safety on the estate in light of recent events is recognised and understood. All matters of fire safety directly relevant to the land-use planning system and this particular application proposal have been adequately addressed. I am satisfied that other key regulatory bodies are aware of this proposal and recent incidents and will scrutinise fire safety measures relevant to their remit with due care and diligence. The applicant is aware of the importance of strong management procedures being in place, implemented and followed to prevent further fires occurring and to swiftly strike to attend them if a fire does break-out. Fire prevention measures combined with active fire protection measures designed to detect and alert, then swiftly stop or contain an emergent fire are key in preventing a well-developed deep-seated fire establishing and incidents such as that which occurred in winter 2021 unfolding. I note that the existing Unit B building does have a fire detection and protection system, which includes EFGs and a Water Tank. EFG type fire protection measures are proposed to be installed in the new waste reception hall area that is part of this planning application. I am of the opinion that the fire safety measures proposed by the applicant in connection with the extension of Unit B should, in the event of a fire, prevent a fire of the intensity and scale of that which took hold in Unit D in 2021.

**Drainage and the Water Environment: *Can the scheme still be appropriately and acceptably drained in light of the proposed changes and does it provide adequate protection for the water environment.***

- 7.25 The drainage strategy remains as that previously approved with surface water

run-off being directed to below ground attenuation tanks (that limit the rate of onward discharge). The Drainage Strategy and Plan that form part of the approved scheme of 1/20/9013 have been reviewed and updated to take into account the proposed design amendments. The Lead Local Flood Authority has reviewed the updated drainage strategy and plan and are satisfied that they are sound, catering for a 1in100yr event plus 40% climate change allowance, and would ensure the development does not increase surface water flood risk on or off site. As such I am satisfied that the proposal remains compliant with CMWLP Policy DC19 and CDLP Policies CC4 and CC5 in terms of flood risk considerations.

- 7.26 Currently the existing Unit B building and its surrounds rely on a surface water system that has had little attention since it was installed by the RAF in the 1930s and drains at an uncontrolled rate to a ditch/ordinary watercourse that is a tributary to the River Eden. The approved and proposed scheme removes the majority of external hardstanding storage areas, moving them into the re-roofed Unit B building and its extensions (thus reducing opportunities for contaminated surface water run-off). The surface water run-off from the remaining external hardstanding areas and access roads would be routed through fuel & oil separators prior to entering the attenuation system from where water would be then be released from a single controlled point of discharge. All gullies and outfalls from rainwater drainage pipes are proposed to be fitted with silt traps thus providing an additional level of water treatment. These measures will significantly reduce the risk of pollution from the application site and will result in a much-improved water quality. As it stands, it is the “no development” scenario that would appear to present a greater degree of risk of adverse impact upon the River Eden SAC & SSSI and Solway Firth SAC & MCZ in terms of surface water run-off from site (including in the event of a fire). The approved scheme and the proposal would result in the provision of much improved surface water pollution prevention and water quality treatment measures and therefore comply with CDLP Policy CC5 and CMWLP policy DC20 in respect of water quality; and by implication, serve to better protect and enhance nearby protected sites – and thus comply with CMWLP policies SP15 and DC16 and CDLP policies SP8 and G13 in this regard.

**Landscape and Visual Impact: Would the proposed design changes have an unacceptable visual or landscape impact or result in adverse effects on a designated landscape?**

- 7.27 CMWLP policy DC18 seeks development proposals to be compatible with the distinctive characteristics and features of the County’s landscapes and directs that proposals should avoid significant adverse landscape or visual impacts. This section will consider the landscape aspect and then the visual impact aspect. However, before doing so, it is considered prudent to clarify that the reference to a “stack” within the application is a reference to the top/upper-tier of the screening equipment. The application clearly utilised the term stack in relation to the height of the screening equipment, however a number of objectors have misinterpreted this and concluded that a flue stack is proposed which would be external to the building and would release emissions. This is not the case. The screening equipment would be entirely contained within the building and therefore not have any visual or landscape impact.
- 7.28 It is also considered prudent to provide some clarification in respect of trees. It is acknowledged that approximately 22 trees (predominantly birch of circa 9-16

years of age) situated to the south-east of Unit B are proposed to be removed in light of the amended building footprint. However, it should be noted that the applicant intends to retain the majority of trees that are currently present running alongside and outside of the southern perimeter of the site. Where the extension is closest to existing mature trees that are situated outside of the estate fence line these are mostly multi-stemmed streamside specimens that stand approximately 3m plus from the proposed southern elevation at their closest point and their canopies do not extend over the estate boundary fence here. The provision of metal structural stanchions for the building at 6.15m intervals in the area in proximity to these trees is considered unlikely to result in an adverse impact that compromises the retention of tree cover along the southern boundary. To provide greater certainty, a condition is proposed to require a scheme for the protection of trees during the construction phase to be submitted and agreed prior to any earthworks/development taking place in proximity to them. The relatively young trees that would be lost have, in themselves, no individual landscape value. They have some wider landscape value as part of the wider collective belt of trees present along the southern perimeter of the estate, but this wider value would not be greatly diminished by their loss.

- 7.29 The statutory purpose of an AONB is to conserve and enhance the natural beauty of an area. Local Planning Authorities (LPAs) have a duty to have regard to these purposes in making decisions and this duty is relevant in considering development proposals that are situated outside AONB boundaries which might have an impact on their setting or protection. The PPG advises that land within the setting of AONBs often makes an important contribution to maintaining their natural beauty, and that poorly located or designed development within this setting can cause significant harm. It notes that this is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. It continues that development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account.
- 7.30 The eastern boundary of the Solway Coast AONB (which generally follows the centre-line of the river Eden in this area) is around 600m from the nearest part of the redline planning application boundary. The eastern part of this AONB and land leading up to the C1016 is characterised by the [Cumbria Landscape Character Guidance and Toolkit](#) (CLCGT) (March 2011) as 2c: Coastal Margins – Coastal Plain (i.e. flat and slightly undulating coastal plain). The Kingmoor Park Industrial Estate (and land to its immediate north, east and south) is characterised by the CLCGT as 5d Lowland – Urban Fringe (i.e. an area characterised by long-term urban influences on agricultural land). As such the CLCGT indicates that the landscape character of the estate and its surrounds is not complementary to that of the AONB. Further to this, the [Solway Coast AONB Landscape and Seascape Assessment](#) (November 2010) identifies the estate and its surrounds as Landscape Character Area (LCA) “Type H: Coastal Town and Urban Fringe – H1. Kingmoor and Cargo”. No long views are denoted in LCA H1, indeed it observes at paragraph 6.70 that “*views within the [H1] area are contained and the area itself is not very visible from the surrounding landscape, because of the landform and filtering of views by vegetation*”. There is a reference to long views within the neighbouring LCA type “C1. River Eden Flood Plain”, however this is only mentioned in connection with long views along the flat river valley. This proposal would not affect these views. The topography and land-cover between the banks of the River Eden and the estate prevents inter-

visibility between them. Similarly, there is not any visibility of the estate or this proposal from publicly accessible land within the Solway Coast AONB. Returning to the CLCGT, there are no particularly sensitive characteristics from landscape character type 5d Lowland Urban Fringe that would be affected by this development as it is an industrial type development taking place within the established confines of an existing industrial estate and does therefore not encroach any further into the open pastoral countryside. I am therefore satisfied that this proposal would not adversely affect the landscape character of its immediate surrounds or of the Solway Coast AONB and its setting. I therefore conclude that there is no impact on designated landscapes and that the proposal therefore conforms with CDLP policy GI2 and part f. of CMWLP Policy DC18.

- 7.31 Although the estate is within the potential visual impact zone of the Hadrian's Wall (Frontiers of the Roman Empire) World Heritage Site; the boundary of which follows the West Coast Mainline Railway in this area; neither the estate, nor the approved development or this proposed design amendment, would be visible from the designated extent of World Heritage Site itself (with the nearest part of this lying over 2.1km from the application site) due to intervening topography. As such I am satisfied that this application proposal does not conflict with CDLP policy HE1 and would avoid adverse impact on the historic landscape in line with part a. of CMWLP Policy DC18. I also note that the approved scheme and application proposal would not be visible from or affect views towards the nearest listed building of Becklands nor any other listed buildings in the wider locale.
- 7.32 Unit B is at the eastern back end of the industrial estate and the intervening topography, industrial estate buildings, and the landscaping bund (and its associated maturing planting) around Site K, alongside the presence of large agricultural farm building complexes means there is no visibility of Unit B or its extensions, either as approved or now proposed from publicly accessible land within the Solway Coast AONB and negligible propensity for visibility from the majority of nearby publicly accessible vantage points. The nearest public vantage point with the greatest potential for visibility is the dead-end public footpath (public right of way no 120012) that runs along the track that leads to Bankend before terminating near the Kingmoor Yard rail sidings. This route is a sunken track in places and is generally well-screened by the hedgerows and mature trees that line this route. Where views are available toward the application site from this route (such as at field gateways) they are filtered by existing bunds and planting around the estate and the extensions would be seen in the context of existing farm buildings, other industrial buildings and electricity pylons. It is noted that the landscape planting upon the Site K perimeter bund would not be affected by this proposal and that it is not proposed to remove any currently existing trees that flank the open drainage ditch / ordinary watercourse that is situated outside but adjacent to the estate boundary to the south-eastern side of Unit B. Whilst this proposal would extend the massing of the extension in part, I consider that this would do little to increase the visual impact of the permitted development. The proposed increase in height of the southern extension element, would not exceed the already permitted height of the western Waste Reception area extension and would not extend for the full length of the southern elevation. The western Waste Reception Area extension itself would limit the visibility of the proposed increase in roof size of part of the southern extension element from the limited views towards it from the west and north. The height of the extended ridgeline would not exceed the height of the canopies of the existing mature trees alongside the southern site boundary. The retention of trees along the estate boundary would ensure that the landscape and visual impact of the scheme as

revised would be minimised. The retention of the planning condition that secures a soft landscaping scheme would secure additional planting that, once implemented and established, would serve to provide further visual screening/containment to the south-eastern side of the site and help better integrate it with the landscape character of the wider area. The retention of the planning condition in respect of external colour finishes to the building would also help secure agreement of an appropriate muted recessive colour so as to further minimise any residual visual impact. With the conditions mooted above in place, I am satisfied that the proposal would avoid significant adverse impacts on visual amenity and the natural landscape and comply with CMWLP policy DC18.

**Biodiversity: Would the proposed design changes result in a greater or unacceptable impact on biodiversity?**

7.33 Paragraph 174 (d) of the NPPF directs that proposals should minimise impacts on, and provide net-gains for, biodiversity, whilst paragraph 180 (d) of the NPPF sets out that “*opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity*”. Policy SP15 of the CMWLP directs that waste management developments should achieve net gains in biodiversity resources by protecting, enhancing, expanding and linking areas for wildlife within and between the locations of highest biodiversity resources and encouraging the conservation and expansion of the ecological fabric elsewhere. Policy DC16 of the CMWLP sets out that where adverse impacts on biodiversity resources cannot be avoided or mitigated for, that appropriate compensatory measures have been identified and secured; and that all mitigation, enhancement or compensatory measures are compatible with the characteristics of, and features within, Cumbria. Similarly, Policy G13 of the Carlisle District Local Plan seeks proposals to conserve and enhance biodiversity by incorporating and integrating wildlife corridors and other habitats in and around development sites. The Environment Act 2021 introduces a requirement for development to deliver a mandatory biodiversity net gain of at least 10% with habitat created secured and managed for at least a 30 year period. This requirement is due to come into force in winter 2023. These requirements cannot be mandated ahead of these provisions coming into force. Whilst the NPPF currently encourages a measurable net-gain it does not mandate it nor specify how a gain should be quantified or how much gain should be sought. Similarly none of the above adopted development plan policies stipulate the minimum amount of enhancement or gain that should be achieved or require biodiversity value and gain to be numerically quantified. Despite this it is recognised that there is a reasonable impetus for a measurable net gain of 10% to be aspired toward on new applications for full planning permission. However, it is duly noted that this is a section 73 application seeking minor material design amendments, and that only the impacts of the design changes are relevant to its determination.

7.34 In respect of nearby designated protected nature conservation sites, it is considered prudent to restate here my view expressed at paragraph 7.26 of this report that the proposed new modern drainage system that would be provided in connection with the extensions of Unit B would significantly improve the quality of water being discharged from the site into a tributary of the river Eden as compared to the existing situation. As such I am of the view that the implementation of the development as currently approved or as proposed would ultimately serve to protect and enhance the River Eden SAC and SSSI, and the Solway Firth SAC and MCZ.

- 7.35 It is noted that planning permission ref. 1/20/9013 did not impose any limitation in respect of vegetation clearance and that clearance of an area of young trees to the south-west of Unit B appears to have taken place at some point after March 2020. It is noted that all the existing mature trees currently present on site running alongside the estate boundary are proposed to be retained by the applicant.
- 7.36 The proposed design amendments would increase the footprint of the building by approximately 490m<sup>2</sup>. The majority of this increased area is currently existing areas of hardstanding, although it would lead to some additional loss of part of an area of tussocky grass and open scrub that also hosts some sporadic stands of young pioneer trees to the south-eastern side of the southern elevation of Unit B. The applicant's agent calculates that the additional footprint would necessitate the removal of approximately 22 nascent trees from this area. These young trees are predominantly self-seed birch of circa 9-16years of age. Given their young age they have no features suitable for bat roosting. Whilst it is regrettable that this application proposal would lead to the loss of this naturally developing area of pioneer trees, this area is considered to be of relatively low ecological value and that its loss can be adequately mitigated and compensated for on-site via the re-imposition and expansion of the condition securing a landscaping scheme.
- 7.37 It is observed that historic aerial photographic imagery indicates that there was once a more substantial developing area of trees present to the south-east of Unit B. It suggests that this area began to establish at some point between 2003 and 2008, and to have expanded in extent from 2009 onward and appears to have been present until at least 26 March 2020. As a conservative estimate, based on aerial imagery, the canopy of this now mostly absent area to the west of the powerlines appears to have covered an area of just below 700m<sup>2</sup> (N.B. this measurement includes the canopy area of the 22 trees still present and proposed to be removed). The applicant reports that this now absent area of canopy had naturally developed from seed-fall from the existing boundary trees and mostly constituted a few small saplings and that it was cleared around 2-3 years ago. When on site this area of loss was characterised by a mixture of tussocky grass and open scrub with little sign of any former mature tree presence evident. It is conservatively estimated that approximately 175m<sup>2</sup> of this 700m<sup>2</sup> area would be affected by the additional footprint of the extension proposed by this application (this estimate covers part of the proposed footprint and a 5m buffer). Unfortunately, it is not possible to objectively precisely quantify the amount or quality of trees felled in this area or their species value, though, as previously, set-out the area would appear to have been mostly young specimens. It is noted that the conventional spacing for new planting of native mixed woodland is 1 tree per 6.25m<sup>2</sup>. In order to secure mitigation for the tree/habitat loss that is proposed, that has occurred and some enhancement it is proposed that the soft landscaping scheme condition be amended to stipulate the provision of native tree planting over a minimum area of at least 1,000m<sup>2</sup> (i.e., 0.1ha) (thus providing for circa 160 new trees) and the provision of additional scrubland edge planting. There is considered adequate existing maintained low value grassland space within the site to achieve this and still ensure a biodiversity gain is achieved. Subject to this modified condition I consider that this proposal would secure an appropriate level of ecological mitigation and enhancement. Details of the specification of tree and scrubland species and planting densities can be secured via this condition. With this condition in place I am satisfied that the development would achieve a net-gain in biodiversity resource and comply with CMWLP policies SP15 and DC16 and policy GI3 of the CDLP.

***Amenity: Would the proposed design changes result in a greater or unacceptable impact on local residential amenity?***

- 7.38 Various issues relating to nuisance and residential amenity have been raised by the City Council Environmental Health Office, Rockcliffe Parish Council, and members of the local community.

***- Dominance / Visual Amenity***

- 7.39 There are no residential properties in close proximity to the approved and proposed Unit B extensions. The nearest residential properties to the extensions are those at Bankend which lie over 140m from the south-eastern corner of Unit B as proposed to be extended by this application. Modern farm buildings and structures lie immediately between these residential buildings and the industrial estate. In light of this I am satisfied that this application proposal would not have a dominating or overbearing effect on these residential dwellings.

***- External Lighting***

- 7.40 No new external lighting was proposed as part of the application for 1/20/9013, however concern was raised at the time that it might be and would have a negative effect. Consequently condition 5 was imposed to require submission and agreement of a lighting scheme prior to the provision of any new additional external lighting in order to safeguard residential amenity and wildlife. There is still no proposal for any new external lighting to be installed or deployed. However, given, the continued concerns in respect of light pollution raised, it is considered prudent to retain this condition.

***- Dust***

- 7.41 No complaints or representations have been received in respect of dust arising at or escaping from Unit B. The approved and proposed development of Unit B, particularly the recladding of this dilapidated historic building would serve to reduce the risk of fugitive dust emissions. It is noted that a new extractor fan system is proposed to be installed so as to ensure that dust levels are controlled within the extended building in order to protect staff health and safety and to provide good working conditions. The applicant has set-out that the proposed extraction system will be housed inside the building with the dust it collects being captured in filter bags for removal when required. The applicant sets out that this extraction system will only be operational during the operational hours of the building which are 07:00-22:45 Monday to Friday and 07:00-15:00 on Saturdays. The existing tree belts that run along the southern boundary of the site, which a representee perceived as a benefit for containment of dust, is proposed to be retained. Furthermore, measures and protocols for management of dust on site is covered by the site Environmental Management System (EMS). No waste processing or storage is proposed to take place within the application area outside of the building. Conditions are proposed to ensure this is the case and to require the sheeting/containment of all materials leaving Unit B. I do not believe the proposed amended design would increase potential for dust impacts offsite.

***- Noise***

- 7.42 The officer report on 1/20/9013 noted the noise assessment undertaken in relation to permission refs. 1/17/9018 and 1/17/9019 (which concerned the increase in working hours at Units A and B) had previously been accepted as

demonstrating compliance with CMWLP Policy DC3 and set out that they were not aware of any developments or other reasons that would substantially alter the sensitivity of the surrounding area to noise or the general conclusion of the noise assessment that activity at the site would not create a noise issue. They also set out the expectation that the refurbishment of the existing building is more likely to result in a reduction of noise from the waste management processes in place than an increase.

- 7.43 It is noted that the November 2017 Noise Impact Report produced in connection with 1/17/9018 and 1/17/9019 found the highest levels of noise to be the running of the “red-line” in Unit A (which includes a variety of shredders), the power generators running for Units A and B and the movement/operation of site vehicles (JCB, shovels and grabs). It concluded that an adverse impact due to night time activities within the buildings at the estate would be unlikely.
- 7.44 The operator reports that the equipment that is currently used for waste processing in Unit B ranges from 5 to 20 years plus in age. When on site no noise from the waste processing equipment operating within the building was audible from outside of the building. New fixed processing equipment is proposed to be installed in the extension and it is reasonably expected that new modern fixed plant machinery would be less predisposed to vibration and quieter than its predecessors.
- 7.45 The only noise emanating from within the existing Unit B building that was occasionally detectable from outside the building when I have been on site was from the deposition of waste in the waste reception area when stood at a position close to the roller door that provides access to this area. I do not believe this noise would be evident off site. I also note that the Waste Reception Area entrance, as approved and proposed, would be to the north elevation rather than its current position on the western elevation, so would be further from the nearest sensitive receptors.
- 7.46 I understand that Carlisle City Environmental Health has received noise complaints in respect of the operation of temporary generators at the estate but have not been able to evidence to date that their use has resulted in a statutory nuisance. These were the predominant source of noise emanating from the site when I have visited. I note that the extended unit B building and all plant/machinery operating within it are proposed to be powered by mains-fed electricity. The operator reports that all the physical infrastructure for a mains-electricity supply is in place and that contractual arrangements for its supply have been agreed and that the only outstanding matter is a pending easement which they report should be resolved by the end of the year so that Units A and B can be switched-over to a mains supply. The new above ground mains electricity infrastructure was seen when I visited the site.
- 7.47 It is noted that this application proposal would bring the building line of the southern elevation 3.5m further south than previously approved. It is also noted that the proposal has come forward so as to, amongst other reasons, provide greater circulation space around equipment so any movement of equipment within the building closer to the site boundary is likely to be marginal – within the realm of 1-2m. However, the provision of a new extractor fan system within the building was not evident at the time that 1/20/9013 was considered. Whilst it is acknowledged that this system is contained within the building it does represent an additional noise source. As it is to be contained within the building (i.e. with no

external extraction element) it is considered unlikely to result in a significant noise impact outside of the site. However there is some potential for a cumulative increase in noise levels and I am mindful that this building is currently permitted to operate into the beginning of the night (i.e. beyond 22:00 up until 22:45). Whilst the applicant has greater detail in respect of the dimensions of the processing equipment they wish to install they have not yet selected a preferred manufacturer/products for the new machinery or ventilation system. Accordingly it is considered reasonable to take a precautionary approach and impose a condition requiring a noise assessment of all new plant and machinery (including the extraction equipment) that would be operational within the southern extension element at such a point when specification details are known with a contingency clause for the agreement and implementation of a scheme of mitigation should the assessment indicate that the maximum noise levels permitted by CMWLP Policy DC3 may be breached at the nearest sensitive receptor. Subject to this condition, I am satisfied that this proposal would not result in an unacceptable noise impact on local amenity.

#### ***- Other Amenity concerns***

- 7.48 With respect to the general environmental issues that could impact upon local amenity raised by representees, the applicant has provided a copy of their most up to date Environmental Management System (EMS) which forms part of the Environmental Permit (EP) for the site. This is a comprehensive document that addresses environmental risks posed by the site. It includes assessment and procedures relating to control of mud and debris on roads, dust, litter, noise & vibration, odour, pests and contaminated run-off. It also sets out procedures for waste handling and daily inspection of the site. Once again, I note paragraph 188 of the NPPF which makes clear that the focus of planning decisions should be on whether development proposals are an acceptable use of land, rather than the control of processes. It continues that planning decisions should assume that these regimes will operate effectively. The EA are the regulatory body responsible for the EP which controls waste management processes. I note that all waste management processes would be contained within the building as extended. The waste management activities proposed to take place within the building as extended would be unchanged in character from those that currently take place within the existing Unit B building. I am of the view that the risk assessments and control measures set out in the EMS meet the CMWLP policy DC2's requirement for assessment and mitigation of potential environmental and health impacts of proposals and serve to ensure compliance with CDLP policy CM5's stipulation that possible forms of operational pollution to be addressed.
- 7.49 In sum, subject to the conditions proposed, I am of the view that the proposed amendments to the design of the extension would not result in an unacceptable impact upon local amenity.

#### **Other Material Considerations**

- 7.50 **Contaminated Land:** Consultation responses from Carlisle City Council's Environmental Health Office (EHO) and the Environment Agency (EA) ultimately repeated their responses/approaches to 1/20/9013. The EHO suggest a full site investigation is conducted following the EA's Land Contamination: Risk Management (LCRM) guidance. The EA note that some general ground investigations and risk assessment were undertaken to allow development at this former RAF 14MU site in the past; but that a site specific investigation and

assessment is normally required for an individual application. Given the particular history and circumstances of this estate and the unit B extension they considered that a condition requiring a full LCRM would be too onerous for the work proposed as they were of the view that there would likely be minimal ground disturbance. As such they suggested that instead a condition be imposed that requires development to be halted should contamination be identified and a remediation strategy then developed and approved as required. The officer report on 1/20/9013 noted that much of the area that would be covered by the development is existing hardstanding and expressed that they were inclined to agree with the EA's pragmatic approach to the risk of encountering contaminated matter on site and this condition was subsequently imposed. The EA confirmed that they were satisfied that it is proportionate for this condition to be re-imposed. The applicant has verbally reported that they have not encountered any contaminated substances when they conducted investigatory work to establish the extent of Unit B's foundations. The operator also reports that fire debris from Unit D was cleared from the surrounding area of Unit B in early 2022. No fire debris was evident around Unit B when I visited the site this year. It is noted that the additional land affected by the proposed design modifications is mostly areas of existing hardstanding. I am of the view that the proposed altered and extended footprint of the building and associated modifications to external areas and drainage would not increase the risk of encounters with previously unsuspected contaminated substances. In my judgement the approach of the Environment Agency remains the most proportionate to the risks presented. Consequently I am minded that the condition concerning unexpected encounters with land contamination should be retained.

7.51 **Carbon Emissions, Climate Change & Sustainability:** The existential threats posed by climate change are recognised and it is duly considered that it should be attributed significant weight as a material consideration in the planning process. However, the amount of additional construction materials required for the proposed design amendments sought by this application and the energy demand of the additional operational space it would create is considered to be de-minimis in terms of its contribution to the UK's Carbon Budget. In reaching this view in respect of energy demands, it is noted that the building would not be heated and that the applicant has also indicated that all lighting in the unit as developed would be low energy LED lighting. The provision of a greater watertight covered area would reduce the amount of energy expended in drying materials and transporting materials whose weight would be greater if wet. As this specific application proposal would only negligibly increase the area covered by the building, the positive contribution this would make is attached negligible weight. It is also expected that the new modern processing equipment proposed would be more energy efficient than that currently in use. It is acknowledged that the loss of the circa 22 young trees present would remove them as they are about to enter their nominal peak period (ages 16-25) for sequestering carbon. It is noted that existing semi-mature/mature boundary trees would be retained. Conditions are proposed to retain the current nearby belt of trees and secure a not insubstantial amount of new tree planting to provide some greater additional sources of carbon sequestration on site in the long-term.

7.52 The SRF production line is a dry process and water use within the building is minimal. However the applicant has recently indicated that they are now minded to provide some greywater harvesting facilities so as to make operational use of rainwater run-off from the building roof for dust suppression purposes if required and to reduce their reliance on and consumption of the mains water supply. A

condition is proposed to secure the delivery of this.

- 7.53 I am satisfied that sustainability and carbon reduction imperatives have been considered by the applicant and that, with the conditions proposed, some appropriate measures have been put forward to reduce the overall carbon footprint of the development. As such I am of the view that the application proposal is compliant with DC2 in terms of demonstration of minimisation of carbon emissions and provides some demonstration that the relevant factors of Policy SP13 have been taken into account.
- 7.54 As it is not appropriate for the matter of the principle of the extension or production of SRF in Unit B to be revisited in connection with this application then the arguments put forward by the representees in connection with their perceived demerits of SRF production in terms of carbon emissions and sustainability can carry no weight in making a decision on this application. Though, as an aside, for balance in respect of the point made by representees, it is noted that the recovery of residual waste (and its diversion from landfill) generally represents a notable carbon reduction.
- 7.55 **Public Health:** It is recognised that perceived failures in operational waste management practises generate some local anxiety and distress that can affect the mental health of some. It is also understandable that the fire at Unit D raised concerns in respect of public health. It is noted that within the planning system public perception and fear of harm, even if unjustified, is capable of being a relevant material consideration. Whilst there is some understandable and justifiable public concern in respect of the level of fire risk at waste sites, I am satisfied that sufficient measures and safeguards have been set out that would reasonably allay concerns in most circumstances. All relevant regulatory bodies with control over matters related to fire safety are aware of the public concern in respect of fire risk at this and other waste sites. They are also aware of this application. In light of this I am satisfied that concerns raised relevant to each of their regulatory remits would be addressed by the regulatory authorities. In respect of this application proposal the planning facts of the matter remain that waste processing operations at Unit B and the principle of extending this building are already established. I do not believe that the relatively minor design amendments proposed by this application would reasonably or justifiably generate public health concerns that can be attached any weight.
- 7.56 **Traffic:** The operator explains that, excluding internal estate movements of waste between Unit A and Unit B (which averages 250 tonnes a week moved in 40yard containers by hook-loader); the majority of waste is delivered to Unit B via HGVs and that all SRF exported from site is removed by HGVs. The operator explains that they only utilise articulated lorries with a gross weight of 44 tonnes (26 tonnes net) for moving SRF and that all HGVs destined for and leaving the site are instructed to access/egress the site via the Cargo roundabout.
- 7.57 The core thrust of the proposed design amendments is to provide circulatory space around processing equipment and would not give rise to a greater level of operational traffic than that provided for under 1/20/9013. Condition 11 of planning permission 1/20/9013 for the extension to Unit B requires that “No more than 52 HGV’s (104 movements) shall enter and leave the site each day between Monday and Friday and no more than 14 HGV’s (28 movements) shall enter and leave the site on a Saturday”. It is considered that this condition should be retained as should conditions seeking to protect the condition of the public

highway in the interests of highway safety and amenity. This condition is considered to be precise, enforceable, and reasonable in all other respects. The applicant has also accepted the imposition of a further condition that formalises their operational practise that all HGVs carrying SRF must turn left when leaving the estate.

- 7.58 Kingmoor Parish Council's response raised a number of highways concerns and queries. As this application proposal for design amendments would not generate any further operational phase traffic there is no need to review road traffic accident data. Such data may warrant reviewing in connection with any future applications at the site if their proposals are likely to generate an increase in traffic movements. The condition proposed in respect of HGVs carrying SRF would ensure these do not utilise the C1015 or the C1022 Parkhouse Road. The existing planning conditions covering Units A and B and Site K; and those approved and proposed in respect of the extension of Unit B; prohibit the loading, unloading and/or transportation of materials between the hours 6pm to 7am within the red line planning permission/application boundary of these sites. These conditions do not restrict the movement of empty vehicles. Furthermore, there is no restriction on the hours of vehicle movements of any form on the wider industrial estate.
- 7.59 **Overhead Power lines:** The presence of overhead power lines to the western and eastern side of the application site is duly noted. Electricity Northwest have no objection to the application. It is also noted that a plan submitted shows an indicative area for new tree planting to the east of the building in proximity to this. The condition in respect of the soft landscaping scheme has been expanded to make clear that details of layout will be required and this can be used to ensure that any tree planting areas are sited so as to prevent potential for conflict with overhead power lines. This application would draw all external waste management processes into the building reducing the risk of conflict with this overhead infrastructure. I am satisfied that, with appropriate precautions, that the extensions can be safely constructed and safely operated without conflict with overhead power lines.
- 7.60 **Control of Waste Throughput:** As the processing of waste on site within a building is not anticipated to create any unacceptable impacts on amenity there is not considered to be any planning reason for a limit on the amount/tonnage of material that can be processed/stored in the building. The amount of waste that can be processed/stored is a technical matter that falls to the EA to regulate through the Environmental Permit for the site. A condition is proposed to be retained so as to ensure the volume of HGV traffic generated by Unit B does not have an unacceptable affect upon the highway network and local amenity. I am satisfied that this condition is reasonable, proportionate, and enforceable. This condition will, in practise, serve to provide some constraint on production/throughput at Unit B.

#### **Other Matters / Non-Material Considerations**

- 7.61 **Asbestos:** This application proposal for modifications to the design of the extension has no bearing on the re-roofing of the existing Unit B. The duty to manage the risks connected with handling asbestos containing materials lies with the applicant/developer. That is to say it is for them to assess, control and monitor any risks from the planned work. In the interest seeking to allay concerns raised in respect of asbestos handling the applicant has submitted a copy of their operational risk assessment and asbestos handling method statement for the

works to the Unit B roof. The Health and Safety Executive are the primary lead enforcement authority in relation to matters associated with the handling of asbestos. Carlisle City Council's Environmental Health Office also has some lesser regulatory control in respect of asbestos handling matters.

## **8.0 CONCLUSION**

- 8.1 This Section 73 application seeks to vary the approved scheme specified by condition 2 of planning permission reference 1/20/9013 in order to modify the design of the approved extensions. The nature and scale of this application proposal would not result in a development which is substantially different from the one which has been approved under 1/20/9013. I am satisfied that the Section 73 application route is appropriate and valid for this proposal and that there have been no significant material changes in planning circumstances since the original planning permission was granted that warrants re-examination of the principle of the proposed development.
- 8.2 This application has attracted a number of representations expressing concerns in respect of fire safety on the estate from the local community. This concern is understandable given recent incidents and I have taken great care to address the wide ranging concerns put forward within this report. However, it is important to emphasise that this application concerns modifications to the design of the previously approved building. I am satisfied that aspects of fire safety relevant to planning and this application proposal have been adequately and appropriately addressed and note that Cumbria Fire & Rescue Service has no objection to the application.
- 8.3 I believe that the proposed amendments would have no greater effect on the landscape than the approved scheme and negligible additional visual impact. As such it would continue to avoid significant adverse impacts on visual amenity and the natural landscape and comply with CMWLP policy DC18. I am also content that the drainage design has been appropriately updated to reflect the proposed modified design. I also note that the new drainage system proposed to be installed in connection with the extension of Unit B would represent a significant improvement over the status quo – having a positive impact upon the quality of water discharged from the site with the concomitant benefits this would have for nearby ecological receptors. Furthermore, with the conditions proposed, I believe that the proposal would ultimately serve to enhance the biodiversity value of the site.
- 8.4 In terms of emissions/nuisance, the only aspect where there is considered to be some additional low potential for additional impact is the matter of noise. Given the low potential for this it is considered that, as a precautionary approach, that this can be controlled by condition to ensure that an unacceptable impact would not arise. The replication of the planning condition limiting HGV numbers at the site would ensure this application proposal has no greater impact on the highway network than its predecessor permission. It is noted that no statutory consultees with technical regulatory responsibilities have raised any objections to this application proposal.
- 8.5 In summary, I consider that the proposed alterations to the extension would, with the conditions proposed, not result in any unacceptable impacts and be in accordance with the development plan. It is therefore recommended that this application be granted subject to conditions.

## **Human Rights**

- 8.6 In terms of human rights considerations, this application proposal stands to have a very limited impact on the visual and environmental amenity of the area and these impacts would be controlled by the proposed conditions set out in Appendix 1. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1 of the Human Rights Act 1998) would, again, be controlled by the conditions set out in Appendix 1. Any impacts over and above those controlled by the conditions would be minimal and proportionate to the wider social and economic interests of the community.

**Angela Jones**

**Executive Director for Economy and Infrastructure**

**Contact:** Mr Edward Page

**Electoral Division Identification:** Longtown - Vacant

Development Control and Regulation Committee – 1 December 2022

**Appendix 1 - PROPOSED PLANNING CONDITIONS**

**- Time Limit for Implementation of the Permission**

1. The development hereby permitted shall be begun before 19 February 2024.

*Reason: To comply with Sections 73 and 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to reflect Condition 1 of Planning Permission Reference 1/20/9013.*

**- Approved Scheme**

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

- a. Drawings Named and Numbered:
  - i. Proposed Site Location Plan - Drawing Ref. J9483-SLP1 (*submitted with Application Ref. 1/20/9013*);
  - ii. Site Location and Block Plan - Drawing No. 21-C-15989-201-Rev.E;
  - iii. Proposed Plan - Drawing No. 21-C-15989-003-Rev.C
  - iv. Proposed Elevations - Drawing No. 21-C-15989-202
  - v. Proposed Drainage Plan - Drawing No. 21-C-15989-24-Rev.D
- b. The submitted Application Form for Full Planning Permission - dated 15 October (*submitted with Application Ref. 1/20/9013*);
- c. Design and Access Statement & Flood Risk Assessment dated October 2020 (*submitted with Application Ref. 1/20/9013*);
- d. Planning Statement - dated August 2022;
- e. Drainage Strategy Statement - Rev.B - prepared by A.L.Daines;
- f. Fire Safety Statement – dated September 2022 - prepared by A.L.Daines;
- g. Letter re Assessment of Environmental Noise Proposal dated 4 October 2018 [setting out an Environmental Noise Monitoring Programme] - prepared by Cirrus Environmental Solutions Ltd (*submitted with Application Ref. 1/19/9006*);
- h. Complaints Procedure - Revision 1.1 - dated July 2018 (*submitted with Application Ref. 1/19/9006*);
- i. Environmental Management System (EMS) - Rev.5.02, with particular reference to the following parts/components:
  - i. NWR 5.3/0 Daily Inspection and Reporting Procedure
  - ii. NWR 5.3/13 Pest and Scavenger Control
  - iii. NWR 5.3/14 Emissions Control – Dust
  - iv. NWR 5.3/15 Emissions Control – Mud, Debris, Litter
  - v. NWR 5.3/16 Emissions Control – Noise and Vibration
  - vi. Appendix E – Odour Management Plan
- j. The details and schemes approved in accordance with the conditions attached to this permission.

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

### **- Encounters with Unsuspected Contaminated Land**

3. If, during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

*Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of pollution from previously unidentified contamination sources at the development site*

### **- Tree Protection Scheme**

4. No Earthworks, excavation, building works or tree removal operations shall take place to the south of the existing Unit B building until:
  - a. a scheme for the protection of trees has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include a tree removal and retention plan and a tree protection plan and shall have regard to BS:5837 "Trees in Relation to Construction" and the National Joint Utilities Group (NJUG) "Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees" and shall be produced by a suitably qualified tree surgeon or arborist and,
  - b. all protective construction phase fencing has been installed in full in line with the approved scheme.

The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of excavation or earthworks south of the existing Unit B building in order that the Local Planning Authority may verify that the approved tree protection measures are in place when the work commences.

The approved scheme shall be implemented in full and all construction phase tree protection measures shall be retained in place through-out the construction period.

After construction work has been completed no existing trees present either on the site or on land adjacent to it that is under the control of the applicant and/or site operator; shall be felled unless their removal is supported by a professional recommendation to do so from a suitably qualified tree surgeon or arborist. If such a recommendation is received then a replacement tree of a native species shall be planted in close proximity to the tree that has been removed.

*Reason: To protect trees in proximity to the south-eastern part of the southern extension from damage during the construction phase, including all ground and drainage works and works that may be required by other conditions, and in recognition of the contribution which the retained trees give and will continue to give to the visual amenity of the area and to ensure protection for the existing natural environment. To comply with policies...*

### **- External Cladding Materials**

5. Prior to the new building being developed above foundation level or any works to externally modify the existing Unit B building, details of the type and colour of the external wall cladding and roof sheets shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved materials as detailed.

*Reason: To ensure that external materials are carefully selected and applied so as to reduce the visual impact of the development.*

### **- Greywater Harvesting**

6. Prior to the application of any external roofing materials in connection with the development hereby permitted, details of the equipment to be installed to harvest rainwater falling on the building roof shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, but not be limited to: the siting, dimensions, and capacity of equipment and, if externally sited or visible, the external materials and their colour finishes). Once approved the equipment and measures shall be implemented in full so that greywater is available for use within three months of any part of the extension areas coming into use. The approved greywater harvesting equipment shall be maintained so that greywater water supplies are available for use throughout the life of the operational use of the building.

*Reason: To reduce pressure on public water infrastructure and ensure prudent use of natural resources in a sustainable manner in line with CMWLP Policy SP13.*

### **- Soft Landscaping Scheme**

7. Prior to the Waste Reception Hall building being brought into use a Detailed Soft Landscaping Scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall provide details of the proposed native tree and shrub planting, including layout, numbers and distribution of species, size of plants, spacing, ground preparation, method of planting and cultivation, fencing/guards and any other protective measures to be applied to the planting during its initial years of establishment. It shall also include an implementation timetable for provision of the planting and measures for the monitoring and general management and maintenance of the new planting so as promote its successful establishment.

For the avoidance of doubt, the scheme shall provide for new tree planting over a minimum of a 0.1ha area and for creation of scrubland edges. The scheme shall also have regard to the contents of *Drainage Strategy Statement - Rev.B – prepared by A.L.Daines* and provide details of the seeding and/or planting of the land above the underground attenuation tanks.

The approved scheme shall be implemented in full in accordance with the approved timetable. and landscaping works carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice. The soft landscaping shall be maintained for a minimum of 5 years after implementation.

Should any tree or shrub specimens from this landscaping scheme die, become seriously damaged or diseased at any point within five years of their planting

then they shall be replaced by a specimen of a similar type in the nearest available planting season (October to March inclusive), unless an alternative plant size and species have been agreed in writing with the Local Planning Authority.

*Reason: To have regard to the mitigation and enhancement of biodiversity through the Local Planning Authority's compliance with the National Planning Policy Framework and the NERC biodiversity duty as reflected in CMWLP policies SP15 and DC16 and Carlisle City Council policy GI3.*

#### **- Detailed Noise Assessment**

8. No waste processing plant or equipment shall be operated within the southern building extension elements hereby approved until a detailed noise assessment of all mechanical plant and equipment proposed to be used and/or installed to process and convey waste and manage dust within the building extensions has been submitted to and approved in writing by the Local Planning Authority.

The assessment shall calculate and measure noise in accordance with BS4142 and shall assess whether the level of noise arising from waste management operations taking place within Unit B as extended complies with the limits established by Policy DC3 of the Cumbria Minerals and Waste Local Plan 2015-2030. In the event that the assessment reveals an exceedance of the limits specified by Policy DC3 then noise mitigation measures shall be proposed and their effects iteratively assessed until compliance with the relevant noise limits established in Policy DC3 has been demonstrated.

Once approved any mitigation measures proposed shall be implemented in full prior to any waste processing or dust management equipment being brought into use and shall be adhered to and/or retained throughout the duration of waste management activities taking place within the building.

*Reason: In the interests of amenity and to ensure compliance with CMWLP Policy DC3.*

#### **- External Lighting**

9. Prior to the deployment of any new exterior lighting a scheme showing the location and specification of lighting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consider and set out: Where the light shines; when the light shines; how much the light shines and potential ecological impacts. The approved scheme shall be implemented in full.

*Reason: To safeguard local residential amenity and wildlife by ensuring that the external lighting is minimised and so does not constitute, a nuisance or diminish habitat value, outside the boundaries of the site.*

### **OPERATIONAL RESTRICTIONS AND REQUIREMENTS**

#### **- Hours of Operation**

10. The operation of plant and machinery and other waste management operations inside the Unit B building shall not take place outside the hours of:

07:00 to 22:45 hours Mondays to Fridays

07:00 to 15:00 hours Saturdays

No operations, including the loading, unloading or transportation of materials or operation of plant or machinery outside the Unit B building shall take place on site outside the hours:

07.00 to 18.00 hours Mondays to Fridays

07.00 to 15.00 hours on Saturdays

No operations shall take place inside or outside of the Unit B building on Sundays, Bank holidays or Public holidays.

However, this condition shall not operate so as to prevent the carrying out, outside of these hours, of essential maintenance to plant and machinery used on site.

*Reason: To ensure that no operations take place at Unit B outside normal working hours which would lead to an unacceptable impact upon the amenity of local residents.*

### **Stored Materials**

**11.** No waste, Solid Recovered Fuel or any other loose materials shall be stored outside of the Unit B building as extended.

*Reason: To minimise the potential for there to be any adverse environmental or visual impact arising in accordance with Policy DC2 of the CMWLP.*

### **Skips**

**12.** Skips shall only be stored to the northern side of the Unit B Building and shall not be stacked to a height greater than 4 metres above the level of the ground on which they are placed. For the avoidance of doubt, no skips shall be stored so as to obstruct any internal access roads around the building.

*Reason: To minimise the potential for there to be any adverse visual impact arising in accordance with Policy DC2 of the CMWLP.*

### **Traffic**

#### **- HGV Movement Limits**

**13.** The total number of Heavy Goods Vehicle (HGV)\* movements associated with the development hereby permitted shall not exceed the following limits:

- 104 movements (52 in and 52 out) per day on Mondays to Fridays;
- 28 movements (14 in and 14 out) on a Saturday;

No HGV movements in or out of the site shall take place on Sundays, Bank holidays or Public holidays.

A written record of the days and times that HGVs loads enter the site shall be maintained. The records shall be made available for inspection by the Local Planning Authority within 3 working days of a request for such.

*Reason: To minimise the potential for conflict with any other uses in the area and minimise the potential for noise generation from site derived traffic and the operation of the site in order to safeguard local amenity in accordance with Policy DC2 of the of the CMWLP*

### **- Sheeting/Covering of Cargo**

- 14.** All vehicles used to transport materials from the site onto the public highway shall have their cargo sheeted or otherwise covered and securely contained.

*Reason: To prevent release of litter, debris or other materials in the interest of local amenity and highway safety.*

### **- Highway Condition**

- 15.** No vehicles shall leave the site in a condition that would give rise to the deposit of mud, dust or other debris on the public highway, which includes highway verges.

*Reason: In the interests of highway safety and local amenity.*

### **- HGV Egress**

- 16.** All HGVs carrying Solid Recovered Fuel (SRF) shall turn left onto the C1016 when leaving the Kingmoor Park Rockcliffe Estate.

*Reason: To limit the amount of heavy goods vehicles on the wider rural road network in the vicinity of Rockcliffe village in the interest of amenity.*

## **Control of Noise**

### **- Reversing Alarms**

- 17.** All vehicles under the site operator's control that are fitted with reversing alarms shall only use a white noise type.

*Reason: To safeguard the amenity of local residents by ensuring that the noise generated by vehicles on site does not constitute a nuisance outside the boundaries of the site.*

### **- Effective Silencers**

- 18.** All plant, machinery and vehicles used on site shall be effectively silenced at all times in accordance with the manufacturer's recommendations.

*Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.*

Appendix 2 - PLAN OF SITE LOCATION/EXTENT

