



Department for
Communities and
Local Government

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Our Ref: WS010003

20 May 2015

Dear Sir,

**PLANNING ACT 2008
APPLICATION FOR THE PROPOSED WHITE MOSS LANDFILL ORDER**

1. I am directed by the Secretary of State for Communities and Local Government (the "Secretary of State") to advise you that consideration has been given to:
 - the report of the Examining Authority, Wendy Burden, Philip Asquith and Robert Macey ("the ExA") who conducted an examination into the application ("the Application") made on 20 December 2013 by Whitemoss Landfill Limited ("the Applicant") under section 37 of the Planning Act 2008 ("the 2008 Act") for a development consent order ("the Order") under the 2008 Act for the construction of a new landfill void and continuation of filling at the existing landfill at Whitemoss Landfill ("the Development"); and
 - representations received by the Secretary of State and not withdrawn in respect of the Application including those received following the close of the examination.
2. The examination of the Application by the ExA began on 21 May 2014 and was completed on 21 November 2014. The examination was conducted on the basis of written evidence submitted to the ExA and evidence submitted and discussed at 9 hearings held between 17 July 2014 and 23 October 2014 and set out at Appendix 2 of the ExA report.
3. The Order, if made, would grant development consent for the construction of a new landfill void and continuation of filling at the existing landfill at Whitemoss Landfill, White Moss Lane South, Skelmersdale.
4. Enclosed with this letter is a copy of the ExA's report ("the Report" or "ER"). The findings and conclusions in relation to policy and factual issues are set out in section 4; the findings and conclusions in relation to the Habitats Regulations in

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section 5; Compulsory Acquisition is addressed in section 6; the Order in section 7; and a summary of conclusions and recommendations is set out in section 8.

5. All paragraph references, unless otherwise stated, are to the Report and are in the form, for example, “ER 1.0”. References to requirements are to the requirements in Schedule 2 of the Order.

Summary of the ExA’s Recommendation

6. The ExA recommended that the Order be made, in the form set out in Appendix 4 of the Report, subject to resolving the matters identified at ER 8.12 (i) and (ii).

Summary of the Secretary of State’s Decision

7. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an order granting development consent for the proposals in the Application. This letter is the statement of reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (“the 2009 Regulations”).

Secretary of State’s consideration

8. The Secretary of State agrees with the ExA that the Development is a nationally significant infrastructure project as defined in section 14(1)(p) and section 30 of the 2008 Act (ER 1.1-1.3). Subject to the qualifications explained in paragraphs 65, 68, 69, 72, 73, 78, 81 – 85 and 91 below about drafting modifications to the Order, the Secretary of State agrees with the ExA’s conclusions on the matters discussed in the report (ER 8.1- 8.11). His consideration of the matters identified at ER 8.12 (i) and (ii) is set out in paragraphs 63 – 65 below.
9. The Secretary of State has carefully considered the Report, the local impact reports submitted, the representations made known to him in respect of the Application and all other matters which the Secretary of State thinks are both important and relevant to his decision. The Secretary of State’s consideration of these matters is set out in the following paragraphs. His consideration of the representations received after the close of the examination (i.e. post 21 November 2014) is also set out below.
10. The Secretary of State has taken into consideration the Environmental Statement (ES), together with the other environmental information, as required by regulation (3)2 of the 2009 Regulations. Like the ExA he is satisfied that the ES, together with the other environmental information submitted by the Applicant, is adequate and that the ES meets the requirements of the 2009 Regulations (ER 4.94). He has taken full account of the environmental information in his assessment of the Application and in reaching his decision.
11. In reaching his decision on the Application, the Secretary of State has, as required by s104(2)(b) of the 2008 Act, had regard to any local impact reports submitted. In this case local impact reports were submitted by Lancashire County Council (LCC) and West Lancashire Borough Council (WLBC) (ER 3.16-3.17 and 4.5-4.7) and the Secretary of State has carefully assessed the issues set out in these reports as part of his consideration of the Examination Issues below.

Consideration of Policy

Conformity with National Policy Statements and other key policy statements

12. The Secretary of State agrees with the ExA that, in accordance with s104(3) of the 2008 Act, the Application falls to be considered against the National Policy Statement for Hazardous Waste June 2013 (NPS) (ER 4.9), and that the NPS is the primary basis for decision-making on nationally significant infrastructure projects (NSIP) for hazardous waste (ER 4.12). He notes that, for the reasons set out in paragraph 3.1 of the NPS, need is to be taken as established for the Application regardless of the past history of the existing landfill site (ER 4.16). In view of the importance of hazardous waste infrastructure to support economic activities and public services, and the requirement for England to be self-sufficient in disposal facilities, the Secretary of State, like the ExA, gives considerable weight to the need for the Application (ER 4.18).
13. The Secretary of State agrees with the ExA that the NPS has taken account of, and adopted the principles of, the revised Waste Framework Directive (European Parliament and Council Directive 2008/98/EC), and of the Waste Strategy for England (ER 4.29). He notes that Annex 2 to the Waste Strategy states that existing hazardous waste landfill is sufficient for current need, but that paragraph 3.4.13 of the NPS states that there will remain some waste streams for which landfill is the best overall environmental outcome; and that paragraph 4.1.5 of the NPS states that the NPS prevails in the event of any conflict with any other document (ER 4.29). As required by paragraph 4.1.3 of the NPS, the Secretary of State has taken into account any cumulative adverse impacts of the Development and he agrees with the ExA's assessment of this matter in ER 4.32.

Conformity with other relevant policies

National Planning Policy for Waste

14. The Secretary of State agrees with the ExA that the policies in the National Planning Policy for Waste (NPPW) are set out to guide local planning authorities in discharging their responsibilities (ER 4.60), but that the references to need do not relate to the determination of an NSIP under the 2008 Act (ER 4.61). He also agrees with the ExA that, even if there were any conflict between the advice set out in the NPPW and the policy of the NPS, the NPS continues to prevail for the purpose of decision-making on an application which falls within the definition of an NSIP in s30 of the 2008 Act (ER 4.62). Nevertheless, he agrees with the ExA that the matters identified in paragraph 7 of the NPPW are important and relevant matters (ER 4.64) and he has had due regard to them in his determination of the Application.

Development Plan Policies

15. The Secretary of State notes that the development plan for the application site comprises the Joint Lancashire Minerals and Waste Local Development Framework Core Strategy (MWCS), the Joint Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies (MWLP), and the West Lancashire Borough Local Plan 2012-2027 (WLLP); and that the relevant policies are set out in the local impact reports submitted by LCC and WLBC (ER 4.65). He considers that ER 4.70 correctly summarises the relationship between the development plan and the NPS. Whilst he agrees with the ExA that there is no requirement for the Applicant to demonstrate a specific

local or regional need for the proposal (ER 4.76), he notes that the development plan includes a number of policies against which it is appropriate to assess the project, and that many of the matters covered are also raised in the NPS (ER4.76). Overall, he agrees with the ExA that the Development would contribute to self-sufficiency as required by the MWCS, and fulfil the need identified in the MWLP, and that while there may be some areas of conflict with other development plan policies, these are not so significant as to weigh heavily against the Development (ER 4.78).

Relationship between Planning and Environmental Permitting

16. In his consideration of the Application, the Secretary of State has had regard to section 4.7 of the NPS which sets out the separate but complementary nature of the planning and pollution control systems. He notes that section 4.7 records that the Secretary of State as decision-maker should focus on whether the development is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges, the presumption being that the relevant pollution control regime will be properly applied and enforced and that, in deciding an application for a Development Consent Order, the Secretary of State should seek to complement rather than duplicate the appropriate environmental permitting (EP) regimes (ER 4.96). The Secretary of State has considered the issue of appropriate use of land in the relevant sections below, primarily in relation to health and water.
17. The Secretary of State notes that the prime responsibility for controlling discharges in relation to the Development rests with the Environment Agency which has confirmed that the relevant EP will only be issued if it is "*satisfied that the operations will be operated in a manner which will not result in an unacceptable risk to the environment and human health*" (ER 4.97). He also notes that the Applicant's ES includes a summary analysis setting out the range of identified impacts together with an assessment of whether these would be controlled by the Order or the Environment Agency's EP; that consideration of this issue developed significantly during the examination; and that the Applicant provided an updated Table ES 1 (ER 4.98). The Secretary of State, like the ExA, agrees with the Applicant's assessment of which issues would be regulated under the EP and which under the Order (ER 4.99).
18. The Secretary of State has also had regard to paragraph 4.7.10 of the NPS which states that he should not refuse consent on the basis of regulated impacts unless there is good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not be forthcoming. He agrees with the ExA that there is no reason to believe that that the relevant necessary consents will not be forthcoming in relation to the Application (ER 4.103).

Examination Issues

Green Belt

19. The Secretary of State, in his consideration of the Application, has had due regard to paragraph 5.10.15 of the NPS which states that inappropriate development is by definition harmful to the Green Belt and that there is a presumption against inappropriate development in the Green Belt except in very special circumstances; and to NPS paragraph 5.10.9 which directs the Applicant to the relevant criteria in paragraphs 79-92 of the National Planning Policy Framework (The Framework). It is against these criteria that the Secretary of

State, like the ExA, has assessed whether or not the Development would constitute inappropriate development in the Green Belt (ER 4.42). He notes that paragraph 90 of the Framework sets out certain forms of development which are not inappropriate in the Green Belt - including mineral extraction, engineering operations, and the re-use of buildings of permanent and substantial construction - provided they preserve the openness of the Green Belt and do not conflict with the five purposes of including land in the Green Belt set out in paragraph 80 of the Framework (ER 4.44).

20. The Secretary of State agrees with the ExA that the creation and operation of the landfill facility would constitute an engineering operation and, after carefully considering the ExA's assessment in ER 4.49-4.51, that it would fail to preserve the openness of the Green Belt, and conflict with one of the five purposes of the Green Belt, which is the safeguarding of the countryside from encroachment (ER 4.52). He therefore agrees with the ExA that during its construction and operational phase the Development would be inappropriate development in the Green Belt (ER 4.52).
21. In terms of the restoration proposals, the Secretary of State agrees with the ExA that there would be an impact on the openness of the Green Belt as a result of the creation of the engineered mound, which in itself would therefore be inappropriate development (ER 4.54 - 4.57). However, he also agrees that the intended after uses of the site as set out in the Landscaping, Restoration, Habitat Management and Aftercare Scheme would be compatible with its rural location in the Green Belt and, as a result, there would no longer be conflict with the purpose of safeguarding the countryside from encroachment; and that the overall impact on openness in the long term would be mitigated to some degree through the proposals for the restoration of the site (ER 4.57).
22. The Secretary of State concludes overall that the Application proposal would constitute inappropriate development in the Green Belt, and has gone on to consider whether there are any very special circumstances which would overcome the harm to the Green Belt he has identified after he has considered the other relevant issues raised in the examination.

Geological setting and impact on water resources

23. The Secretary of State agrees with the ExA that neither geological nor water management issues provide grounds for concluding that the proposal represents an unacceptable use of land (ER 4.126). In relation to mitigating potential impacts, the Secretary of State has, like the ExA, given significant consideration to those impacts which would not be included within the Environment Agency's permitting responsibilities (ER 4.127). In doing so he has also had regard to paragraphs 5.15.8 and 5.15.9 of the NPS which require the Secretary of State to consider whether proposals to mitigate adverse effects on the water environment are acceptable and whether appropriate requirements should be attached to any development consent order.
24. The Secretary of State agrees with the ExA that the brevity of requirement 12 of the Order, which concerns the treatment of mine shafts and depth of excavation, and of requirement 13, which concerns water management and monitoring, do not do full justice to the extent of the consideration and engagement underlying these enhanced requirements, following significant engagement between the Applicant and the relevant statutory bodies – LCC, the Coal Authority and the

Environment Agency – and directly within the examination involving other interested parties and the ExA (ER 4.127). He also agrees with the ExA that, in those areas where the Environment Agency does not have the statutory role under the environmental permitting regime, requirements 12 and 13 of the Order ensure that the formal responsibility for approving assessments undertaken by the Applicant, and for planned works, rests with LCC, as the planning authority; and that the requirements have been drafted to ensure that the expertise and interests of the Environment Agency and the Coal Authority properly inform the decisions to be taken before works can proceed (ER 4.127).

25. Having had regard to paragraphs 5.15.8 and 15.15.9 of the NPS, the Secretary of State agrees with the ExA that requirements 12 and 13 of the Order are necessary and sufficient to address the relevant concerns both in relation to potential impacts and statutory responsibilities (ER 4.128).

Completion and restoration of the application site within the timescale of the Order

26. The Secretary of State notes that an issue of concern to LCC, WLBC and others is that the landfill would not be completed by 2035 as set out in the Order, and that restoration could not therefore take place by 2036 (ER 4.129). He agrees with the ExA that if there was any risk to the implementation of the restoration scheme in 2036 there would be consequences for the judgement to be made on whether the benefits of the Development would outweigh the impacts (ER 4.130); and he has carefully considered the ExA's assessment of the matter in ER4.131-4.146.

27. The Secretary of State notes that the Applicant is confident that there are several options that could be pursued to ensure the completion of restoration in accordance with the timescale of the Order if either mineral extraction operations or landfill operations take place at a slower rate than required to sustain deposits of 150,000 tonnes per annum (ER 4.137). He has considered the three examples set out in ER 4.138-4.140; and agrees with the ExA that these three scenarios demonstrate that there are alternative work plans which could secure restoration of the site by 2036 in accordance with the requirements of the Order; that in all three cases there would be no change to the overall restoration proposals; and that there would be no adverse change in the environmental impact (ER 4.141).

28. However, in order to ensure that action would be taken and could if necessary be enforced to secure the completion and restoration required in the Order, the Secretary of State agrees with the ExA recommendation that requirement 32 should be included in the Order (ER 4.143 and 4.147). He notes that this requirement is within the ExA draft Order issued on the 12 November 2014 and has been agreed with LCC and noted by the Applicant (ER 4.147). He agrees with the ExA that no further legal obligation as suggested by Policy DM3 of the MWLP is required (ER 4.147).

Health

29. The Secretary of State agrees with the ExA that, applying the principle set out in the NPS that the relevant pollution control measures - in this case the environmental permitting regime - would be properly applied and enforced, and having regard to the additional appropriate requirements of the Order, the proposed development would not pose any unacceptable health risks to those living and working in the area (ER 4.195).

30. The Secretary of State has, like the ExA, nevertheless given due and careful consideration to the fears and anxieties expressed by the local community in relation to perceptions of health risks (ER 4.196). He considers that this is a matter he should have regard to under the NPS, and he has carefully considered paragraph 4.10.2 of the NPS which sets out policy on perceptions of health impacts and the imposition of requirements to address these and which states that "...planning operates in the public interest to ensure that the location of proposed development is acceptable and health can be material to such decisions. Perceptions of the health risks associated with hazardous waste infrastructure may exceed any actual risks and could lead to anxiety and stress. The Secretary of State should take account of health concerns when setting conditions relating to a range of impacts including, for example, noise". In the circumstances of this particular case, the Secretary of State agrees with the ExA that a community liaison committee would be a means of allaying some of the community's concerns and influencing perceptions (ER 4.196). He has therefore amended the Order, as recommended by the ExA at ER 7.18, to incorporate a requirement for a community liaison committee, and he considers this matter further at paragraph 65 below.
31. In conclusion, the Secretary of State agrees with the ExA that weight should be accorded to the perception of health risks and that a community liaison committee would be a means of allaying some of the community's concerns and influencing perceptions (ER 4.196) but that, in the balance, the weight to be given to these must necessarily be limited, as, with the controls over the landfill operation available through the EP regime to ensure emissions of contaminants would not exceed well-established thresholds set by Government, and the requirements recommended within the Order, there is no evidence that there is likely to be any materially significant impact on the health of those living and working within the area (ER 4.197).
32. In his consideration of this matter, the Secretary of State has also had regard to the Environment Agency's letter of 13 March 2015 which informed him that it had identified that some dust emissions data submitted by the Applicant between 2008 and 2013, in accordance with the Environmental Permit, had been reported inaccurately, but that the Agency had reassessed the dust data, together with the 2008 to 2013 dust reports, and was satisfied that the existing activities at the landfill site have not caused an exceedance of any Statutory Air Quality Standard at any sensitive receptor, and that nuisance dust levels are low. The Secretary of State considers that the Environment Agency's letter does not constitute new evidence or raise a new issue which needs to be referred to parties before he proceeds to a decision, and that it does not cause him to take a different view of the matters before him.

Socio-economic impacts

33. In his consideration of this matter, the Secretary of State has had regard to paragraph 5.12.6 of the NPS which requires him to consider the potential socio-economic impacts of new hazardous waste infrastructure. He agrees with the ExA that there is no evidence to indicate that the Development would have an adverse impact on inward investment, such as the redevelopment of Skelmersdale town centre; or on recreation or tourism (ER 4.214). He agrees with the ExA that there would be some local economic benefits from employment on the site and to local business which act as suppliers to the site; and a limited

benefit to recreation arising from the restoration scheme (ER 4.214). Overall, he agrees with the ExA's conclusion that there would be some minor socio-economic benefits, and that there is no evidence of harm to inward investment or to the housing market (ER 4.214).

Design

34. In considering the design of the proposed scheme, the Secretary of State has had regard to paragraph 4.5.3 of the NPS which requires him to be satisfied that hazardous waste infrastructure developments are sustainable and, having regard to regulatory and other constraints, as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be. Having considered these matters, the Secretary of State is, like the ExA, satisfied that the Application has been designed to achieve the efficient and sustainable operation of the landfill; and that while mitigation in terms of landscape and visual impact would be limited during the operation of the site, there would be enhancements in terms of biodiversity and public access in the restoration stage (ER 4.220). He agrees with the ExA that the project therefore complies with the NPS in so far as it would make an efficient use of natural resources during its construction and operation; and would provide long term environmental enhancement in the restoration phase (ER 4.220).

Landscape and visual impact

Landscape

35. In his consideration of this matter, the Secretary of State has had regard to paragraph 5.9.5 of the NPS which requires him to consider the potential impact of proposed projects on the landscape.

36. The Secretary of State agrees with the ExA that in this case the impact of the Development on the character of the landscape would be of some harm during the construction and operational phases of the project, in conflict with WLLP Policies GN3 and EN2 (ER 4.237). He also agrees with the ExA that, while at the end of the operational period there would be a change in landscape character as a result of the proposed restoration scheme, the scheme would secure an attractive landscape in the long term, and that the quality of the restoration proposals would balance out any harm to the landscape as a result of the change in character to the restored site (ER 4.237). He also agrees that the long term benefits of the restoration scheme would provide some compensation for the harm to the landscape during the 20-year period of excavation and landfill (ER 4.237).

Visual Impact

37. As required by paragraph 5.9.13 of the NPS, the Secretary of State has considered whether the visual effects on sensitive receptors, such as local residents, and other receptors such as visitors to the local area, would outweigh the benefits of the development. He agrees with the ExA that, in visual terms, the presence of the proposed development would be apparent to local residents and visitors to the area, in particular from locations to the north of the site, and also from the network of public rights of way to the west and south of the site; and that while the peripheral mounding would provide screening from locations immediately adjoining the site, from more distant locations, or at levels raised above the site, there would be views of the excavation and landfill activities

across the site (ER 4.245). He also agrees that, for local residents who fear the health impacts of the development, its visual presence would have the potential to add to their anxieties (ER 4.245).

38. In conclusion, the Secretary of State agrees with the ExA that there would be varying degrees of harm to visual amenity for local residents, visitors and recreational users of the adjoining areas of the countryside during the period of construction and operation of the site; but that, following the restoration of the site, its visual amenity would be improved to a limited degree over the existing situation, to the benefit of residents and recreational users (ER 4.246).

Wildlife, Habitats (including Habitats Regulations) and Agricultural Land

39. In considering these matters, the Secretary of State has had due regard to paragraph 5.3.8 of the NPS which requires him, in taking decisions, to ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.
40. The Secretary of State agrees with the ExA that the development would not result in any unacceptable impacts on any nationally protected species, any non-designated but valuable habitats in the vicinity of the site or on any other wildlife within the proposed site (ER 4.255). He is satisfied that there would be no adverse impacts in relation to biodiversity or ecology under the Wildlife and Countryside Act 1981 or the Natural Environment and Rural Communities Act 2006 (ER 4.255). He agrees with the ExA that, in view of the low ecological value of the existing site, there would be a limited impact on biodiversity during construction and operation of the landfill; and that, on completion of the landfill, the site would be restored to include habitats characteristic of the Skelmersdale Mosses character area (ER 4.261). He also agrees with the ExA that the restoration proposals would increase biodiversity through the development of a number of habitats that would be of benefit to a range of species including breeding birds, reptiles and bats (ER 4.261).
41. The Secretary of State agrees with the ExA that the proposals for soil handling and management would ensure that there is no adverse impact on soil resources and that the restoration proposals would restore the equivalent areas of land to peatland and to best and most versatile agricultural land quality (ER 4.262).
42. Overall, the Secretary of State agrees with the ExA's conclusion that there would be long-term benefits in terms of the value of the site as an ecological resource as a result of the Development; and that, having regard to the current condition of the agricultural land, the project would result in a long term benefit to the availability of best and most versatile agricultural land (ER 4.263).

Habitats Regulations

43. As is required by the Conservation of Habitats and Species Regulations 2010 ("The Habitats Regulations")¹, the Secretary of State has considered whether the project is likely to have a significant effect on a European site², or on any site to

¹ The Habitats Directive (Council Directive 92/43/EEC) and the Birds Directive (Council Directive 2009/147/EC), as they relate to European sites, are primarily transposed in England under the Habitats Regulations.

² European sites include: special areas of conservation (SACs), special protection areas (SPAs), sites of Community importance (SCIs), and candidate SACs. As a matter of Government policy, possible SACs, potential

which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects.

44. The Secretary of State notes that the Applicant's Habitats Regulations Screening Assessment (APP-Rep-02), in its appraisal of the potential effects of the proposed development, considered the effects of the redevelopment of Skelmersdale town centre and potential employment development at Whitemoss Business Park but concluded that the town centre redevelopment is too distant to have a significant effect in combination with the proposed development, and that there were no current planning applications for employment development at the Business Park. He also notes that an extant planning permission (for the erection of 29 two-storey office units totalling 7,670m²) was considered unlikely to have a significant effect in combination with the proposed development because of its small scale and because it is separated from the Whitemoss landfill by existing office development.
45. The Secretary of State notes that Natural England worked closely with the Applicant to provide advice and guidance; that Natural England also liaised with the Environment Agency to provide coordinated advice; that Natural England is satisfied that the Applicant has submitted a thorough ES, together with a satisfactory Habitats Regulation Screening Assessment (ER 5.3); and that Natural England agrees that there will be no direct impacts on European Sites as a result of the proposed development when considered alone or in combination with other plans and projects within the vicinity of the site (Statement of Common Ground with Natural England - PD-L-06). The Secretary of State therefore concludes that he has sufficient information before him to decide whether the project is likely to have a significant effect on a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects.
46. The Secretary of State notes that Natural England has concluded that there are no European sites, Ramsar sites or nationally-designated landscapes located within the vicinity of the project that could be significantly affected; and that, as a consequence, it is satisfied that Habitats Regulations assessment Stage 2 - an appropriate assessment - is not required by the competent authority for this project. He also notes that no evidence arose during the course of the examination which led the ExA to reach a different conclusion (ER 5.4). Overall, the Secretary of State agrees with the ExA that implementation of the project would not breach the Habitats Directive or compromise the coherence of the Natura 2000 network (ER 5.4).
47. The Secretary of State concludes that the project would not be likely to have a significant effect on a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects and it is therefore not necessary for him to make an appropriate assessment.

General and residential amenity

48. In his consideration of these matters, the Secretary of State has had due regard to paragraph 5.6.7 of the NPS which requires him to be satisfied that all reasonable steps have been taken, and will be taken, to minimise any detrimental

impact on amenity from emissions of odour, dust, steam, smoke and artificial light. He notes that whilst there are residential properties close to the application site, those immediately adjoining the site would be largely screened from views into the site and from noise by the proposed mounding; and that the residential areas of Skelmersdale, would be separated from the site by the physical barrier of the M58 Motorway (ER 4.287). Like the ExA, he is satisfied that, through the application and enforcement of the relevant pollution regime and the requirements in the Order, the impact on amenity for the local community, including residents and users of the recreational facilities and public footpaths, would be minimal, and at a level that is acceptable in accordance with paragraph 5.6.3 of the NPS (ER 4.287).

49. In view of this conclusion, the Secretary of State agrees with the ExA that there would be no disproportionate interference with the private and family life and home of the occupants of the nearby residential care home and residential dwellings in contravention of Article 8 of the European Convention on Human Rights as set out in Part I of Schedule 1 of the Human Rights Act 1998; or interference in the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol to the European Convention on Human Rights as set out in Part II of Schedule 1 of the Human Rights Act 1998 (ER 4.288). In relation to the occupants of the nearby residential care home, the Secretary of State has also had due regard to the public sector equality duty, under section 149 of the Equality Act 2010, but does not consider that there would be a disproportionate affect on any persons with a protected characteristic.

Traffic and Transport

50. In considering these matters, the Secretary of State has had regard to paragraph 5.13.4 of the NPS which requires him to ensure that the Applicant has sought to mitigate impacts on the surrounding transport infrastructure, including during the construction phase of the operation.
51. The Secretary of State notes that the current site policy to direct all HGV traffic to and from the site to the east of the access to White Moss Road South would continue for the duration of the proposed development by means of requirement 27 in schedule 2 to the Order (ER 4.291); and he agrees with the ExA that that this would ensure that the current practice continues to be observed by any future owners of the landfill site (ER 4.293). Overall, he agrees with the ExA that the traffic associated with the proposed development, including the associated material extraction and exportation, could be satisfactorily accommodated on the local road network (ER 4.297).

Other matters

Safety

52. The Secretary of State agrees with the ExA that there is no reason to consider that the project would not comply with any legislation for which the Health & Safety Executive is responsible (ER 4.298).

Security considerations

53. The Secretary of State agrees with the ExA that there are no national security considerations which arise in relation to the Application (ER 4.299).

Heritage

54. The Secretary of State notes that there are three Grade II listed buildings within 2.5km of the application site to the north and north-east, within Skelmersdale (ER 2.14); and that the Bickerstaffe Hall Scheduled Monument to the south-west and the Spa Roughs Wood Scheduled Monument to the north are the closest designated monuments, at approximately 2.5km and 3km away from the site respectively (ER 2.15).
55. In the light of this, the Secretary of State has had regard to English Heritage's comment that due to the location of the application site in relation to designated heritage assets, and the potential impact on the significance of those assets, it did not anticipate that it would seek to make further representations on the Order (application document APP-CR-12). He also notes the Statement of Common ground between the Applicant and LCC and WLBC (application document PD-L-05), in which it was agreed that there would be no known direct effects upon designated heritage assets or significant archaeology and that, due to the distance between the site and the nearest listed buildings and Scheduled Monuments, there would be no indirect impacts on heritage assets. He further notes WLBC's Local Impact Report (application document PD-L-02) which states that it would be appropriate to address the archaeological potential of the site through a requirement to submit a scheme of field work and investigation. The Secretary of State notes that such a requirement is set out in requirement 11 in schedule 2 to the Order (Archaeology).
56. When deciding an application which affects a listed building or its setting the Secretary of State must, under regulation 3(1) of the Infrastructure Planning (Decisions) Regulations 2010, have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. When deciding an application which affects or is likely to affect a scheduled monument or its setting the Secretary of State must, under regulation 3(3) of the Infrastructure Planning (Decisions) Regulations 2010, have regard to the desirability of preserving the scheduled monument or its setting.
57. Given the distance of the heritage assets referred to in paragraph 54 above from the application site, the nature of the Application proposals and the representations made in this regard, particularly from English Heritage, the Secretary of State concludes that the Application would not affect a listed building or its setting or affect or be likely to affect a scheduled monument or its setting. The Secretary of State also concludes that the Application would not cause any harm to or loss of significance to any designated heritage assets for the purposes of the Framework.

Green Belt balance

58. As indicated in paragraphs 19 - 22 above, the Secretary of State agrees with the ExA that the Development during its construction and operation would fail to preserve the openness of the Green Belt and conflict with one of the five purposes of the Green Belt (ER 4.319). Overall he agrees with the ExA that the Development would constitute inappropriate development in the Green Belt (ER 4.319). He also agrees with the ExA that there would be some further impact on openness when the site is restored but that this would be largely mitigated by the proposed restoration scheme (ER 4.319).

59. The Secretary of State has carefully considered, and agrees with, the ExA's assessment in ER 4.322 – 4.329 of the harm to the Green Belt and any other harm. He also agrees with the ExA's summary (ER 4.341) that the Development would constitute inappropriate development which in itself is harmful to the Green Belt, and that the harm to the Green Belt and any other harm would comprise:

- during the 20 years of construction and operation, an adverse impact on openness and conflict with the purpose of the Green Belt to protect the countryside from encroachment;
- a limited degree of harm to the character and appearance of the countryside during the 20 years of construction and operation;
- following restoration, some further impact on openness although the restoration proposals would restore the rural character of the site such that there would no longer be encroachment.

60. The Secretary of State agrees with the ExA that the perception of a risk to health within the local community should be included in the assessment of any other harm (ER 4.341) although, for the reasons set out in ER 4.197, he also agrees that the weight to be given to these anxieties and perceptions must necessarily be limited.

61. The Secretary of State has carefully considered, and agrees with, the ExA's assessment in ER 4.330 – 4.340 of the other considerations which weigh in favour of the Development and which fall to be considered against the harm to the Green Belt and any other harm; and he agrees with the ExA's summary of this in ER 4.342 that:

- the presumption in favour of granting consent to applications for hazardous waste NSIPs which clearly meet the need for such infrastructure is established in the NPS; and the Development would meet that need;
- as a project which accords with the policy and requirements of the NPS, the Development would constitute sustainable development which attracts the presumption in favour of sustainable development set out in the Framework;
- the Development would contribute towards meeting the principles of national self-sufficiency and of proximity in the revised Waste Framework Directive;
- the importance of the facility to meet the need for hazardous waste disposal within the North-West of England;
- the locational benefits of the landfill facility at White Moss, reflecting its proximity to the national motorway network, with consequently no significant adverse transport impacts and being easy to reach by businesses looking to manage waste;
- the ability to make use of current infrastructure, reducing the environmental footprint of creating new facilities;
- the limited life-span of the landfill operations and its consequent impacts;
- the long-term benefits to biodiversity from the restoration proposals, replacing an ecologically poor site with a more habitat and species-rich environment;
- the other long-term benefits in terms of restoration of Grade 2 agricultural land, visual amenity and recreation.

62. The Secretary of State has carefully considered whether the other considerations clearly outweigh the totality of the harm he has identified and therefore whether very special circumstances exist, and the presumption against the siting of the Development in the Green Belt would be overcome. He concludes, in agreement

with the ExA, that the other considerations are of such importance that they clearly outweigh the harm to the Green Belt and the limited other harm that has been identified (ER 4.343). He also agrees with the ExA that very special circumstances exist which justify the making of the Order (ER 4.343).

Planning Obligation

63. The Secretary of State notes that on 21 November 2014, the final day of the examination, the Applicant submitted a Unilateral Undertaking (UU) (ER 4.300). The ExA considered that the UU had not been validly made (ER 4.312 - 4.313); and that that the accompanying plan may require alteration as it did not match up with the revised Land Plan which shows the LCC land adjacent to White Moss Road as being land over which a new right would subsist (ER 4.311). In reaching his decision on the Application, the Secretary of State has had regard to the ExA's recommendation (ER 8.12) that he secures a valid s106 Agreement or UU accompanied by an amended plan; and that he consider the need for further consultation on:

- the terms of the UU submitted on 21 November 2014; and
- as an alternative to the obligation concerning the establishment of a Community Liaison Committee in the UU, the wording of a requirement in the Order to secure such a committee.

64. On 8 December the Applicant submitted a certified copy of a signed and witnessed UU. The Secretary of State has carefully considered whether this completed UU substantively differs from the draft obligations submitted during the examination and on which parties were able to make representations. He concludes that it does not differ substantively from material considered during the examination, although it had been reworded to reflect the fact that LCC was not a party to the UU. He therefore concludes that these changes do not warrant further consultation.

65. The Secretary of State considers that a Community Liaison Committee could be secured either through a s106 obligation or a requirement. However, paragraph 203 of the Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (or in this case a requirement in the Order). The ExA recommended a form of words for a draft requirement for a Community Liaison Committee (ER 7.18) and the Secretary of State has considered whether this follows the wording in any draft bilateral s106 on which parties would have been able to make representations during the examination. He concludes that as the draft requirement follows the wording in the UU, amended only in respect of provisions concerning LCC, which reflect those included in the draft bilateral s.106 undertakings, parties have had an adequate opportunity to make representations on the substance of the proposed wording and further consultation is therefore not required. He has made some minor drafting amendments to the requirement, as set out in paragraph 91 below.

66. On 31 March 2015 the Secretary of State wrote to the Applicant to request a revised UU: a) containing an express statement that it was a development consent obligation; b) the deletion from the UU of the obligation concerning the Community Liaison Committee as the Secretary of State proposed to address this by means of a requirement in the Order; and c) as the Secretary of State had noted a difference between the way that plots 15 - 17 were identified in the Land

Plan submitted at the examination and that submitted with the UU, a revised plan for annexing to the UU which reflected the up to date proposed land acquisition position in respect of those plots.

67. On 13 April 2015 the Applicant submitted a revised UU incorporating the requested changes a) and b). As to the difference in the plans, the Applicant explained that the Land Plan required all the land and rights to be fully identified where they were proposed to be subject to compulsory acquisition but as full acquisition of plots 15 - 17 was not required - the extent of the rights sought being new rights to access and maintain pipework - those plots were shaded blue in accordance with the convention in compulsory acquisition applications. The plan annexed to the UU did not require separate identification of these plots as the Applicant was bound by the obligations to provide security in relation to all the "Future Interest Land" as defined in the UU.
68. On 20 April, the Secretary of State wrote further to the Applicant, noting that although new rights in relation to an easement were proposed to be compulsorily created in respect of plots 15 - 17, there was no power in the draft Order to compulsorily create such rights: article 15(1) of the draft Order only expressly granted powers to acquire the existing rights described in Part 3 of the Book of Reference but did not grant the power to create new rights. If the power to create an easement was considered by the Secretary of State to be necessary, article 15(1) of the Order would need to be amended to allow this. In respect of the definition of the 'Future Interest Land' in the UU, the Secretary of State's letter noted that such an easement would not be either a future freehold or a long leasehold interest and that therefore such an interest would not be caught by this provision whether it was created compulsorily (if the Order was amended to allow this) or granted outside of the Order; and therefore, if the Order was to be so amended, the definition of "Future Interest Land" in the UU would need to be amended to include "...any other interest acquired by or granted to the Owner after the date of this deed". As full acquisition of plots 15 - 17 was not required, the Secretary State's letter also requested the Applicant to provide a revised Book of Reference with reference to these plots either amended in Part 1 to show the creation of new rights over these plots (if the Order was to be so amended to allow this) or removed from Part 1 as appropriate. The Secretary of State's letter and the previous related correspondence between the Secretary of State and the Applicant, was copied to LCC to give it the opportunity to make any comments on these matters.
69. The Applicant responded by letter on 28 April enclosing: an amended draft of the Order which included an express power in article 15(1) to create and acquire compulsorily the new rights described in Part 1 of the Book of Reference; a revised UU which amended the definition of "Future Interest Land"; and a revised Book of Reference which referred to the creation of new rights over plots 15 - 17 to ensure consistency with the updated draft Order and to ensure that the Book of Reference included all proposed rights to be acquired by the Applicant.
70. The Secretary of State considers that the changes set out above are drafting amendments relating to matters considered during the examination and which largely concern the Applicant and LCC. He therefore considers that further consultation on them is not required. The Secretary of State considers that it is necessary to make these amendments, for the reasons set out in paragraphs 72 and 73 below, and that in doing so it would give effect to the intentions of the

Applicant. He also notes that LCC have made no objection to these amendments. Having carefully considered the UU, and the changes that have been made to it since the close of the examination, as set out above, the Secretary of State concludes that the obligations in the revised and executed version of the UU dated 28 April 2015 would meet the requirements of Regulation 122 of the CIL Regulations 2010 as amended and the tests set out in paragraph 204 of the Framework.

Compulsory Acquisition

71. The Secretary of State notes that the bulk of the land for which compulsory acquisition powers are sought comprises the main body of the site to be excavated and landfilled (ER 6.2). He notes that three small parcels of land within the southern highway verge and ditch of White Moss Road South (plots 15 - 17), which are owned by LCC, were originally shown within the Applicant's Land Plan as being subject to compulsory acquisition to allow connection of the proposed surface water management scheme from the development (ER 6.3). However, he also notes that by the close of the examination the Applicant and LCC had reached an 'in principle' agreement concerning an easement for the connection of surface water drainage; and that an amended Land Plan shows these parcels as 'land over which a new right would subsist' (ER 6.4). He agrees with the ExA that compulsory acquisition of land would not therefore be applicable to these plots (ER 6.4).
72. As noted in paragraph 68 above, although new rights in relation to an easement were proposed by the Applicant to be compulsorily created in respect of plots 15 - 17, there was no power in the ExA recommended draft Order attached to the ER to compulsorily create such rights. Although the ExA recommended draft Order failed to address the need for compulsory acquisition of such new rights, the Secretary of State considers that, as an agreement has not been reached with LCC over access to these plots (contrary to the understanding of the ExA at ER 6.4 that an 'in principle' agreement had been reached), and it is uncertain whether one would be reached in the future, such new rights are necessary to facilitate the Development, and the Order should therefore be modified in this respect. He considers that the absence of such rights would adversely affect the efficient operation of the Development. In reaching this conclusion, the Secretary of State has had regard to paragraphs D10 and D11 of application document EV-G-05 in which the Applicant explains the need for compulsory acquisition of new rights over plots 15 - 17, and of LCC's submission in application document EV-CA1-04 which confirms that while LCC accepted that in principle an agreement could be reached concerning access to these plots, this would be subject to agreement of details and cabinet member approval. The Secretary of State notes that LCC has raised no objection to his recent correspondence with the Applicant on this matter.
73. The Secretary of State is satisfied that the tests in s122 and 123 of the 2008 Act are met in relation to these rights. He has therefore modified the Order so that it includes in article 15(1) an express power to create and acquire compulsorily the new rights described in Part 1 of the Book of Reference. As noted in paragraph 69 above, the Applicant has now provided a revised Book of Reference which refers to the creation of new rights over plots 15 - 17 to ensure consistency with and reflect the power granted by the modified Order and to ensure that the Book

of Reference includes all proposed rights that may be acquired or created by the Applicant.

74. The Secretary of State notes that paragraph 1.8.2 of the Applicant's Statement of Reasons for Compulsory Acquisition states that the Applicant has negotiated to acquire all the relevant land and interests by agreement where this is achievable at reasonable cost, within the project timescale and on terms that allow the project to proceed; but that the Applicant has however sought to keep compulsory acquisition powers in reserve to ensure the project would be realised in the event of negotiated sale not being achievable (ER 6.6). The Secretary of State also notes that, with the exception of WLBC, who maintain an objection to the compulsory acquisition of Plot 18b (ER 6.5), all affected persons have come to an agreement with the Applicant through voluntary negotiations (ER6.23).
75. The Secretary of State agrees with the ExA that the evidence points to the Applicant having adequate resources to ensure that the proposed development would be financially viable (ER 6.50); and he notes that the Applicant has now submitted a validly made Unilateral Undertaking which provides the mechanism for ensuring this.
76. In considering compulsory acquisition, the Secretary of State has, like the ExA, considered the relevant statutory provisions set out in the 2008 Act, in particular s122 and s123, and in the Human Rights Act 1998, and has had regard to the DCLG Guidance on compulsory acquisition; and, in the light of the representations received and the evidence submitted, he has considered whether a compelling case has been made in the public interest, balancing the public interest against private loss (ER 6.57).
77. The Secretary of State agrees with the ExA that the case for compulsory acquisition powers cannot be properly considered unless and until a view is taken on the case for the development overall; and that the case for compulsory acquisition must be consistent with the view that the Order as a whole should be made (ER 6.58). The Secretary of State has reached the view in paragraph 90 below that an Order granting development consent should be made in relation to this Application. Having regard to all the particular circumstances in this case for compulsory acquisition, he agrees with the ExA that there is a compelling case in the public interest for acquisition (ER 6.59). He also agrees with the ExA that there is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998 (ER 6.59). The Secretary of State has also concluded that there is a compelling case in the public interest for the creation and acquisition of the new rights described in Part 1 of Book of Reference, as amended by the Applicant, and that granting this power would also not give rise to any disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

Development Consent Order

78. The Secretary of State does not propose in this section to refer to the changes to the requirements of the Order which he has already considered under the Examination Issues heading above. He notes that the draft Order was subject to a number of iterations during the examination; that the ExA issued comments on the Applicant's versions, and that comments were made by, and discussions took place with, statutory bodies and interested parties (ER 7.1 and 7.4-7.8).

79. The Secretary of State notes that the main issues addressed in the changes made to the Order relate to Schedule 1(2) and the requirements (ER 7.9-7.11). In relation to the acceptability and implications of not separately identifying associated development from ancillary works, he notes the Applicant's response that there is no clear method of splitting the constituent parts and that there is precedent for its approach (ER 7.10). He agrees with the ExA that all works shown in Schedule 1 properly fall within the parameters of the authorised project and that, given this approach to classifying works, changes were made during the examination to ensure that there are no requirements dependent on identifying the scope of the authorised development as this would not, in practice, be something LCC, for example, could unambiguously identify (ER 7.10). In considering this matter, the Secretary of State has had regard to the Guidance on associated development applications for major infrastructure projects (DCLG 2013), in particular paragraph 12 and the examples given in Annexes A and B of that document.
80. The Secretary of State notes that the definition of "maintain" in article 2 of the ExA's recommended Order specifies that maintenance works may not be undertaken if they give rise to significant adverse environmental impacts that have not been assessed within the ES (ER 7.13); and he is satisfied with this definition.
81. Although the Applicant failed to secure agreement with LCC in relation to a s106 agreement which would have included provision for a Community Liaison Committee, the Secretary of State considers that a requirement for such a committee should be included within the Order, as noted in paragraph 65 above. He notes that the ExA recommended a form of words at ER 7.18 which closely follows those in the Unilateral Undertaking submitted on 21 November 2014 (supplemented by a requirement on LCC to respond to the proposed terms of reference, as included within the draft s106 agreement circulated after the issue specific hearing at which this was discussed). The Secretary of State has adopted this form of words as requirement 35 '*Community Liaison Committee*' in the Order which he has decided should be made.
82. As noted in paragraph 68 above, although new rights in relation to an easement were proposed by the applicant to be compulsorily created in respect of plots 15 - 17, there was no power in the draft Order to compulsorily create such rights as article 15(1) of the draft Order only expressly granted powers to acquire the existing rights described in Part 3 of the Book of Reference but did not grant the power to create new rights. The Secretary of State therefore considers that Article 15(1) of the Order should be modified so as to give a power to create and acquire the new rights described in Part 1 of the Book of Reference.
83. The Secretary of State notes that the ExA made a number of minor changes of an editorial nature to the recommended draft of the Order which have no impact its substance (ER 7.19). He has made other minor drafting amendments to it for drafting and clarification purposes which similarly have no impact on the substance of the Order.
84. In considering the changes that were made to the Order during the examination, the Secretary of State has, like the ExA, been conscious of the need to consider whether these have had the effect of creating a different project from that applied for (ER 7.20). Having carefully considered this matter, he agrees with the ExA

that these changes, as reflected in the recommended Order, have not had this effect (ER 7.21). He considers that the additional requirement concerning a Community Liaison Committee, the modification of Article 15(1), and the other modifications which he has decided should be included in the Order would also not have this effect.

85. The Secretary of State notes that the recommended draft Order at Appendix 4 of the ExA report reflects a broad measure of agreement between the parties, particularly with the statutory bodies, and has been subject to considerable scrutiny and refinement, with the main issues identified in Section 7 of the ExA report (ER 7.22). He considers that the recommended draft Order, as amended including by the inclusion of a requirement for a Community Liaison Committee, provides the appropriate balance between the need to facilitate the development with the requirements necessary to mitigate potentially adverse consequences. He has therefore decided under section 114(1)(a) of the 2008 Act to make, with modifications, an Order for the proposals in the Application.

Representations received after the close of the Examination Phase

86. In addition to the correspondence with the Applicant referred to above in connection with the planning obligation, compulsory acquisition and the draft Order, and from the Environment Agency concerning dust emissions, the Secretary of State has also received three representations from Rosie Cooper MP, a representation from Councillors Neil S Furey and Jenny Patterson, and a number of representations from Skelmersdale residents. He considers that the representations from Rosie Cooper MP, Councillors Furey and Patterson, and members of the public do not raise new issues which need to be referred to parties before he proceeds to a decision, and that they do not cause him to take a different view of the matters before him.
87. A list of all the correspondence and representations received is set out in Annex B to this letter. Copies of these are available on request from the addresses at the foot of the first page of this letter. They are also available to view at:-

<http://infrastructure.planningportal.gov.uk/projects/north-west/whitemoss-landfill-western-extension/>

Secretary of State's Conclusions and Decision

88. For the reasons given in this statement of reasons, the Secretary of State considers that the harm to the Green Belt together with the limited other harm he has identified is clearly outweighed by the need for national hazardous waste infrastructure set out in the NPS, together with the other benefits of the project including its location, the use of existing infrastructure, and the benefits following restoration; and that as a result very special circumstances exist to justify making the Order.
89. The Secretary of State also considers that the requests for compulsory acquisition powers meet the tests in s122 and 123 of the 2008 Act, with a compelling case which is in the public interest for the land to be acquired compulsorily.
90. The Secretary of State has therefore decided to accept the ExA's recommendation at ER 8.12 to make the Order granting development consent on

the basis of the provisions set out in the draft Order proposed by the ExA (in Appendix 4 to the ER), subject to the modifications outlined in paragraph 91 below. He confirms that, in reaching this decision, he has had regard to the NPS, the local impact reports referred to in paragraph 11 above, and to all other matters which he considers are both important and relevant to his decision, including those policy and strategy documents other than the NPS identified by the ExA at ER 4.9 – 4.78, as required by section 104 of the 2008 Act. The Secretary of State confirms for the purposes of regulation 3(2) of the 2009 Regulations that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

Modifications to the Order

91. The Secretary of State has decided to make a number of minor modifications to the form of the recommended Order as set out in Appendix 4 of the ExA report. He has also decided to make a number of further modifications to the form of the recommended Order as set out below:

Article 15(1) of the Order has been modified so as to give a power to create and acquire the new rights described in Part 1 of the Book of Reference.

Schedule 1 to the Order has been modified so as to expressly include restoration of the land and aftercare within the authorised project described in that Schedule.

Requirement 28 has been modified so as to make it clear that the location of the fencing should be by reference to section 5 of the environmental statement.

A new requirement (35) has been included:

Community Liaison Committee:

1. The undertaker must

(a) submit terms of reference for a community liaison committee to the county planning authority no later than eight weeks prior to the first community liaison committee meeting taking place.

(b) convene the first meeting of the community liaison committee so as to take place on a date which is no earlier than six weeks and no later than four weeks prior to implementation of the authorised project.

(c) after the first meeting of the community liaison committee has taken place to convene meetings of the community liaison committee once every 12 months, unless otherwise agreed between the undertaker and the members of the community liaison committee, throughout the operation of the authorised project.

(d) provide all practical administrative and secretarial facilities which may be necessary to enable the community liaison committee to function effectively including the provision of a suitable local venue for every meeting and the production and keeping of minutes for every meeting (which shall be available to the public).

(e) appoint and ensure the regular attendance at the community liaison committee of an appropriate representative who shall participate fully in the activities of the community liaison committee.

2. The county planning authority will notify the undertaker of its approval to the terms of reference, or provide its comments on those terms of reference, within

14 days of receiving them. If no response is provided within 14 days then it will be deemed that the county planning authority has approved the terms of reference as submitted.

3. This requirement shall be of no effect during any period in which the Order shall be subject to any legal challenge.

4. In the event that no members of the public attend three consecutive community liaison committee meetings then this requirement shall cease to be of effect and the undertaker shall be released of its obligations under this requirement.

Challenge to Decision

92. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at Annex A to this letter.

Publicity for Decision

93. The Secretary of State's statement of reasons in respect of the Application is being published as required by section 116 of the 2008 Act and regulation 23 of the 2009 Regulations.

Yours faithfully

Lindsay Speed

Lindsay Speed

Authorised by Secretary of State to sign in that behalf

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, as amended by section 92 of the Criminal Justice and Courts Act 2015, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission, the Planning Inspectorate or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court by filing a claim form before the end of the period of six weeks beginning with the day after the Order is published. The White Moss Landfill Order 2015 as made is being published on the date of this letter on the Planning Inspectorate web-site at the following address:

<http://infrastructure.planningportal.gov.uk/projects/north-west/whitemoss-landfill-western-extension/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London WC2A 2LL (0207 947 6655).

ANNEX B**Representations received after the close of the Examination Phase**

Name	Date of letter
Nabarro LLP	8 December 2014, 13 and 28 April 2015
Mr and Mrs Birch	14 February and 20 March 2015
Joanne Homson	3 March 2015
Maciej Welzman	3 March 2015
Colin Hilton	4 March 2015
Lynda Hegarty	4 March 2015
Graham Walker	9 March 2015
Steve Molyneux – Environment Agency	13 March 2015
J B & APF Fillingham	16 March 2015
Christine Levitt	17 March 2015
Clare Luard	17 March 2015
Aliyun	18 March 2015
Benny Gamero	18 March 2015
Christine Halliwell	18 March 2015
Don Christian	18 March 2015
Jennifer Cross	18 March 2015
Karen Smith	18 March 2015
Kath and Norman Whalley	18 March 2015
Mike Haake	18 March 2015
Mike Jones	18 March 2015
Monica Rhead	18 March 2015
Mrs P Hughes	18 March 2015
Mrs Sylvia Fletcher	18 March 2015
Patricia Newbold	18 March 2015
Roy Samples	18 March 2015
Ruth & William Jones	18 March 2015
Sheila Hore	18 March 2015
Steven Whymet	18 March 2015
Rosie Cooper MP	19 and 22 March 2015
Ben Cleary	19 March 2015
David Carter	19 March 2015
James Wilson	19 March 2015
Mrs L Fletcher	19 March 2015
Paul Stanley	19 March 2015
R K Lawton	19 March 2015
Sarah Young	19 March 2015
Sonia Kilshaw	19 March 2015
Stanelaine	19 March 2015
Steve and Shirley Myers	19 March 2015
Brenda Lowe	20 March 2015
David A Rimmer	20 March 2015
Derek and Marie Riley	20 March 2015
Elizabeth Cleary	20 March 2015
Judith Alexander	20 March 2015
Juliet Brotheridge	20 March 2015
Kathryn Carr	20 March 2015
Louise Quirk	20 March 2015
Marie Doit	20 March 2015

Natalie Quirk	20 March 2015
Roger Clayton	20 March 2015
Susan Quirk	20 March 2015
Tracy Brier	20 March 2015
Angela Birchall	21 March 2015
Gillian and Michael Sinnott	21 March 2015
Joanne Wilde	21 March 2015
Terry Welsh	21 March 2015
Arthur Cranshaw	22 March 2015
Mike Litherland	22 March 2015
Councillors Neil S Furey & Jenny Patterson	23 March 2015
Ben Wainwright	23 March 2015
Mrs Elizabeth-Anne Broad	23 March 2015
Vincent Lucker	23 March 2015
C & P Gornod	24 March 2015
Diana Ingrey	24 March 2015
Linda Webster	24 March 2015
Dave Gee	25 March 2015
David Forfar	25 March 2015
Elizabeth Broad - Lathom South Parish Council	25 March 2015
George Wensely	25 March 2015
Laura Steele	25 March 2015
Paul Dickie	25 March 2015
David & Jeanette Warren	26 March 2015
David W Cheetham	26 March 2015
Jackie Smith	27 March 2015
Gaynar and John Owen	27 March 2015
Chris Forsyth	28 March 2015
Heather Cowley	28 March 2015
Anne and Peter Ferguson	29 March 2015
Julie and Geoff King	29 March 2015
Roy Harrison	29 March 2015
Christine McBrinn	30 March 2015
Jamie-Leigh Stevens	30 March 2015
Matthew Porter	30 March 2015
Sarah Michelle Carr	30 March 2015
Terrence Lee	30 March 2015
Edith Tinsley	31 March 2015
Julie Gibson	6 April 2015
Pauline and Alan Wilson	11 April 2015
Christopher Castley - MenuBoy Ltd	4 May 2015
Del Ellis, Nicola Escott, and Claire Robinson - Arrow	14 May 2015
B Johnson	undated
J Carter	undated
J Tunstall	undated
Mrs S Woodthorpe	undated
N Hillow	undated