

Date: 9th February 2025
Your Ref: EN010116
Our Ref: 15984

DWD

69 Carter Lane
London
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Department for Energy Security & Net Zero

By Email:

NorthLincolnshireGreenEnergyProject@planninginspectorate.gov.uk

Dear Sirs,

**NORTH LINCOLNSHIRE GREEN ENERGY PARK (PROPOSED DEVELOPMENT)
THE PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

We write on behalf of North Lincolnshire Green Energy Park Limited ('the Applicant') in response to the Secretary of State's request for information further to the publication of Defra's *Residual waste infrastructure capacity note* ('the Defra note') on 30 December 2024.

This letter and annexes comprise the Applicant's response to the Defra note, which it considers is consistent with the principle of the Proposed Development which is to deliver a fit for the future Energy Recovery Facility (ERF) with associated and committed complementary renewable and low carbon infrastructure, ideally located to serve the East Midlands and East of England, which is identified by Defra as having a residual waste management need. Indeed, the Applicant has already submitted MOUs to demonstrate that there is a demand for the Proposed Development, all of these are from organisations located in the East Midlands.

The annexes attached to this letter are as follows:

- Annex 1: Defra Response Table
- Annex 2: Waste Trends Summary Report
- Annex 3: Proposed Amendments to Draft DCO Requirements and Explanatory Memorandum
- Annex 4: Waste Area Plan
- Annex 5: Assessing Environmental Benefits from Nature using Biodiversity Net Gain
- Annex 6: Rail Report
- Annex 7: Fichtner Report
- Annex 8: Applicants communication with Triplepoint

Annex 1: Defra Response Table and Annex 2: Waste Trends Summary Report set out the Applicant's detailed response to each of the points raised by the Defra note and why the Applicant considers that its approach to and outputs from the assessment on residual capacity need, assumptions on meeting recycling targets, reducing exports of RDF and securing landfill diversion is broadly consistent with Defra's note.

The Applicant also sets out why the Proposed Development meets the requirements of the Defra note in terms of being an ideally suited project to meet the remaining identified capacity needs and delivering a future proofed and efficient development. This letter summarises the principal issues and where it is dealt with in the Application documentation.

Principles of the Defra note

The Defra note in essence identifies the following principles:

- There is a residual waste management need in some regions, specifically the East Midlands and East of England (see plan extract below).
- That this need should be met by appropriate ERFs, that include carbon capture, use of heat, and ensure that landfill is kept to the absolute minimum; and legally binding Net Zero targets are met.
- It specifically allows for a maximum of 10% of residual waste to continue to be landfilled, although landfill remains at the bottom of the waste hierarchy and the Applicant supports the position that this should be an absolute maximum and ideally replaced by other waste management measures that are preferable in the hierarchy, such as energy recovery. It should be noted that this 10% figure does not include any of the current volume of non-municipal residual waste currently going to landfill.
- That currently operating ERFs may be decommissioned where they are not able to meet future expectations of recovery facilities, not only because they cannot practicably or affordably be retrofitted to supply heat or capture carbon, but because they are inefficient by comparison with current design and technologies.
- A pipeline of new, future-proof projects will be required to ensure that the identified need can be met.
- Whilst not explicit in the note, the Defra press release made it clear that the note imposed more stringent environmental requirements on ERFs, such as that included within in the Proposed Development. The Circular Economy Minister said in this release:

"For far too long, the nation has seen its recycling rates stagnate and relied on burning household waste, rather than supporting communities to keep resources in use for longer.

That ends today, with clear conditions for new energy from waste plants – they must be efficient and support net zero and our economic growth mission, before they can get the backing needed to be built."

How the Proposed Development complies with these principles

The Applicant's need case, as summarised in its Closing Submissions [AS-031] is entirely supported by the Defra analysis as follows:

Applicant's Case in Closing Submissions	Consistency with the Defra Note
<p>Adopted Government policy is that EfW will continue to be needed, where consistent with the waste hierarchy, to divert waste from landfill. There is no planned moratorium on EfW, and this is clear from the revised NPSs. Selection of CCUS-enabled EfW projects in the Track-1 projects for further due diligence (Protos ERF and Viridor, Runcorn) and the prospect of delivering negative emissions, shows a clear direction of travel. (paragraph 5)</p>	<p>The Defra note continues to support ERFs where required to divert waste from landfill and identifies a particular capacity requirement in the East Midlands and East of England. Almost all of the East Midlands and a good proportion of the East of England waste regions are within a 100-mile radius of the Proposed Development and so the Proposed Development is well placed to meet this identified residual need. This is shown in Figure 1 below.</p>
<p>If all existing EfW facilities are assumed to continue operating, and current recycling targets (65% by 2035) and residual waste reduction targets (50% by 2042) are met, there would be a slight overcapacity at UK and regional level (see Tables 1-4 of Applicant's response to ExA's second written questions, [REP6-032]), but a slight under-capacity at local level. (paragraph 9)</p>	<p>The Defra note establishes insufficient capacity in the East of England and the East Midlands and an additional capacity requirement to manage the non-municipal waste destined for landfill. Based on the Defra analysis, the additional volume of residual waste capacity that includes landfill, exported waste and non-municipal waste will be in excess of 10m tonnes per annum in 2035.</p>
<p>The Applicant's position is that it is reasonable to assume that older facilities that do not have R1 status, and have low potential to incorporate CCUS, will increasingly be unable to compete and a number of these will therefore be forced to close, or require significant investment to refurbish or rebuild them, which in the majority of cases would require a new planning permission or DCO, in addition to new environmental permits, the process of which would be expensive and time consuming, with no certainty that they would be granted. This is entirely consistent with the required transition to a renewable and low carbon economy which is 'fit for the future' and strongly supported by recent Government policy announcements of 30th March 2023. (paragraph 10)</p>	<p>This is a central policy facet of the Defra note – that new facilities must meet stringent environmental requirements (and thereby that older facilities that are not compatible with Government policy will be unable to be competitive and will need to close).</p>
<p>There is also considerable uncertainty over whether recycling targets will be met [RDF Supply Assessment, REP3-040]. The next target to achieve is 55% by 2025. (paragraph 11)</p>	<p>The Defra note doesn't provide any further assurance that this will be met, although the 10% maximum landfill suggests that they are retaining flexibility for this not to be achieved. The Applicant's analysis assumes recycling targets will be met and so this is consistent.</p>

	<p>The Applicant also draws the SoS's attention to the decision on the Medworth Energy from Waste CHP facility on 20 February 2024. The SoS decision letter approving the scheme included support for the use of the median recycling scenario (paragraph 4.95) which states: <i>"The Secretary of State is content with the methodology used and agrees with the Applicant's approach, including the use of a median scenario to assess national need."</i> This supports the approach by both Defra and the Applicant in assessing need for the Proposed Development.</p> <p>The Applicant is also now committing to install the whole of the 6km 'northern spur' of the DHN ahead of commissioning of the ERF (see proposed amended draft requirement below) and so this commitment is now in line with the CHP provisions in the Medworth decision.</p>
<p>At national and regional (East Midlands and Yorkshire and Humber) level, the RDF Supply Assessment [REP3-040] projects a capacity gap based on existing and committed capacity of over 2 million tonnes nationally and around 1.1 million tonnes at the local level in 2035 if low-CCS potential projects are excluded (and assuming that very ambitious recycling targets are met). (paragraph 12)</p>	<p>This is consistent with Defra's own analysis that there are residual capacity gaps that need to be filled by energy recovery in the East Midlands and East of England, and the note's position on providing cleaner, more efficient plants that meet stringent environmental targets.</p>

As noted above, the Proposed Development is very well placed to meet the residual waste capacity need identified by Defra. The 100-mile waste catchment area encompasses almost all of the East Midlands and a good proportion of the East of England region.

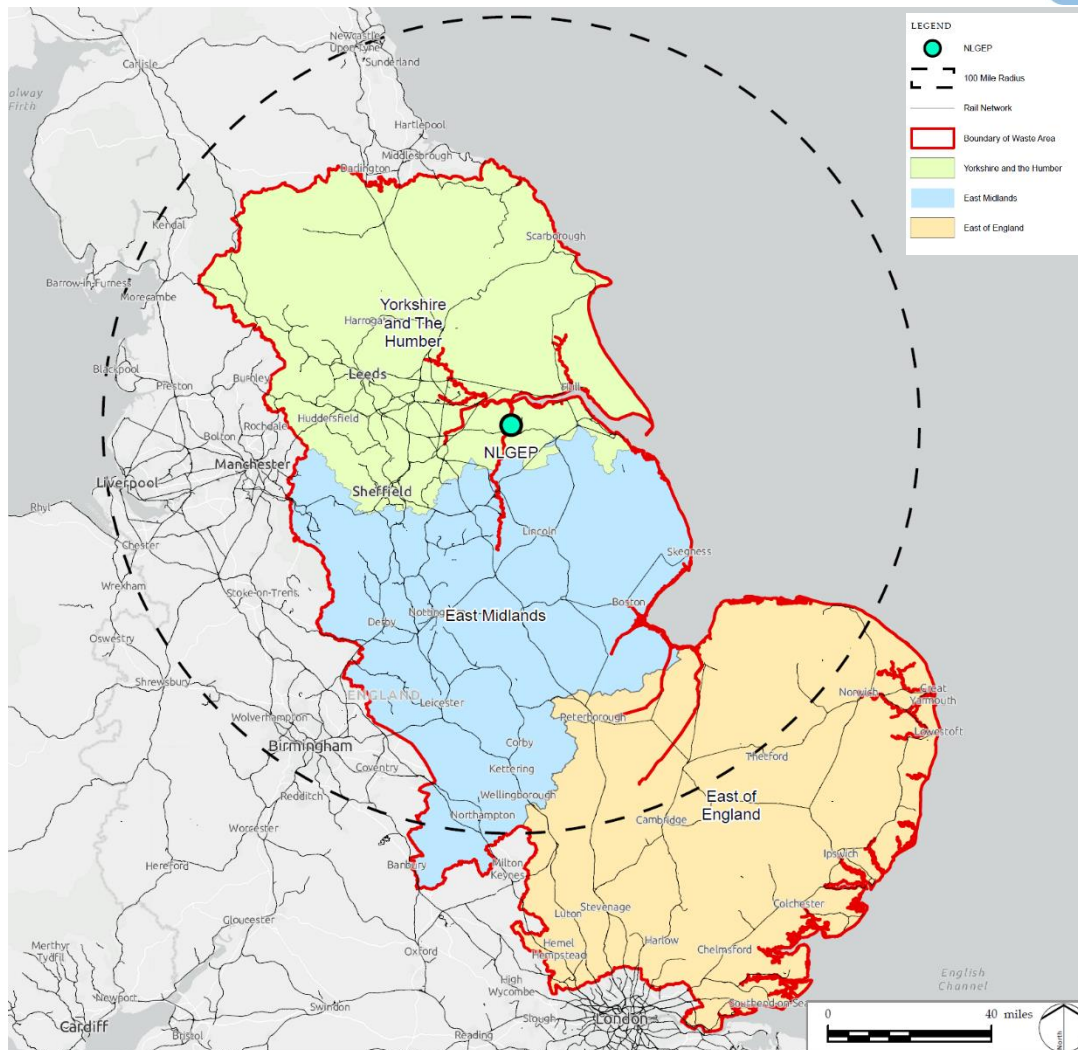


Figure 1: Waste Area Plan (not to scale)

Meeting strict environmental targets and supporting net zero

The vision for the Proposed Development was to create a green energy park which truly supported the circular economy. If consented and built, the Proposed Development will be exemplary in delivering recycling and reuse above recovery to be a model for the Defra requirements of recovery facilities in the UK. Its Net Zero credentials include:

- The Proposed Development has the potential to decarbonise the heating of 6,000 new dwellings and local businesses along the 11km DHN route. The Applicant has submitted an application for the Green Heat network Fund where the lack of a DCO decision reduced the certainty of delivery of the application. The feedback from DESNZ however, confirmed the commercial viability of the DHN (see Annex 8 of this submission).
- The concrete block manufacturing facility (“CBMF”) will recycle 130,000 tonnes per annum of ash, sequestering CO₂ generated from the facility to produce up to 285,000 tonnes of “green” construction materials.

- The rail and river links could provide low-carbon transport for large quantities of products into and out of the facility and also support the local businesses reliant on steel and construction products. The Applicant has committed in the draft DCO to building the rail connection prior to operation of the ERF (DCO requirement 20). No works are required to the wharf in order for waste to be accepted via river. The Applicant has appended a report on the status of rail transport negotiations from Intermodality, which includes an MoU from Freightliner to deliver containerised waste to the Proposed Development from the East Midlands (See Annex 6 of this submission).
- A commitment to deliver a minimum of 10% BNG – see Annex 5. The Proposed Development in reality far exceeds the 10% figure, although the inclusion of large areas of agricultural land which are required for flood plain storage but will remain in agricultural use have the effect of reducing this figure in the overall metric. With a total site area of 262ha, significant amounts of new habitat are required to achieve this, including a large wetland mosaic, semi-natural woodlands and a variety of grasslands. As set out in Annex 5, the Proposed Development will deliver a:
 - 13.75% net gain in habitat units
 - 34.08% net gain in hedgerow units
 - 66.49% net gain in watercourse units

DCO Commitments

The Applicant is willing to increase the level of commitment in the DCO to ensure the Secretary of State has a clear understanding of the Proposed Development under the new qualification criteria. This adds additional weighting to the commitment to deliver the circular economy and decarbonization in a region where Defra has identified the capacity need:

- a. The Applicant has proposed an amendment to requirement 15 (Fuel type) of the draft DCO to commit to securing a minimum of municipal and non-municipal residual waste from the East Midlands (not less than 350,000 tonnes or 50% of the waste processed at the authorised development per operational year (whichever is the lower of the two)). This is based on the proximity test relating to waste that is being landfilled or exported in close proximity to the Proposed Development.
- b. The draft DCO already commits to the installation of part of the DHN within the New Access Road (requirement 14 (New highway access)) but the Applicant has also proposed an amendment to requirement 17 (Combined heat and power) to extend this commitment to include the 6km “Northern Spur” of the DHN. This would ensure that the Northern Spur of the DHN is installed ahead of the commissioning of the energy recovery facility (“ERF”).
- c. The draft DCO already commits (requirement 19 (Carbon capture)) to a minimum amount per annum of CO₂ being captured (the lesser of 54,387 tonnes per annum or 8.37% of the weight of the ERF waste throughput per annum) that will be sequestered in cementitious products and Fichtner Consulting Engineers as the Applicant’s Engineers have provided a supporting memo to confirm the site has the capacity to install a full CO₂ capture facility, see Annex 7 of this submission.

- d. The Applicant has proposed an amendment to requirement 23 (PRF) of the draft DCO to ensure that the Plastic Recycling Facility will be delivered at the same time as the ERF to ensure the Proposed Development delivers an improvement to the recycling rate of the residual waste supply. Requirement 18 in the draft DCO [REP10-004] already commits to constructing and commissioning the CCUS within 6 months of commissioning of the ERF and CBMF within 12 months of the commissioning of the CCUS.

The above amendments are set out in more detail in Annex 3 of this submission.

Policy compliance

The Proposed Development's compliance with relevant national and local policy is provided in the Planning Statement [REP2-017] and summarised in the Closing Submissions [AS-031], as well as in the Applicant's response to the Secretary of State's request for further information (January 2024) (Document Reference 9.46) and in the Applicant's response to UKWIN comments following the Secretary of State's request for further information (February 2024) (Document Reference 9.47). These documents between them set out a significant amount of evidence as to why the Proposed Development is consistent with national waste policy.

In the latter document (Document Reference 9.47), the Applicant clearly sets out compliance with NPS EN-1 and EN-3, now adopted. This made it clear that the current policy position is:

- NPS EN-1 and EN-3 need to be read as whole. The Applicant's position is that the Proposed Development would not lead to over-capacity of residual waste at a national or local level, when read together with paragraph 2.7.29 which requires EfW to be fit for the future (paragraph 2.3.2 of February 2024 submission).
- NPS EN-1 and EN-3 (now designated) are still supportive of EfW/ERF as part of the wider energy mix (see paragraph 2.7.2 of NPS EN-3). If the Government position was that there was a national position of overcapacity, this would not be the case.
- The Applicant recognises that an ERF has two roles - both to recover energy to generate low carbon electricity and treat waste. For this reason, it has consistently demonstrated compliance with the waste hierarchy.
- The Applicant has provided an assessment of the conformity of the Proposed Development with the waste hierarchy.
- The Applicant has set out considerable information on how the proposed capacity is compatible with and supports long term recycling targets.
- The Applicant has demonstrated that the Proposed Development will not result in an overcapacity at local or national level.

Paragraph 2.7.6 of the NPS EN-3 states that *"as the primary function of EfW plants is to treat waste, applicants must demonstrate that proposed EfW plants are in line with Defra's policy position on the management of residual waste"*.

On the basis that the Defra Note represents the most recent policy position, this letter and accompanying table demonstrates how the Application complies with this. Accordingly, it is considered that the Application complies wholly with NPS EN-3.

Summary

As set out in the Applicant's February 2024 submissions (Document Reference 9.47), there is no doubt that to achieve Net Zero a massive step change is required in the way that the UK generates its energy and manages its emissions. It cannot be consistent with Government policy on Net Zero to require older, increasingly obsolete plants to continue at the expense of new, modern, efficient plants with carbon capture such as the North Lincolnshire Green Energy Park, especially given the demands made by waste producers regarding the sustainability of their service providers, for example associated with meeting their needs in reducing Scope 3 carbon emissions.

As set out in the Applicant's January 2024 submissions (Document Reference 9.46), the Proposed Development is Critical National Priority infrastructure. Further to policy in NPS EN-1, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases¹. Given this identified Critical National Priority, there should be wholly exceptional reasons not to grant development consent for the Proposed Development. This is clearly not the case here.

The Applicant has provided comprehensive, evidence-based submissions to all requests setting out the very clear need for the Proposed Development and how it meets all relevant policy. We respectfully request that Development Consent is granted without delay.

Yours faithfully,



DWD

For and on behalf of North Lincolnshire Green Energy Park Limited

¹ This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero, none of which apply to the proposed Development.