

STATEMENT OF CASE

PREPARED ON BEHALF OF IRONSTONE ENERGY LIMITED

APPEAL AGAINST REFUSAL BY SOUTH KESTEVEN DISTRICT COUNCIL FOR:

**PLANNING APPLICATION – ERECTION OF AN ANAEROBIC DIGESTION (AD) FACILITY AND
CARBON CAPTURE, IMPROVEMENT OF EXISTING AND PART CREATION OF NEW ACCESS
TRACK, LANDSCAPING AND OTHER ASSOCIATED INFRASTRUCTURE**

LAND EAST OF SEWSTERN INDUSTRIAL ESTATE SOUTH OF SEWSTERN ROAD

Local Planning Authority reference: S24/0568

DLA Piper Reference: TCI/ACT/11014488/2

In this statement AB[X] is a reference to a document contained in the Appeal Bundle.

1. INTRODUCTION

- 1.1 This Statement of Case has been prepared by DLA Piper (UK) LLP on behalf of Ironstone Energy Limited ("**Appellant**").
- 1.2 This Appeal is made under section 78 Town and County Planning Act 1990 against the refusal of planning permission by South Kesteven District Council ("**Council**") in respect of a planning application with reference number S24/0568 ("**Application**") in respect of land east of Sewstern Industrial Estate south of Sewstern Road ("**Site**").
- 1.3 The Council's decision notice dated 13 February 2025 ("**Decision Notice**") is reproduced at AB A2.
- 1.4 The Application was refused for the following reason:

"1 The proposal, including the required upgraded access route, would result in a large-scale, industrial development which is considered to be an inappropriate form of development in this countryside location. The large scale and industrial nature of the development proposal would result in an adverse impact on the landscape setting and character of the area, which would be reduced, but not fully mitigated by the proposed landscaping and planting scheme resulting in harm to the rural landscape of the Kesteven Uplands.

"The proposal would additionally negatively impact on neighbouring villages and residents through disturbance from the generation of additional traffic movements on local roads. There is particular concern with increased numbers of HGV movements on minor rural roads, including through the neighbouring villages, that are used by vulnerable road users such as walkers, cyclists, horse riders and children. The mitigation of the site access road does not remove the concern regarding the increase in HGV movements through neighbouring villages, and the application does not suitably take into account or address the negative impacts from the development on the transport network or amenity of neighbouring communities

"It is acknowledged that the generation of renewable energy would be a significant benefit provided by the scheme, however, it is not considered to outweigh the harm from the development in terms of impact on landscape, character and appearance of the area, and the amenity of neighbouring residents. The development is therefore contrary to Local Plan Policy E7, EN1, EN4, DE1 and RE1, and paragraph 135 of the NPPF."

- 1.5 Clarification of the reason for refusal was requested from the Council whose officer, Phil Jordan, responded by email on 14 March 2025 to advise as follows:
- 1) *The second paragraph of the reason for refusal is solely concerned with the number of HGV movements associated with the proposed development.*
 - 2) *The concerns of the Council are not limited to highway safety impacts and extend to the impact of the increased traffic on the amenity of local residents and communities, as stated in the reason for refusal.*

2. PROPOSAL

- 2.1 The Application¹ is a full application for the erection of an anaerobic digestion facility ("**AD**") and carbon capture. The precise description of development is:

¹ AB A1

"Erection of an anaerobic digestion (AD) facility and carbon capture, improvement of existing and part creation of new access track, landscaping and other associated infrastructure"

("Development").

2.2 The documents set out in the tables below have been submitted as part of the Application. These documents represent the documents currently before the Council and form part of this Appeal.

| PLANNING APPLICATION DOCUMENTATION | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|---------------------------------|---------------------|---------------|--------------------------------|
| Application Form | Heatons | PP-12895213 | 28/03/2024 | A1 |
| Council's Decision Notice | Council | S24/0568 | 13/02/2025 | A2 |
| Statement of Community Involvement | Heatons | - | March 2024 | A3 |
| Planning and Environmental Statement ("ES") chapters 1 to 5 " Planning Statement ") | Heatons | IEL-001-EN | 28 March 2024 | A4 |
| Design and Access Statement | Heatons | - | March 2024 | A5 |
| Transport ES Chapter 6 | Heatons | IEL-001-EN | - | A6 |
| Transport Statement (ES Technical Appendix A) | Northern Transport Planning Ltd | jgv/21030/TS/v1 | March 2024 | A7 |
| Hydrology (ES Chapter 9) | Heatons | - | - | A8 |
| Flood Risk Assessment and Surface Water Drainage Strategy Part 1 (ES Technical Appendix C) | Plandescil Consulting Engineers | Revision A | February 2024 | A9 |
| Flood Risk Assessment and Surface Water Drainage Strategy Part 2 (ES Technical Appendix C) | Plandescil Consulting Engineers | Revision A | February 2024 | A10 |
| Flood Risk Assessment and Surface Water Drainage Strategy Part 3 (ES Technical Appendix C) | Plandescil Consulting Engineers | Revision A | February 2024 | A11 |

| PLANNING APPLICATION DOCUMENTATION | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|-------------------------------------|---------------------|------------------|--------------------------------|
| Noise (ES Chapter 7) | Heatons | - | - | A12 |
| Noise Assessment (ES Technical Appendix B) | Sharps Redmore | - | 27 March 2024 | A13 |
| Air Quality and Odour Environmental Impact Assessment (ES Chapter 8) | Redmore Environmental | 6863r2 | 28 March 2024 | A14 |
| Landscape (ES Chapter 10) | Heatons | - | - | A15 |
| Landscape and Visual Impact Assessment (ES Technical Appendix D) | Broom Lynne | - | March 2024 | A16 |
| Ecology (ES Chapter 11) | Heatons | - | - | A17 |
| Preliminary Ecological Appraisal (ES Technical Appendix E) | Heatons | - | March 2024 | A18 |
| DEFRA Biodiversity Net Gain Report (ES Technical Appendix F) | Heatons | - | March 2024 | A19 |
| Heritage (ES Chapter 12) | Heatons | - | - | A20 |
| Written Scheme of Investigation for Geophysical Survey | APS Archaeological Project Services | V1 | April 2024 | A21 |
| Geophysical Survey | APS Archaeological Project Services | V1 | August 2024 | A22 |
| Soils and Agricultural Land Classification Report (ES Chapter 13) | Heatons | - | - | A23 |
| Agricultural Land Quality report (ES Technical Appendix G) | Land Research Associates Limited | 2224/2 | 11 March 2024 | A24 |
| Minerals Resource Assessment | Heatons | - | March 2024 | A25 |
| Ground Condition Report | A F Howland Associates | BJH/23.104/Rev011 | 27 February 2024 | A26 |

| PLANNING APPLICATION DOCUMENTATION | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|---|------------------|--|---------------|--------------------------------|
| ES Non-Technical Summary | Heatons | IEL-001-En | 27 March 2024 | A27 |
| Carbon Balance | Future Biogas | S24/0568 | | A28 |
| Arboricultural Planning Statement Part 1 | RSK ADAS Limited | 105593_Future Biogas (Anaerobic Digester Plant, Gunby)_APS | June 2024 | A29 |
| Arboricultural Planning Statement Part 2 | RSK ADAS Limited | 105593_Future Biogas (Anaerobic Digester Plant, Gunby)_APS | June 2024 | A30 |
| Arboricultural Planning Statement Part 3 | RSK ADAS Limited | 105593_Future Biogas (Anaerobic Digester Plant, Gunby)_APS | June 2024 | A31 |

| LIST OF PLANS AND DRAWINGS | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|-----------------------|---------------------|---------------|--------------------------------|
| Site Location Plan | Planning Design Civil | 27729/150 Rev B | May 2023 | B1 |
| Proposed Site Sections | Planning Design Civil | 27729/120 Rev G | February 2022 | B2 |
| Proposed Plant Elevations Sheet 1 of 3 | Planning Design Civil | 27729/050 Rev E | February 2022 | B3 |
| Proposed Plant Elevations Sheet 2 of 3 | Planning Design Civil | 27729/051 Rev D | February 2022 | B4 |
| Proposed Plant Elevations Sheet 3 of 3 | Planning Design Civil | 27729/052 Rev A | October 2023 | B5 |
| Proposed Site Layout (Planning 2024) Sketch Plan | Planning Design Civil | 27729/SK10 Rev H | January 2024 | B6 |
| Proposed Highway Access Boundary Sketch | Planning Design Civil | 27729/SK15 Rev A | February 2024 | B7 |
| Site Access Road Location Plan | Planning Design Civil | 27729/600 Rev D | October 2023 | B8 |
| Site Access Road Sheet 1 | Planning Design Civil | 27729/601 Rev C | October 2023 | B9 |

| LIST OF PLANS AND DRAWINGS | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|-----------------------|---------------------|----------------|--------------------------------|
| Site Access Road Sheet 2 | Planning Design Civil | 27729/602 Rev C | October 2023 | B10 |
| Site Access Road Sheet 3 | Planning Design Civil | 27729/603 Rev B | October 2023 | B11 |
| Site Access Road Sheet 4 | Planning Design Civil | 27729/604 Rev C | October 2023 | B12 |
| Site Access Road Sheet 5 | Planning Design Civil | 27729/605 Rev C | October 2023 | B13 |
| Site Access Road Sheet 6 | Planning Design Civil | 27729/606 Rev D | October 2023 | B14 |
| Site Access Road Sheet 7 | Planning Design Civil | 27729/607 Rev C | October 2023 | B15 |
| Site Access Road Sheet 8 | Planning Design Civil | 27729/608 Rev C | October 2023 | B16 |
| Site Access Road Visibility Clearance Plan | Planning Design Civil | 27729/613 Rev C | October 2023 | B17 |
| Site Access Road Clearance Plan Sheet 1 | Planning Design Civil | 27729/614 Rev A | October 2023 | B18 |
| Site Access Road Clearance Plan Sheet 2 | Planning Design Civil | 27729/615 Rev A | October 2023 | B19 |
| Site Access Road Clearance Plan Sheet 3 | Planning Design Civil | 27729/616 Rev A | October 2023 | B20 |
| Site Access Road Clearance Plan Sheet 4 | Planning Design Civil | 27729/617 Rev A | October 2023 | B21 |
| Site Access Road Clearance Plan Sheet 5 | Planning Design Civil | 27729/618 Rev A | October 2023 | B22 |
| Site Access Road Clearance Plan Sheet 6 | Planning Design Civil | 27729/619 Rev A | October 2023 | B23 |
| Junction Line and Sign Works | Planning Design Civil | 27729/620 Rev B | May 2024 | B24 |
| Topographical Survey Drawing 1 of 7 | Planning Design Civil | 27729/1000 Rev A | September 2023 | B25 |
| Topographical Survey Drawing 2 of 7 | Planning Design Civil | 27729/1001 Rev A | September 2023 | B26 |

| LIST OF PLANS AND DRAWINGS | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|-------------------------------------|-----------------------|---------------------|----------------|--------------------------------|
| Topographical Survey Drawing 3 of 7 | Planning Design Civil | 27729/1002 Rev A | September 2023 | B27 |
| Topographical Survey Drawing 4 of 7 | Planning Design Civil | 27729/1003 Rev A | September 2023 | B28 |
| Topographical Survey Drawing 5 of 7 | Planning Design Civil | 27729/1004 Rev A | September 2023 | B29 |
| Topographical Survey Drawing 6 of 7 | Planning Design Civil | 27729/1005 Rev A | September 2023 | B30 |
| Topographical Survey Drawing 7 of 7 | Planning Design Civil | 27729/1006 Rev A | September 2023 | B31 |
| Proposed Drainage Plan | Planning Design Civil | 27729-805 Rev C | September 2023 | B32 |

2.3 The following documents have been prepared in connection with this Appeal and were not before the Council during the determination of the Application.

| DOCUMENT | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|--|---------------------|-------------|--------------------------------|
| Fire hydrant connection specification | Balmoral Tanks Ltd. | CT-831.idw | 10.01.2023 | C1 |
| Gas Pipe Indicative Location | Planning Design Civil | 27729/154 Rev.0 | April 2024 | C2 |
| Draft section 106 Planning Obligation | DLA Piper | - | - | C3 |
| Create Transport Assessment (Volume 1) | Create Consulting Engineers (Create) Limited | JPC/VL/P25-3541/01 | July 2025 | C4 |
| Create Transport Assessment (Volume 2) | Create Consulting Engineers (Create) Limited | JPC/VL/P25-3541/01 | July 2025 | C5 |
| Create Transport Assessment (Volume 3) | Create Consulting Engineers (Create) Limited | JPC/VL/P25-3541/01 | July 2025 | C6 |
| Create Air Quality Assessment | Create Consulting Engineers (Create) Limited | TR/VL/P25-3541/03 | July 2025 | C7 |

| | | | | |
|---|--|--------------------|-------------|-----|
| Create Acoustic Report | Create Consulting Engineers (Create) Limited | MT/VL/P25-3541/02 | July 2025 | C8 |
| Create ES Chapter – Offsite Traffic, Air Quality, Noise | Create Consulting Engineers (Create) Limited | JPC/CS/P25-3541/04 | July 2025 | C9 |
| Landscape and Visual Impact Assessment Addendum | Luke Broom-Lynne | - | August 2025 | C10 |
| Draft Statement of Common Ground | DLA | TCI/ACT/11014488/2 | - | C11 |

2.4 The following documents are referenced in this Statement of Case and are relevant to the determination of this Appeal.

| OTHER DOCUMENTS | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|---|--|---------------------|------------------|--------------------------------|
| Planning Officer's Report to the Council's Planning Committee (" Committee Report ") | Venezia Ross-Gilmore, Council | S24/0568 | 9 January 2025 | D1 |
| Transcript | - | S24/0568 | 23 January 2025 | D2 |
| Letter Philipp Lukas, Future Biogas to Venezia Ross-Gilmore (" 3 September GHG Letter ") | Philipp Lukas | S24/0568 | 3 September 2024 | D3 |
| DLA letter | DLA Piper | HJ/HJ/11014488/1 | 5 September 2024 | D4 |
| DLA letter regarding Decision notice | DLA Piper | - | 10 March 2025 | D5 |
| Response from Phil Jordan to DLA's 10 March 2025 letter | Phil Jordan, Council | - | 14 March 2025 | D6 |
| Letter from Natural England | Ryan Davies, Consultations Team, Natural England | 475504 | 10 May 2024 | D7 |
| Letter Sam Salt, Heatons to Venezia Ross-Gilmore (" 3 ") | Sam Salt | IEL-001-En | 3 September 2024 | D8 |

| OTHER DOCUMENTS | AUTHOR | DOCUMENT REF | DATE | APPEAL BUNDLE REFERENCE |
|--|--|------------------------|------------------|--------------------------------|
| September Response Letter") | | | | |
| Letter from Heatons regarding White Clawed Crayfish (" Ecology Letter ") | Nigel Gould, Heatons | IEL-003-En | 6 August 2025 | D9 |
| South Kesteven District Council Local Plan (2011-2036) | South Kesteven District Council | - | January 2020 | D10 |
| Lincolnshire Minerals and Waste Local Plan - Core Strategy and Development Management Policies DPD June 2016 | Lincolnshire County Council | - | June 2016 | D11 |
| South Kesteven District Council Climate Action Strategy | South Kesteven District Council | - | October 2023 | D12 |
| Colsterworth and District Neighbourhood Plan (2016-2026) | Colsterworth and District Parish Council | - | May 2016 | D13 |
| South Kesteven District Council Local Plan (2011-2036) Renewable Energy Appendix 3 (" REA ") | South Kesteven District Council | - | January 2020 | D14 |
| South Kesteven Landscape Character Assessment | South Kesteven District Council | - | January 2007 | D15 |
| Appeal Decision | The Planning Inspectorate | APP/E2530/W/24/3337544 | 9 April 2024 | D16 |
| In R (oao Cummins) v LB Camden [2001] EWHC 1116 (Admin) | - | CO/2003/2001 | 21 December 2001 | D17 |

3. THE SITE AND LOCATION

A detailed description of the Site and its surroundings is set out at section 2.1 of the Planning Statement.²

² AB A4

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history is set out in section 2.2 of the Planning Statement submitted with the Application.³
- 4.2 There is no planning application history associated with the Site.

³ AB A4

5. PLANNING POLICY CONTEXT

Development Plan

5.1 The development plan for the area comprises:

- a) South Kesteven District Council Local Plan (2011-2036)⁴ ("**Local Plan**") (January 2020);
- b) Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies DPD (June 2016)⁵ ("**M&W Core Strategy**"); and
- c) Colsterworth and District Neighbourhood Plan (2016-2026)⁶ ("**Neighbourhood Plan**").

5.2 Whilst the M&W Core Strategy includes policies which relate to anaerobic digestion, this is in relation to the anaerobic digestion of waste and therefore are not applicable to the Development which will use purpose grown crops for fuel.

5.3 Copies of the relevant policies are included at: AB D10, D11 and D13.

5.4 Policies within each of these documents, which fall to be considered as part of this Appeal, are summarised below.

Local Plan

5.5 The Local Plan contains several development management policies relevant to the Appeal.

5.6 **Policy RE1 – Renewable Energy Generation** will be supported as long as it:

- a) meets the detailed criteria which is set out in Appendix 3 to the Local Plan;⁷
- b) doesn't negatively impact the agricultural land assets within the Council's administrative area;
- c) can demonstrate support of local affected communities;
- d) includes details for transmission of power produced (and details for removal of apparatus when power production ceases); and
- e) complies with other relevant policies.

5.7 **Policy SD1 – The Principles of Sustainable Development in South Kesteven** expects development proposals to minimise the impact on climate change and contribute towards creating a strong, stable and more diverse economy.

5.8 **Policy SP1 – Spatial Strategy** seeks to deliver sustainable growth across the Council's administrative area and includes allocations for such development. It seeks to protect the best and most versatile agricultural land so as to protect opportunities for food production and the continuance of the agricultural economy.

⁴ AB D10

⁵ AB D11

⁶ AB D13

⁷ See paragraph 5.21 below

- 5.9 **Policy SP2 – Settlement Hierarchy** seeks to focus growth into existing subregional centres and other villages
- 5.10 **Policy SP5 – Development in the Open Countryside** seeks to limit such development to that which has an essential need to be located outside the existing built form of a settlement, including rural diversification projects.
- 5.11 **Policy E7 – Rural Economy** seeks to ensure scale design and construction of new buildings are appropriate to their rural setting and fully justified by the business proposal and that they are for an appropriate use, respect the character and appearance of the local landscape, as well as not negatively impacting on neighbouring uses through noise, traffic, light and pollution impacts.
- 5.12 **Policy EN1 – Landscape Character** seeks to ensure that development is appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration. It requires the consideration of relevant landscape character appraisals.
- 5.13 **Policy EN2 Protecting Biodiversity and Geodiversity** seeks to facilitate the conservation, enhancement and promotion of biodiversity and geological interest of the natural environment within the Council's administrative area, seeking to deliver a net gain on all proposals.
- 5.14 **Policy EN3 – Green Infrastructure** seeks to maintain and improve a green infrastructure network in the District, ensuring green infrastructure is integrated into scheme design and opportunities are taken to enrich biodiversity habitats.
- 5.15 **Policy EN4 – Pollution Control** seeks to minimise pollution and contribute to the protection and improvement of air, land and water quality. If the development would result in significant environmental pollution or harm to amenity, health, well-being or safety it would not be permitted. Any potential adverse effects would need to be mitigated.
- 5.16 **Policy EN5 – Water Environment and Flood Risk Management** requires development to be located in lowest areas of flood risk or for a sequential approach to be applied followed by an exception test, where necessary. Flood Risk Assessments are required for development in flood zones 2 and 3 and for sites greater than 1 hectare. Development must also avoid increasing flood risk elsewhere. The policy seeks to secure the effective management of surface water through the use of Sustainable Drainage Systems.
- 5.17 **Policy EN6 – The Historic Environment** seeks to protect and enhance heritage assets and their settings.
- 5.18 **Policy DE1 – Promoting Good Quality Design** seeks to make a positive contribution to the local distinctiveness, vernacular and character of the area, and ensure there is no adverse impact on the amenity of neighbouring users.
- 5.19 **Policy ID1 – Infrastructure for Growth** expects development proposals to demonstrate there is sufficient infrastructure capacity to support and meet the requirements of the development.
- 5.20 **Policy ID2 – Transport and Strategic Transport Infrastructure** seeks to promote an efficient and safe transport network, and for new developments to demonstrate they have applied various principles including reducing travel demand and to not severely impact on the safety and movement of traffic on the highway network (or if there are such impacts that they can be mitigated appropriately).

Appendix 3

- 5.21 Policy RE1 of the Local Plan refers to its Appendix 3 which is entitled the Renewable Energy Appendix ("**REA**"). Amongst other things, it details 7 criteria to be applied in the determination of planning applications for anaerobic digestion (which is referred to in the document as "*biomass*"). These criteria are summarised later in section 6 (Compliance with the Development Plan).

M&W Core Strategy

- 5.22 **Policy M11 – Safeguarding of Mineral Resources** provides that applications for development within a Safeguarding Area will be granted provided that it will not sterilise mineral resources within the designated minerals safeguarding areas or prevent future mineral extraction on neighbouring land. Planning permission will be granted where incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed.

Neighbourhood Plan

- 5.23 **Policy 4 – Open Countryside** restricts development within the neighbourhood area outside built up areas. Criteria are provided for the support of development in the open countryside including where it contributes to rural diversification and where it preserves and enhances specified features including landscape character and quality, sites of ecological value and the intrinsic character and appearance of the area in terms of its historic and vernacular built form.
- 5.24 **Policy 5 – Important views and vistas** only supports development where there are no adverse impacts on important views or vistas. It designates 10 important views.
- 5.25 **Policy 6 – Trees and Hedgerows** directs that mature trees, woodland and important hedgerows should be protected wherever possible.
- 5.26 **Policy 9 – Environmental Quality** supports proposals for development which incorporate design features to minimise emission of air pollutants, noise, light pollution, waste generation, flood risk and the fragmentation of habitats.
- 5.27 **Policy 15 – Traffic management** supports proposals for development which incorporate various traffic management measures including those that improve road safety, reduce traffic speed, enable or help traffic calming, ensure vehicular traffic keeps to appropriate routes

Other Relevant Planning Policy and Guidance

National Planning Policy Framework

- 5.28 The National Planning Policy Framework ("**NPPF**") (February 2025) is a material consideration in planning decisions. It should be noted that the Application was prepared on the basis of the previous iteration (December 2023) of the NPPF and the committee was also held before the update to the NPPF. References are updated in this Statement of Case to the current version of the NPPF for the purposes of the Appeal and may differ from those referred to in the Application (those differences are highlighted).
- 5.29 Paragraph 8 of the NPPF sets out the three dimensions of sustainable development: economic, social and environmental. Paragraph 10 sets out the presumption in favour of sustainable development and Paragraph 11(c) confirms that for decision-taking this means "*approving development proposals that accord with an up-to-date development plan without delay*".
- 5.30 Paragraph 56⁸ highlights the importance of considering the imposition, where necessary, of planning conditions or obligations and states that the latter should only be used where the former are insufficient.
- 5.31 Paragraph 57⁹ stresses that the use of planning conditions should be minimised, and that conditions should only be imposed where they are:

⁸ Paragraph 55 in December 2023 NPPF

⁹ Paragraph 6 in December 2023 NPPF

- a) necessary;
- b) relevant to planning and to the development; and
- c) enforceable, precise and reasonable in all other respects,

The paragraph also notes that pre-commencement conditions should be avoided unless there is a clear justification for their imposition.

5.32 Paragraph 58¹⁰ lists the three criteria that planning obligations must meet:

- a) they must be necessary to make the development acceptable in planning terms;
- b) they must be directly related to the development; and
- c) they must be fairly and reasonably related in scale and kind to the development.

5.33 Paragraph 109¹¹ highlights the need to consider transport issues early in development proposals to: (a) make transport considerations an important part of early engagement with local communities¹²; (b) ensure patterns of movement, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places; (c) understand and address potential impacts of development on transport networks; (d) realise opportunities from existing or proposed transport infrastructure, and change transport technology and usage; (e) identify and pursue opportunities to promote walking, cycling and public transport use; (f) identify, assess and take into account the environmental impacts of traffic and transport infrastructure.

5.34 Paragraph 116¹³ states that highways grounds should prevent development only if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe taking into account all reasonable future scenarios.

5.35 Paragraph 125¹⁴ provides that planning policies and decisions should encourage multiple benefits from both urban and rural land including taking opportunities to achieve net environmental gains such as enabling new habitat creation, recognise that some undeveloped land can perform many functions, such as for wildlife, flood risk mitigation, carbon storage or food production.

5.36 Paragraph 135 sets out a number of criteria for developments in relation to design as follows: proposals should (a) function well and add to the overall quality of the area; (b) be visually attractive as a result of good architecture, lay-out and landscaping; (c) be sympathetic to local character and history (without preventing appropriate innovation or change); (d) establish or maintain a strong sense of place; (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and (f) create places that are safe, inclusive and accessible.

¹⁰ Paragraph 57 in December 2023 NPPF

¹¹ Paragraph 108 in December 2023 NPPF

¹² Inserted into 2025 edition of NPPF

¹³ Paragraph 115 in December 2023 NPPF

¹⁴ Paragraph 124 in December 2023 NPPF

- 5.37 Paragraph 161¹⁵ states that the planning system should support the transition to a net zero by 2050, taking full account of climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help shape places in ways that contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure.
- 5.38 Paragraph 168¹⁶ states that applicants shouldn't be required to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.
- 5.39 Paragraph 181¹⁷ states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that, where appropriate, applications should be supported by a site-specific flood-risk assessment.
- 5.40 Paragraph 187¹⁸ outlines that decisions should contribute to and enhance the natural and local environment, including by protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, minimising impacts on and providing net gains for biodiversity. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
- 5.41 Paragraph 193(d)¹⁹ sets out that opportunities to improve "*biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity*".
- 5.42 Paragraph 207²⁰ states that local planning authorities should require an applicant to describe the significance of any heritage assets affected by the development including any contribution made by their setting.
- 5.43 Paragraph 212²¹ sets out that when considering the impact of a proposed development on a designated heritage asset great weight should be given to the asset's conservation (irrespective of how substantial any harm caused is).
- 5.44 Section 16 of the NPPF sets out a further framework as to the assessment of harm on designated and non-designated heritage assets and the decision making in these cases.

National Policy Statement for Energy (EN-1) (November 2023) (last updated 17 January 2024)

- 5.45 The National Policy Statement for Energy (EN-1) sets out its role in the planning system and at paragraph 1.2.1 states that EN-1 may be a material consideration in the determination of an application pursuant to the Town and Country Planning Act 1990. The Policy Statement is primarily a tool for decision making by the Secretary of State for consents pursuant to the Planning Act 2008 and the extent to which they are relevant as a material

¹⁵ Paragraph 157 in December 2023 NPPF

¹⁶ Paragraph 163 in December 2023 NPPF

¹⁷ Paragraph 173 in December 2023 NPPF

¹⁸ Paragraph 180 in December 2023 NPPF

¹⁹ Paragraph 186(d) in December 2023 NPPF

²⁰ Paragraph 200 in December 2023 NPPF

²¹ Paragraph 205 in December 2023 NPPF

consideration in other decisions depends on the extent to which matters are already covered by applicable planning policy (paragraph 1.2.2 of EN-1).

- 5.46 EN-1 makes it clear at paragraph 2.2 that the net zero greenhouse gases ("**GHG**") emissions target is to be achieved by 2050 (as introduced through the Climate Change Act 2008 (2050 Target Amendment) Order 2019). There are also interim targets of reducing GHG from 1990 levels by at least 68% by 2030 and by 78% by 2035. To meet these targets, a step change is required in the decarbonisation of the UK's energy system. The NPS clarifies at paragraph 4.2.4 that low carbon infrastructure for electricity generation is that which does not involve fossil fuel combustion and includes anaerobic digestion.

National Policy Statement for Renewable Energy (EN-3) (November 2023) (last updated 17 January 2024)

- 5.47 EN-3 is a technology specific NPS which may be a material consideration in the determination of applications for renewable energy, as set out in paragraph 1.2.1 and 1.2.2 of EN-1 as described in paragraph 5.45 above. EN-3 covers energy from biomass, providing guidance for those larger facilities which would be regarded as a nationally significant infrastructure project. Biomass is defined at paragraph 2.7.5 of EN-3 to include a broad range of material, including biomass from agricultural crops and residues including crops grown primarily for use in energy generation

National Planning Practice Guidance

- 5.48 In March 2014, the Government published the National Planning Practice Guidance ("**NPPG**") to supplement the overarching policy guidance contained within the NPPF, expanding upon several key policy areas.

- 5.49 The following sections of the NPPG are of relevance to the Development:

- a) air quality (ID: 32);
- b) biodiversity net gain (ID: 74);
- c) climate change (ID: 06);
- d) design: process and tools (ID: 26);
- e) flood risk and coastal change (ID: 7);
- f) historic environment (ID: 18a);
- g) light pollution (ID: 31);
- h) natural environment (ID: 8);
- i) noise (ID: 30);
- j) planning obligations (ID: 23b);
- k) renewable and low carbon energy (ID: 5);
- l) travel plans, transport assessments and statements (ID: 42); and
- m) use of planning conditions (ID: 21a).

6. COMPLIANCE WITH THE DEVELOPMENT PLAN

- 6.1 Section 38(6) Planning and Compulsory Purchase Act 2004 requires that, *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 It is the Appellant's case that the Development complies with the Development Plan.
- 6.3 The Decision Notice states that the Development is contrary to the following policies of the Local Plan:
- a) Policy E7;
 - b) Policy EN1;
 - c) Policy EN4;
 - d) Policy DE1;
 - e) Policy RE1.
- 6.4 It must therefore follow that the Council considers that the proposals comply with all other development plan policies.
- 6.5 The Committee Report²² concluded that the Application was in accordance with the adopted Development Plan when taken as a whole, albeit conflicts were identified in relation to the visual impact of the Development (policies EN1, DE1, REA criteria 1). Accordingly, it is only those policies with which the Council alleges conflict that are considered in this Statement of Case.

Policy E7 – Rural Economy

- 6.6 Policy E7 sets out when small business schemes in the rural economy can be supported. The Development is not a small business scheme and therefore this policy is not applicable. There is no conflict with the Development Plan.

Policy EN1 – Landscape Character

- 6.7 Policy EN1 requires development to be appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration, with reference to South Kesteven's Landscape Character Areas. It goes on to require the consideration of relevant landscape character appraisals (including those produced to inform the Local Plan and Neighbourhood Plan) when assessing the impact of proposed development on the landscape.
- 6.8 The LVIA has considered the relevant landscape areas as identified in the South Kesteven Landscape Character Assessment – which it identifies and describes at paragraphs 5.1 to 5.2 therein. It then goes on to consider the character areas in more detail at paragraphs 5.8 to 5.11 and the resulting landscape sensitivity, which assists in the landscape's capacity for change without significant effects on character. The landscape assessment performed at section 11 of the LVIA takes various key landscapes and features in turn and considers the likely effect of the Development on them in accordance with the policy. As confirmed in the LVIA Addendum, at paragraph 3.6, the Development would initially result in a partial change to the landscape characteristics of the designated landscape character area due to the presence of construction activity (including impact of movement, use of cranes and other construction-related activities) and then the introduction of a new built feature, although the landscape mitigation will reduce the impact of this change to minor adverse after around 5 years.
- 6.9 The policy does not require that the Development is fully mitigated to the extent that there is no effect on landscape or character, but that the Development must be appropriate to the character and significant natural,

²² AB D1

historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration. It is accepted that there would be a change to the open character of the local landscape as a result of the development, although new planting will add to green infrastructure which is already an important feature of the area, acting as a continuity of the existing woodland and hedgerow.

6.10 The Development has been thoroughly considered in the LVIA in the context of South Kesteven's Landscape Character Areas, amongst other information, at section 11, in accordance with Policy EN1. The Development is appropriate to the landscape character within which it will sit.

6.11 The Development complies with Policy EN1.

EN4 – Pollution control

6.12 Policy EN4 seeks to secure that development "*should seek to minimise pollution and where possible contribute to the protection and improvement of the quality of air, land and water.*" In order to achieve this the 6 following points are made (our numbering):

- a) *Development should be designed to improve air, land and water quality and promote environmental benefits.*
- b) *Development that, on its own, or cumulatively, would result in significant air, light, noise, land, water or other environmental pollution or harm to amenity, health wellbeing or safety will not be permitted*
- c) *Development will only be permitted if the potential adverse effects can be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.*
- d) *Development that would lead to deterioration or may compromise the ability of a water body or underlying groundwater to meet good status standards in the Anglian River Basin Management Plan will not be permitted.*
- e) *Where development is situated on a site with known or high likelihood of contamination, remediation strategies to manage this contamination will be required.*
- f) *Subject to the policies in this Plan, planning permission will be granted for development on land affected by contamination where it can be established by the proposed developer that the site can be safely and viably developed with no significant impact on either future users or on ground and surface waters.*

6.13 Limb a: The Development promotes environmental benefits by being not only carbon neutral but being carbon negative. An explanation of this is contained in the 3 September GHG Letter²³; in brief the AD Facility produces biomethane (an estimated 150GWh/yr), biogenic CO₂ and digestate, which all play a significant role in mitigating climate change by reducing greenhouse gas (GHG) emissions. They do this by displacing fossil fuels, synthetic fertilisers and capturing and sequestering CO₂ from the atmosphere, which results in a carbon-negative impact. It produces about 20,000 t/yr of liquified CO₂ which can then be permanently sequestered.

6.14 An improvement to land is also secured by the BNG areas provided on Site.

6.15 The quality of the air, land and water is not predicted to be adversely affected by the Development, indeed it is to be improved. Therefore, particularly when the carbon negative benefit and other benefits as identified at paragraph 6.13 above are considered, this limb of the policy is not only complied with, but the benefits gained weigh in favour of a grant of permission.

Limb b:

²³ AB D3

Air

- 6.16 The potential impacts of the operational phase of the Development have been assessed by Redmore Environmental. The Air Quality and Odour Environmental Impact Assessment²⁴ ("**Redmore Report**") reports the results of modelling and predicts that impacts would not be significant at any of the human and ecological receptors identified. Combustion plant emissions were assessed at receptor locations as follows:
- a) Nitrogen Dioxide: predicted to be negligible and classed as not significant at sensitive receptor locations identified (residential and industrial (paragraphs 6.3.5 to 6.3.12 of Redmore Report))
 - b) Sulphur Dioxide: predicted to be negligible and classed as not significant at all receptor locations identified (paragraphs 6.3.13 to 6.3.24 of Redmore Report) and not significant at ecological receptors (paragraphs 6.3.34 to 6.3.37 of Redmore Report)
 - c) Nitrogen oxides predicted to be not significant at ecological receptor locations (paragraphs 6.3.26 to 6.3.33 of Redmore Report)
 - d) Nitrogen deposition predicted to be not significant at ecological receptor locations (paragraphs 6.3.38 to 6.3.40 of Redmore Report)
 - e) Acid deposition predicted to be not significant at ecological receptor locations (paragraphs 6.3.41 to 6.3.43 of Redmore Report)
- 6.17 Following the production of the Redmore Report, further consideration has been made of the changes to transport caused by the Development (see paragraph 6.63 below), which has given rise to a further air quality assessment being undertaken in respect of the additional traffic emissions arising due to the Development; the Create Air Quality Assessment²⁵. Whilst the additional traffic was not at a level which would usually require this level of air quality assessment to be undertaken, it was considered beneficial to provide a further review in response to the concern from locals and reason for refusal. This concludes that the traffic emissions will have a negligible effect on existing receptors, having modelled predicted annual mean nitrogen dioxide, and PM₁₀ and PM_{2.5} concentrations at paragraphs 6.3 and 6.4. The combined effect of emissions from the plant, associated operational traffic and construction activities is predicted to be negligible with no significant change in pollutant concentrations at any sensitive receptor (see paragraph 6.5 of Create Air Quality Assessment).
- 6.18 The Development complies with limb b of EN4 in terms of air pollution.

Light

- 6.19 Light pollution is considered at section 7 of the LVIA. It highlights at paragraph 7.10 that light pollution mapping suggests that the Site is located in a small area of moderate light pollution, due to the nearby commercial estate and the settlement of Colsterworth, but adjacent to areas of much darker rural skies north-west and south-west. This means that care will need to be taken to ensure the Development does not add to the existing light spillage and 'night blight' (see LVIA paragraph 7.11). Details on lighting of the Development are proposed to be secured through a planning condition to ensure nuisance to neighbours and disturbance to wildlife is avoided. A planning condition in similar terms to condition 5 contained in the Committee Report would secure a detailed Lighting Assessment and Strategy in accordance with which the lighting shall be installed and operational prior to the operation of the Development and retained for the life of the Development. The Lighting Assessment and Strategy would set out a strategy and specification for the site including that:

²⁴ AB A14

²⁵ AB C7

- a) all access roads shall include a light layout plan with beam orientation, a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and measures to prevent light spillage);
- b) to be accompanied by an assessment of the impact of the proposed lighting strategy upon the landscape character of the area;
- c) to be accompanied by an assessment of the impact of lighting on species that use the area for foraging, roosting, nesting or travelling though the landscape and habitats on or adjacent to the Site; and
- d) assessments to be carried out in accordance with best practice guidance.

6.20 Therefore there is no conflict with limb b of EN4 in terms of light pollution.

Noise

6.21 Sharps Redmore have undertaken a noise assessment²⁶ ("**Noise Assessment**") for the Development. The findings are:

- a) In order to ensure that noise levels which are deemed unacceptable to the specified receptors do not arise, noise limits have been established for the plant (which would operate over a 24-hour period). The fixed plant equipment will then be designed to the noise criteria which has been established (see section 5 of the Noise Assessment and in particular paragraph 5.6), and these maximum levels will be secured by condition. The Noise Assessment concludes at paragraph 6.7 that the Development will not give rise to a significant adverse impact. This will eliminate potential adverse noise impacts in line with the requirements of Criterion 4.
- b) Consideration of the remainder (i.e. noise from sources other than the plant itself) of the on-site activity was undertaken (see paragraph 5.16 of Noise Assessment) and concluded that the impact associated with routine daytime on-site activity will be low.

6.22 In addition to the Noise Assessment, the Create Acoustic Report²⁷ has been undertaken in order to assess noise arising from additional traffic arising from the Development, which although not at a level which would usually raise a need for such level of noise assessment, it was considered such further assessment is warranted to ensure that concerns raised by locals and in the reasons for refusal are addressed. This has found minor to negligible impacts to noise sensitive receptors from traffic over the short and long term resulting from the noise, including during the construction phase (see paragraphs 8.3 to 8.6 of the Create Acoustic Report). Paragraph 8.4 explains that seasonal variations show a moderate short term impact and low long term impact to some noise sensitive receptors due to seasonal variations between harvest and non-harvest periods, although these are close to several working farms and therefore the impact to the receptors is likely to have been overestimated. The Site is also very close to an existing industrial estate and Brooks Bros Timber Yard which currently generate plant and related vehicle noise (see paragraph 3.7 of the Noise Assessment).

6.23 When considered including the mitigation proposed (including a condition securing noise levels through the design of the plant) it is clear that the Development will not have a significant adverse effect on surrounding sensitive properties in terms of noise (see paragraph 6.7 of the Noise Assessment and section 8 of the Acoustic Report). Therefore, there is no conflict with EN4 in terms of noise pollution.

Land

6.24 As concluded at paragraph 16.1.3 of the Planning Statement; "*overall, in terms of soil resources and agricultural land quality, the proposed development and operation would not have an unacceptable direct or indirect*

²⁶ AB A13

²⁷ AB C8

impacts on ... land". This conclusion is supported by the findings of AF Howland Associates as reported at section 5 of the Ground Investigation Report dated 27 February 2024²⁸.

Water

- 6.25 The surface water management to be applied at the Site is described at section 5.4 of the Flood Risk Assessment²⁹ ("**FRA**"). This system will minimise the risk of pollution to surface water and groundwater. The FRA also outlines how pollution control measures will be incorporated into the design of the surface water drainage system (in accordance with C753 The SuDS Manual, the Environment Agency's approach to groundwater protection and local guidance produced by the Lead Local Flood Authority) which will minimise the risk of pollution to ground or surface water at section 5.8. The FRA concludes at section 8 that "*to prevent pollution to surface waters, underlying geology and groundwater, an appropriate level of water treatment stages have been incorporated into the design*".
- 6.26 It is relevant to note that the Site is not located within a Groundwater Source Protection Zone, Surface Water or Groundwater Drinking Water Safeguard Zone (see page 11 of the FRA).
- 6.27 Therefore, there is no significant risk of water pollution, and acceptable mitigation measures have been included in the proposals to reduce any risk of such pollution.
- 6.28 There is no conflict with limbs b) and c) of EN4 in terms of water.

Other environmental pollution

- 6.29 No other environmental pollution has been identified.

Harm to amenity, health, well-being or safety

- 6.30 No harm to amenity, health, well-being or safety has been identified other than the harm to landscape character and visual landscape which has been covered elsewhere in this statement of case.
- 6.31 Conditions could be imposed, similar to those in the Committee Report, in order to ensure that amenity is protected during construction and operational phases. These would include the requirement for approval of further details of the development prior to it commencing, as well as an Odour Management Plan, Delivery Management Plan (including routing of delivery vehicles), Flood Emergency Plan, Construction Environmental Management Plan and an Operational Management Plan. Specific conditions could also be used governing levels and times of noise during construction and during subsequent operation of the Development, boundary treatments, SUDs works, landscape management plan and compliance with identified ecological measures.
- 6.32 In terms of an assessment of the cumulative impact of the Development with others on any of these identified points, cumulative impacts have been considered as relevant in the reports and the point is further considered and responded at pages 3 to 4 of the 3 September Response Letter³⁰, which found that the inclusion of two proposals suggested for the cumulative assessment would not be proportionate.

Policy EN4 - Conclusion

- 6.33 Therefore, the Appellant submits that the Development complies with EN4 since it does not contribute to significant air, light, noise, land, water or other pollution or harm to amenity, health well-being or safety. The policy requires that where possible the Development provides a contribution in terms of improving air, land and water quality; the design of the Development ensures it does not to cause pollution impacts in other areas and

²⁸ AB A26

²⁹ AB A9

³⁰ AB D8

use of appropriately conditions can ensure amenity is protected during construction and operational phases. It has been designed to provide environmental benefits by its carbon capture and provision of digestate as an alternative to artificial fertiliser, having a carbon-negative impact (as demonstrated by the 3 September GHG Letter).

6.34 There are no adverse effects from the Development at unacceptable levels and therefore the tests in limbs c and d of the policy are not triggered (if they were the Development should not be permitted). Limbs e to f of the Policy (not repeated here) are not applicable in this case.

6.35 Therefore, there is no conflict with Policy EN4, in fact the benefits given by way of its carbon negative impact, and improvements to land offered by the BNG provision weigh in favour of granting planning permission.

Policy DE1 – Promoting Good Quality Design

6.36 The policy sets out:

To ensure high quality design is achieved throughout the District, all development proposals will be expected to:

- a) Make a positive contribution to the local distinctiveness, vernacular and character of the area. Proposals should reinforce local identity and not have an adverse impact on the landscape character of the surrounding area. Proposals should be of an appropriate scale, density, massing, height and material, given the context of the area.*
- b) Ensure there is no adverse impact on the amenity of neighbouring uses in terms of noise, light pollution, loss of privacy and loss of light and have regard to features that minimise crime and the fear of crime.*
- c) Provide sufficient private amenity space, suitable to the type and amount of development proposed.*

Development proposals should seek to:

- d) Retain and incorporate important on-site features such as trees and hedgerows and incorporate, where possible, nature conservation and biodiversity enhancement into the development,*
- e) Provide well designed hard and soft landscaping*
- f) Effectively incorporate onsite infrastructure, such as flood mitigation systems or green infrastructure as appropriate.*

All major development³¹ must demonstrate compliance with:

- g) Neighbourhood Plan policies;*
- h) Manual for Streets guidance and relevant Lincolnshire County Council guidance*
- i) Village design statements, where approved by the Council*

6.37 The remainder of the requirements of this policy relate to residential development, which are irrelevant to the Development, or schemes to be selected for Design Review, which this Development has not been.

Limb a) of Policy DE1

³¹ The Development is major development as it is greater than 1ha.

- 6.38 The local character of the area is summarised by both the South Kesteven Landscape Character Assessment³² and the Colsterworth & District Landscape Character Assessment (at appendix 3 of the Colsterworth and District Neighbourhood Plan)³³. The Site sits in the Kesteven Uplands, where the locality is mainly agricultural with a high proportion of historic woodland, dispersed nucleated settlements mostly following river valleys and enclosed by hedgerows with hedgerow trees. This is described at section 5 of the LVIA, and a baseline described at section 6. As explained at paragraph 3.1 of the LVIA Addendum³⁴, the South Kesteven Landscape Character Assessment concedes (at paragraph 4.32 therein) that the strong landscape pattern including many woodlands could in places be beneficial in new development. This suggests an acceptance of development in some circumstances. Indeed, the Site is located with a woodland immediately to its west which means it is able to utilise existing aspects of the landscape to assist its assimilation into its surroundings. In addition to this, and the fact it fits within existing field boundaries so does not involve the loss of existing landscape features (representing an addition), it provides an opportunity through the proposed mitigation measures to add to existing planting, thereby reinforcing the landscape character and structure of the area.
- 6.39 It is acknowledged that the Development has a moderate adverse impact on the character of the area during the construction and early years of the Development, although as the mitigation of new planting and other existing hedgerows matures, the effect of the Development on the character of the area will reduce to minor adverse (see paragraph 3.6 of the LVIA Addendum)
- 6.40 It is also notable that the buildings have been designed to reflect features, textures and hues commonly in agricultural use (see paragraphs 13.4 and 13.8 of LVIA). Muted, recessive colours will be used, assisting the Development to sit well within its surrounding context.
- 6.41 Therefore, it is acknowledged that there is conflict with part of this limb of Policy DE1 in terms of the moderate adverse impact (which reduces to minor adverse impact as landscaping planting mitigation matures) on the landscape character of the surrounding area.

Limb b) of Policy DE1

- 6.42 The Acoustic Report concluded that noise levels from the Development from traffic generated by the Development would be negligible to minor in the construction phase and in the medium to long term (see paragraphs 8.7 and 8.9). There is a moderate short term impact and low long term impact to some noise sensitive receptors when seasonal variations are considered, but this area is located close to several working farms and, given the rural nature of the area, the significance of the impact is likely to have been overestimated. There is also some existing plant noise in the vicinity (see paragraph 3.7 of Noise Assessment). Planning conditions will be used to ensure that noise limits for the plant (for which design details are yet to be fixed) are below levels and assured to have low impact at existing nearby residential dwellings (for example those to the east of the site at Sewstern Road, Gunby) (see paragraphs 5.6 to 5.7 and 6.3 of the Noise Assessment). Paragraph 6.7 of the Noise Assessment and paragraph 8.10 of the Acoustic Report together conclude that there would be no significant adverse impact.
- 6.43 In terms of light, as described and referenced in more detail at paragraph 6.102, details of the Development's lighting will be secured by a planning condition to ensure adverse impacts on neighbours are avoided.
- 6.44 The Development will not cause any loss of privacy or light and raises no issues in relation to crime and fear of crime.
- 6.45 Therefore, it is submitted that this limb of Policy DE1 is complied with.

³² AB D15

³³ AB D13

³⁴ AB C10

Limb c) of Policy DE1

6.46 Provision of private amenity space is not relevant in the case of the Development.

Limb d) of Policy DE1

6.47 Existing planting along field boundaries of the Site, including trees and hedgerows, are to be retained and reinforced as described at paragraph 12.3 of the LVIA.

6.48 Biodiversity net gain will also be secured as part of the Development. Paragraph 12.3 of the LVIA describes how around 0.8 hectares within the Site will be established with grassland, native tree and shrubs.

6.49 Therefore, it is submitted that limb d) of Policy DE1 is complied with.

Limb e) of Policy DE1

6.50 The Development includes a lot of soft landscaping. Section 12 of the LVIA describes the landscaping scheme to be provided. It includes landscaping on-site and off-site planting on the Buckminster Estate. This is well designed to sit with the local landscape as described throughout the LVIA, for example at paragraph 11.9 which describes how the new planting will appear as a continuity of the existing woodland and hedgerow and add to green infrastructure.

6.51 Therefore, it is submitted that limb e) of Policy DE1 is complied with.

Limb f) of Policy DE1

6.52 The LVIA describes how onsite green infrastructure is effectively incorporated into the Development, as referenced in paragraph 6.76 below and including a BNG area located to the north of the site. The FRA³⁵ describes surface water drainage systems and dirty water drainage systems to be incorporated into the Site at paragraph 3.1.

6.53 The effective incorporation of this appropriate on-site infrastructure complies with limb f) of Policy DE1.

Limb g) of DE1 compliance with Neighbourhood Plan Policies

6.55 The Neighbourhood Plan contains Policy 4 – Open Countryside within which development is stated to be restricted other than in specified instances, one of which is where it contributes to rural diversification and there is an essential requirement for a rural location. The proposed use as an AD facility represents diversification of existing farmland and provides further diversification opportunities for local farms to grow energy crops for the AD Facility. It is therefore acceptable in accordance with the policy.

6.56 Policy 4 also states that development will be supported where it preserves and enhances:

1) landscape character and quality including individual features of value. No specific features of value have been identified which will be affected by the Development. In terms of general landscape character it is accepted that the Development will result in a partial change to the landscape character. This will be a moderate adverse impact during construction and when the Development is first operational, as a new feature will have been introduced into the landscape. However (as described at paragraph 3.6 of the LVIA Addendum), the level of impact will reduce as the extensive new planting and growth of existing hedgerow matures and increases in density which will soften the proposed scheme and assist it to blend into the backdrop of the woodland which the Site is adjacent to.

³⁵ AB A9

2) sites of ecological value; A Preliminary Ecological Appraisal³⁶ ("**PEA**") has been undertaken for the Development. In terms of compliance with limb 1 of Criterion 6, the PEA has considered the potential impacts of the Development on local, national and international designated sites which fall within 2km of the Site (see section 4.1 of the PEA). Paragraph 5.1.1 of the PEA concludes that "*due to the distance from the site and large expanses of arable land creating a buffer between the sites, an adverse impact to non-statutory designated sites is not anticipated*". The Site is identified to sit within the Cribbs Lodge Meadow SSSI impact risk zone, which can trigger a requirement for further consultation with Natural England; the letter from Natural England dated 10 May 2024³⁷ confirms that Natural England considers that the Development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

3) listed buildings, Scheduled Monuments and other sites of archaeological interest including ridge and furrow; Paragraphs 6.79 to 6.82 below demonstrate that there is no harm to heritage assets including the ridge and furrow.

4) the intrinsic character, beauty and tranquillity of the countryside: there is some harm to the character of the countryside as explained at point 1) above and paragraph 3.6 of the LVIA Addendum. However, policy 4 is neutral in that it expresses the cases in which development will be supported (not instances where development should be refused), and therefore this does not amount to a conflict with the Neighbourhood Plan.

5) the character and appearance of the area in terms of its historic and vernacular built form. There is little built form in the locality of the Site but what is there is mainly agricultural in nature. As explained at paragraph 13.8 of the LVIA, the buildings which form the Development have been designed to reflect features, textures and hues commonly in agricultural use (further design details will be approved pursuant to a condition). Paragraph 11.43 of the LVIA confirms that the Development would not impact upon any designated sites, the nearest listed buildings being over a kilometre away from the Site.

6.57 Policy 4 also provides that proposals for development should have regard to the Colsterworth and District Landscape Character Assessment. The LVIA assessed at the Development in the context of the landscape character assessment and the mitigation proposed (as described in section 12 of the LVIA) ensures that the Development is suitably sensitive to the character of the area.

6.58 Policy 5 states that developments will only be supported where there are no adverse impacts on important views or vistas. The LVIA Addendum confirms at paragraph 2.6 that none of the ten "important views and vistas" identified at policy 5 are considered to be affected by the Development.

6.59 Policy 6 requires that mature trees, woodland and hedgerows should be protected wherever possible. It is not proposed that any of these are lost.

6.60 Policy 7 states that Development will be supported provided:

- a) It preserves or enhances designated heritage assets and their settings: there is no significant adverse effect on heritage assets and their settings, see paragraphs 6.79 to 6.82 below.
- b) Its impact and contribution to local distinctiveness, character and sense of place is acceptable: the impact on local distinctiveness is referred to at paragraph 6.38 to and 6.41 above.
- c) It has regard to the Colsterworth and District Landscape Character Assessment: this point is dealt with at 6.57 above.

³⁶ AB A18

³⁷ AB D7

- d) It does not harm the setting of Woolsthorpe Manor or any significant views to or from the property: the Site is not located such that this would be an issue.

6.61 Policy 9 states that Development will be supported provided it incorporates design features that minimise:

- a) The emission of air pollutants: this element of the policy is complied with as provided at paragraph 6.16 to 6.17 above.
- b) Noise: this element of the policy is complied with as provided at paragraph 6.21 to 6.22 above.
- c) Light pollution: this element of the policy is complied with as provided at paragraphs 6.19 to 6.20 above
- d) Generation of waste: as described at paragraph 4.5.3 of the Planning Statement, the AD plant will consume crops with two by-products being produced: CO₂ and organic fertiliser: the carbon will be captured and the by-product fertiliser (digestate) will be used in agriculture to displace the use of artificial fertilisers.
- e) Flood risk, encourage efficient water and waste management systems and including sustainable drainage systems. This is explained at paragraph 6.25 above.
- f) The fragmentation of habitats and create green infrastructure networks that improve biodiversity: The on-site and off-site landscaping mitigation described at section 12 of the LVIA, including the on-site biodiversity area will add to green infrastructure networks and improve biodiversity.

6.62 Policy 15: states that, where appropriate, proposals for development will be supported where they incorporate traffic management measures aiming to provide various benefits including the improvement of road safety, and ensuring vehicular traffic keeps to appropriate routes.

6.63 The Create Transport Assessment³⁸ has been prepared to assist with this Appeal. Whilst the increase in traffic movements is not one which would usually require such scrutiny, it was considered that since amenity and safety issues arising from traffic and transport from the Development were identified by locals and in the reason for refusal, a further review was warranted. The Create Transport Assessment forecasts vehicle trips likely to be generated by the operation of the facility and routes which are likely to be used. This work has then enabled the impact upon traffic and highway safety to be considered, and the conclusions of this can be seen at section 9 of the Create Transport Assessment. Firstly, it is important to note that (as explained at paragraph 10.11 of the Create Transport Assessment) the only increase in HGV movements that would be caused by the Development is the HGV movements to and from the Hub Clamp/Store proposed to be located to the east of the A1 and the removal of the CO₂ which is generated on the Site. The movements represent a less than 5% increase over the current level of HGV movements in the area.

6.64 Secondly, as described in paragraph 9.2 therein, the Create Transport Assessment considered the routes for HGV access to the site and will direct all HGV movements to the B676 via the HGV access track. This is achieved by restricting the ability to turn into the Site from Gunby Road, and improving the site access, as explained in paragraphs 5.2 to 5.8 of the Create Transport Assessment. Securing this provides a safety benefit and a general improvement to amenity value to residents during harvest, as it means that the HGV movements within the villages of Sewstern and Gunby will be reduced. This is because some of the local fields will now be producing crops for the AD Plant and therefore traffic which would have existed on the local roads in any event will now be diverted. This diversion will improve highway safety in the villages during the harvest period (see paragraph 10.10 of the Create Transport Assessment).

6.65 In terms of securing the routes for traffic, a Construction Traffic Management Plan is proposed to be prepared, identifying routes to and from the site; penalties for failing to comply with these would be secured through the main construction contract (see paragraph 7.13 of the Create Transport Assessment). Similarly, a Sustainable

³⁸ AB C4 – C6

Travel Plan is proposed which will aim to limit the number of private car movements to and from the Site (section 8 of the Create Transport Assessment considers sustainable travel and measures to secure it including a plan).

- 6.66 The Appellant is also willing to improve an unsurfaced footpath between the site access and existing footway along the north of Gunby Road to the west, thereby providing a safe route for pedestrians wishing to access the Site and the adjoining industrial estate and Brooks Bros timber yard (see paragraph 9.3 of the Create Transport Assessment).
- 6.67 Therefore, there is no conflict with Neighbourhood Plan Policies.

Limb h) of DE1: Manual for streets guidance and relevant Lincolnshire County Council guidance

- 6.68 Manual for Streets guidance has been considered in relation to the Development, including the relevant part (relating to carriageway widths to accommodate various types of vehicles). The amendments which have been proposed to the Gunby Road Access and the access track as described at section 5 of the Create Transport Assessment work to ensure that the HGVs can safely access the Site, and the arrangements can operate within capacity. The Create Transport Assessment concludes on the increase in HGV movements in various local areas at section 10. At paragraph 10.11 it surmises that the only real increase in HGV movements caused by the Development is the movements to and from the Hub Clamp/Store which proposed to be located to the east of the A1, and the removal of CO₂ which is generated on the Site. These movements represent less than a 5% increase over the current level of HGV movements in the area; they are not a significant level of impact. In terms of construction traffic, paragraph 10.13 of the Create Transport Assessment concludes that worst case predictions only represent an 11% increase for both HGV and car movements, only for a limited time and considerably less for the majority of the construction period. There is no indication that the identified increases would have implications for highway capacity or road safety on the local highway network. Indeed, Lincolnshire County Council concluded the Development would not be expected to have an unacceptable impact upon highway safety or severe residual cumulative impact upon the local highway network (see Committee Report³⁹).
- 6.69 No other relevant Lincolnshire County Council guidance has been identified with which the Development needs to comply.
- 6.70 The Appellant submits that there is no conflict with policy DE1, notwithstanding the moderate adverse impact on landscape character, (reducing to minor after around year 5, as planting mitigation matures).

Policy RE1 – Renewable Energy Generation

- 6.71 Policy RE1 is a key policy for the determination of an application for an AD facility. It establishes that proposals for renewable energy generation will be supported subject to:
- a) meeting detailed criteria as set out in the REA, and provided that:
 - b) the proposal does not negatively impact the agricultural land asset in the Council's administrative area;
 - c) the proposal can demonstrate the support of affected local communities;
 - d) the proposal includes details for the transmission of power produced;
 - e) the proposal details that all apparatus related to renewable energy production will be removed from the site when power production ceases; and
 - f) that the proposal complies with any other relevant Local Plan policies and national planning policy.

³⁹ AB D1

Meeting detailed criteria as set out in the REA

Biomass Energy Criterion 1: Surrounding Landscape and Townscape

The Council will require appropriate biomass proposals to consider, and incorporate as appropriate, the following considerations:

Development which would result in adverse impact (individual or cumulative) upon the landscape/ townscape, either in terms of direct impacts or impacts upon the character of the landscape/ townscape, should be avoided. Direct impacts are those which affect the physical landscape/ townscape and include, for example, the removal of established vegetation or road modifications. Effects on character relate to the way in which and the extent to which the proposed development, alongside existing renewable energy developments, will affect the characteristics of the receiving landscape/ townscape. In instances where it is not possible to wholly avoid adverse impact, applicants should demonstrate that they have minimised the potential for adverse impact on the landscape/ townscape through consideration of both the direct effects and the effects upon the character of the landscape/ townscape: suitable mitigation measures should be proposed as necessary.

- 6.72 It is explicitly acknowledged in this criterion that it may not be possible to wholly avoid adverse impact; in which case applicants should demonstrate that they have minimised the impact on the landscape through consideration of both the direct effects and effects upon the character of the landscape and suitable mitigation measures should be proposed as necessary.
- 6.73 The introduction of the Development into the landscape inevitably causes a change to the landscape's character. The Landscape and Visual Impact Assessment⁴⁰ ("LVIA") undertaken for the Development thoroughly assessed the predicted impact on the characteristics of the surrounding landscape.
- 6.74 There is a direct impact on the character of the landscape through the introduction of the Development. Paragraphs 11.7 to 11.11 of the LVIA consider the predicted effects of the Development on the overall landscape context. The effects of the completed Development are identified (at paragraph 11.5 of the LVIA) to include:
- a) a change of land use from an open field to a more interrupted landscape with new structures and hard surfacing;
 - b) establishment of new built features in the landscape; and
 - c) the creation of new structural planting, screening and framing of the Development.
- 6.75 The LVIA Addendum explains that there is a moderate adverse impact to existing landscape character reducing to minor adverse impact in the long term overall (see paragraph 3.6) although the effect is not considered to be significant due to the extensive landscape mitigation measures and the careful location of the plant within existing field boundaries, avoiding the loss of any existing landscape features, and with existing woodland behind and hedgerow in front for immediate partial screening (see paragraph 3.7 of the LVIA Addendum). During the construction period of the Development the impact will be higher due to the use of mobile cranes and scaffolding, the need for multiple vehicle movements and temporary stockpiled materials during site construction, and the immature planting. At completion of construction of the Development and for its first 5 years, there will also be greater impact as the landscape and built development will be raw and the planting immature (further described at paragraph 12.1 of the LVIA).
- 6.76 Mitigation measures have been proposed to reduce the effects on the landscape and its character which include planting to screen the development, ameliorate the impact of the development and enable it to blend in with the wooded backdrop and field hedgerow boundaries. A comprehensive landscape scheme has been developed in order to respond to the existing landscape structure, the new development and topography. The proposals are detailed at paragraphs 12.3 to 12.5 of the LVIA and include the establishment of grassland and native tree and shrubs to provide long term screening on 0.8 hectares and the reinforcement of existing boundary hedgerow. In

⁴⁰ AB A16

addition, there will be offsite planting on the Buckminster Estate to further assist in maintaining the landscape character (proposed to be secured by s.106 obligation, a draft of which is included at C3). This scheme of mitigation reduces the impact and even provides a benefit in some cases. As the planting matures it is concluded that the adverse impact of the Development on the landscape character will reduce to minor. In addition to the landscaping mitigation measures, the Development has been designed so as to blend into its agricultural surroundings as much as possible. This is explained at paragraph 3.4 and 3.8 of the LVIA, which set out how the development uses muted, recessive colours and has been designed to reflect features of an agricultural character which are common in the locality. Further to this, its very location has existing evergreen woodland to the west which effectively screens the entire Development from Sewstern Village and therefore avoids this possible effect on the landscape (as explained at paragraph 3.7 of the LVIA Addendum).

- 6.77 This change is predicted to result in a magnitude and nature of effect in the medium term of irreversible moderate adverse but changing to an irreversible minor adverse effect as the planting matures. This is because there would be a change in the open character of the local landscape as a result of the Development, but the new planting will appear as a continuity of the existing woodland and hedgerow and add to green infrastructure. Therefore, there will be an effect which is not wholly avoided, but these are minimised by the comprehensive landscaping mitigation measures proposed, in accordance with the final sentence of the criterion.
- 6.78 The Appellant submits that the Development and its mitigation complies with Biomass Energy Criterion 1, which requires impacts to be minimised where they cannot be wholly avoided. The effect on the character of the landscape has been demonstrated to have been considered and minimised as far as possible through mitigation. There is explicitly no requirement for impact to be wholly avoided.

Biomass Energy Criterion 2: Heritage Assets

"The Council will require appropriate biomass proposals to consider, and incorporate as appropriate, the following considerations:

Further to Policy EN1 of the Local Plan, development on a heritage asset (designated or undesignated) or within its setting which would adversely impact upon the significance of the heritage asset (for example, by detracting from its established character or appeal, or by causing irreversible physical damage) should be avoided.

In accordance with the NPPF, development must not lead to harm to or total loss of significance of a heritage asset, unless the tests set out in section 12 of the NPPF are met."

- 6.79 Chapter 12 (Heritage) of the Environmental Statement⁴¹ ("**Heritage Assessment**") considers the impact of the Development on the significance of heritage assets.
- 6.80 In terms of archaeological assets, a number were identified in the vicinity of the Site, as detailed at paragraph 12.5 of the Heritage Assessment. None of these are on the Site, however the archaeological position on Site will be further confirmed by archaeological investigation prior to construction of the Development, which can be secured by proposed draft condition 16 as listed in the committee report.
- 6.81 There are 25 designated heritage assets within 3km of the Site, however many of these are screened from the Development so that the Development is not within their setting and will not adversely impact their significance (see paragraph 12.7.2 of the Heritage Assessment). For the three designated heritage assets within which there is potential impact (Old Rectory at Stainby (Grade II Listed), Knights of Templar Preceptory at Temple Hill (Scheduled Monument), Buckminster Conservation Area) it is considered that there is no harm to their setting or significance⁴². Therefore, the tests set out in section 12 of the NPPF are not engaged.

⁴¹ AB A20

⁴² See paragraphs 12.5.12 to 12.5.15 and 12.7.1 of the Heritage ES Chapter at AB A20

6.82 Therefore, the Appellant submits that the Development complies with Biomass Energy Criterion 2.

Biomass Energy Criterion 3: Residential and Visual Amenity

6.83 Biomass Energy Criterion 3: sets out a number of sub-criteria to be considered and incorporated as appropriate. Each of these are discussed in turn, below.

a) *Where necessary and the opportunity exists, micro-siting should ensure that the existing built environment and/or existing vegetation is utilised for screening. In the event that no existing screening is present or that the existing screening is insufficient, the proposal should incorporate screening measures which are proportional to the nature and level of impact, and which are sympathetic to the local setting.*

6.84 Paragraph 3.8 of the LVIA⁴³ describes how the location for the Development has been selected to be adjacent to existing woodland to reduce impact from views from the surrounding landscape. There are also further hedgerows and vegetation in the locality which will assist to screen the Development from further view (as demonstrated in the visual assessment at section 10 of the LVIA; for example, from Viewpoints 1, 2, 4, 5, 7, 8, 10 and 12 construction activity would be visible through gaps in tree and hedgerow cover which currently exists).

6.85 However, it is clear that even with micro-siting and the benefit of some existing vegetation, further screening measures will be required. This will be delivered through further planting of grassland, native tree, shrubs and hedgerow onsite (paragraphs 12.2 to 12.3 of the LVIA) and trees, hedgerow and infill to gaps in hedgerows off-site (LVIA, paragraphs 12.4 to 12.5 and schedule on page 51) have also been incorporated into the proposals through woodland planting and additional hedgerow planting. These are proportional to the need to screen the Development in order to reduce its landscape and visual impacts, and they use a sympathetic choice of planting in keeping with the existing flora in the locality, in accordance with the requirements of sub-Criterion a.

b) *"Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views or sequences of views. In order to prevent detrimental cumulative visual impacts it is desirable to include landscape mitigation, where necessary, which is appropriate and proportionate to the proposed development in terms of scale and design, including off-site enhancements where necessary"*

6.86 This policy does not require there to be no visual impact, but it seeks the use of landscape mitigation to avoid detrimental cumulative impacts. The LVIA makes clear that the Development could become a feature of particular views or sequences of views. This impact is identified to be higher in the medium term, where overall there would be a moderate adverse impact. This ranges from negligible to moderate adverse depending on where the views are from (see paragraph 13.6 of the LVIA, which summarises the greater detail provided in section 11). However, after 15 years, the adverse effect reduces to negligible or minor, with minor beneficial in places due to the extensive landscape mitigation which is provided maturing (see paragraph 13.7 of LVIA).

6.87 The detail of the mitigation measures which assist in preventing detrimental visual impacts is included at section 12 of the LVIA and discussed at paragraph 6.76 above). It includes off-site enhancements as necessary. The measures are necessary to ensure the visual landscape impacts of the development are mitigated and are proportionate; once the planting has matured, only the top of the Fermenter Tanks will remain visible, and appropriate, improving existing hedgerows and planting, and adding further screening by using sympathetic vegetation. Therefore, sub-Criterion b is met.

c) *Appropriate materials, colours and design finishes should be used to achieve high design standards;*

6.88 As described in the Design and Access Statement⁴⁴ at paragraphs 5.2.7 to 5.2.9, the design of the form and appearance of the structures and plant is largely influenced by function. However, the design itself has been

⁴³ AB A16

⁴⁴ AB A5

influenced by an aspiration to make the structures visually interesting whilst acknowledging their utilitarianism. The design and appearance of the plant has also been considered in the context of its surroundings and reflects the features of the locality's agricultural character (as set out in paragraphs 3.4 and 3.8 of the LVIA). It will use muted colours and finishes to provide for a recessive feature within the wider landscape. However, it is anticipated that the detail of the materials to be used will be subject to a condition, which will require further details to be submitted to and agreed by the Council prior to the commencement of development.

6.89 Therefore, the requirements of this sub-criterion c are met.

d) All external flues should be unobtrusive in terms of size, design and position

6.90 A safety flare will be provided as part of the Development, but note it is shrouded. A 5m high stack is also provided which will disperse combustion emissions from the biogas boiler. These are considered to be unobtrusive; character and design of these will use muted, recessive colours and will be subject to submission to the Council of detailed design for their agreement prior to commencement of Development.

e) The operation of the proposed facility should not result in notable dust and/or smoke which negatively impacts on sensitive receptors, such as residential dwellings.

As such:

i) Proposals should demonstrate that the prevailing wind direction at the site and the juxtaposition of the equipment in relation to any sensitive receptors surrounding the site have been duly considered; and

ii) Facilities which may generate dust and/or transfer of biomass within the site should aim to minimise the levels of dust expelled through design and micro-siting: for example, the drop off bay for biomass material could be closed rather than open air.

6.91 As explained at paragraph 6.16 above, the Redmore Report on air quality and odour predict that impacts would be negligible and not significant at any of the human and ecological receptors identified.

6.92 In doing this Redmore have considered both the prevailing wind direction (see Appendix 1 of the Redmore Report which considers Meteorological Data and Figure 3, and the effects of buildings and analysis of the site).

6.93 Therefore, the Redmore Report demonstrates that the Development is not predicted to negatively impact upon any sensitive receptors in terms of emissions. Smoke will not be generated by the Development.

6.94 The design of the Development has been considered in order to mitigate emissions from the Site through operation by the inclusion of a 5m tall stack which disperses combustion emissions from the biogas boiler more effectively (see 5.1.1 of the Redmore Report)

6.95 The only dust arising will be during construction and from the working face of the clamp; it is otherwise entirely sealed. The Construction Environmental Management Plan will contain mitigation measures for the construction phase and an Operational Environmental Management Plan ("OEMP") for the operational phase of the Development. These would be secured by a condition to be in place prior to the relevant phase of development and adhered to throughout. They would ensure that dust does not adversely impact the neighbouring locality and contain measures such as ensuring construction works take place during periods of low rainfall and predicted dry weather and works include the use of water to damp down material and prevent dust clouds. Additionally, feedstocks will be covered, other than the working clamp face (see 5.1.1 of the Redmore Report). Figure 4 of the Air Quality chapter of the ES shows the proximity of the clamp to the feed hoppers; the distance between the two for the energy crop to be moved designed to be short.

6.96 Therefore, the requirements of sub criterion e have been met.

f) *Proposals for commercial facilities should, as required, detail the measures that will be implemented in order to control air quality as well as the procedure for responding to problematic air quality issues should be detailed;*

6.97 As outlined at paragraph 6.16 above, the Development will have no significant effect upon the air quality at identified sensitive receptors. As such, no further mitigation measures have been specified for the scheme. The Development does include integrated mitigation which will control atmospheric emissions throughout operation including:

- a) A 5m tall stack to effectively disperse combustion emissions from the biogas boiler;
- b) Covering of feedstocks, with the exception of the working clamp face, to control odour emissions; and,
- c) Covering of the digestate lagoon to control odour emissions. The cover will be sealed as it is also part of the system which captures residual gas above what is necessary to meet statutory requirements (see paragraph 5.1.1 of the Redmore Report).

6.98 It is anticipated that a condition will be used to secure the provision of an OEMP which will then be adhered to throughout the operation of the Development. Such OEMP would include details of the Development's operation so that odour and any other emissions identified are controlled for example by covering feedstock and the digestate lagoon and would include details of procedures to respond to any issues arising.

6.99 Therefore, the requirements of sub criterion f have been met.

g) *"The operation of proposed facility should not result in odour which is unacceptable to sensitive receptors such as residential areas, recreational areas or businesses. Where applicable, developers should prepare an odour management plan which identifies measures to prevent adverse odour in the first instance and to mitigate against adverse odour in the second instance."*

6.100 The Redmore Report has concluded that odour emissions are predicted to be not significant (see paragraph 10.1.4 of the report). As such further measures are not needed to prevent or mitigate against adverse odour other than the mitigation measure described at section 5 of the Redmore Report and at paragraph 6.97c) above.

6.101 Therefore, sub-criterion g has been complied with.

h) *"Security lighting should only be incorporated in a proposal where there is demonstrable need. In instances where security lighting is necessary, the lighting and all fittings should be minimal and discrete; the height at which light fittings are mounted should be minimal; the lighting should be designed so as to minimise light pollution and 'spillage'; and light should be strategically directed so as to avoid nuisance to the occupiers or users of nearby buildings and disturbance to wildlife."*

6.102 Detail on lighting of the Development is proposed to be secured through a planning condition, which will secure compliance with the requirements in order to avoid nuisance to neighbours and disturbance to wildlife. Further explanation is at paragraph 6.19 above.

6.103 The use of the condition proposed secures compliance with this sub criterion h.

6.104 The Appellant submits that the Development complies with Biomass Criterion 3.

Biomass Energy Criterion 4: Noise impact

a) *The Council will require that proposals for anaerobic digestion equipment or facilities to:*

- a) *Not result in noise levels which would be deemed unacceptable to occupiers of nearby residential buildings, schools, hospitals, business premises and well used public areas; and*

- b) *Demonstrate how potential adverse noise impacts will be reduced and managed: this could, for example, be demonstrated through a noise management plan. Where necessary, mitigation measures, such as the establishment of vegetation noise buffers for example, should be used to prevent adverse noise impact.*

6.105 Paragraph 6.21 discusses the conclusions from the Noise Assessment and the additional Acoustic Report. The Appellant submits that conditions will secure noise levels from the plant, so no unacceptable noise will result from the Development. Therefore, the Development will comply with Biomass Criterion 4.

Biomass Energy Criterion 5: Highway Safety Considerations

- a) **Biomass Energy Criterion 5** sets out a number further points to be considered and incorporated. These are each taken in turn and considered as follows:

- a) *"Access: Where possible, in relation to commercial/staff facilities, the primary access for deliveries and staff should avoid sensitive areas such as, but not limited to, residential areas and areas in close proximity to school entrances"*

6.106 As set out at paragraph 6.64 and section 5 of the Create Transport Assessment, access to the Site for HGVs will be upgraded and turning radii altered to ensure a safety benefit and to avoid impact to the amenity of the villages. In particular, it secures the diversion of HGV movements during harvest which were transporting feedstock crops but are reassigned to transport energy crops for the AD Plant away from the villages of Sewstern and Gunby, which may be seen as the more sensitive areas in the locality. The Site itself is not in a sensitive area.

6.107 Therefore, the Development complies with Criterion 5 a.

- b) *"Site layout: The site layout should allow for turning and manoeuvring of all delivery and staff vehicles to take place on-site: it should not be necessary for vehicles to utilise the public highway for turning;"*

6.108 The Development's layout is designed to allow for turning and manoeuvring of all vehicles on-site. This can be seen on the Proposed Site Layout Plan⁴⁵ and drawings P25-3541-0005-P01, P25-3541-0012-P01, P25-3541-0013-P01, P25-3541-0014-P01, P25-3541-0015-P01, P25-3541-0016-P01 (as explained further at section 5 of the Create Transport Assessment) demonstrate improvements to the access which means vehicles will be able to turn easily out of the access track to the B676, but HGVs will not be able to turn into Gunby Road and Sewstern Road.

6.109 Therefore, the Development complies with Criterion 5 b.

- c) *"Construction: Where necessary, a construction statement should be prepared by the developer which forecasts the vehicle trips that are likely to be generated during construction and the routes which are likely to be used, so that the probable impact of the development upon traffic and highway safety can be considered. "*

6.110 The Create Transport Assessment has considered a peak daily movement of 30 HGVs a day and 100 to 150 people working on Site during peak construction activity (see paragraphs 6.20 to 6.23 of the Assessment) and considers the worst case percentage increase in traffic flows, which range between an increase of 2.3% worst case percentage increase in two way car/LGV movements up to around a 10% increase in HGV movements (which would be along the B676 within Stainby and Colsterworth). These are worst case scenarios during the peak construction period only, and for the majority of the time during construction are predicted to be considerably less (see paragraph 6.26 of the Create Transport Assessment). A construction traffic management plan is proposed to identify approved routes to and from the Site for various sizes of vehicles, and penalties will

⁴⁵ AB B6

be secured through the main construction contract for failure by contractors to comply with these routes. Further information and consideration of this is included at paragraphs 7.13 to 7.21 of the Create Transport Assessment.

6.111 Therefore, the Development complies with Criterion 5 c.

d) Transport Statement: where necessary a transport statement should be prepared by the developer which forecasts the vehicle trips likely to be generated by the operation of the facility and the routes which are likely to be used so that the probable impact of the development upon traffic and highway safety can be considered. In instances where the impact upon the highway will be notable (for example if the proposal is likely to generate a high volume of traffic), or in instances where the existing road network is unsuitable for the anticipated level, type of frequency of traffic, a detailed traffic management plan should also be prepared. Where necessary, the transport statement should include measures to mitigate against straw drop from vehicles which may have a detrimental impact on surface water drainage, leading to an increased risk of flooding

6.112 The Create Transport Assessment⁴⁶ assesses the amount of traffic likely to be generated by the operation of the facility and considers the routes which are likely to be used. This work has enabled the impact upon traffic and highway safety to be considered, and the conclusions of this can be seen at section 10 the Create Transport Assessment, a more detailed summary of the conclusions is at paragraphs 6.63 to 6.64. The improvements and changes to the access road to the Site are predicted to result in a reduction of HGV traffic through the villages of Sewstern and Gunby, presenting an improvement in road safety and amenity.

6.113 Paragraph 7.3 of the Create Transport Assessment confirms that all HGV and Tractor Trailer movements to and from the Site travelling on the public highway will be sheeted during both the construction and operational stage to prevent "straw drop" and other debris falling from trailers being an issue. This could be secured through a Transport Management Plan.

6.114 In these terms we can see that there is no impact on either highway capacity or safety because of the low levels of vehicles involved; therefore, the Development complies with Criterion 5 d.

e) Parking:

Where necessary, sufficient staff and visitor parking should be provided onsite: in line with recognised parking standards, parking needs for a sui-generis use, such as an anaerobic digestion facility, will be assessed on the scheme's merits in relation to demand for parking which is likely to be generated.

6.115 6 car park spaces have been provided on site (see paragraph 5.2.4 of Design and Access Statement⁴⁷). From experience of operating a number of existing AD plants in the UK the Appellant is confident this is a satisfactory level to meet the requirements of staff and visitors to the Site as 6 to 7 staff members are expected to arrive and depart during the day, but at different times during the day (see paragraphs 1.15.3 and 1.15.4 of the Transport Statement⁴⁸).

6.116 The Development complies with sub-criterion e.

⁴⁶ AB C4 – C6

⁴⁷ AB A5

⁴⁸ AB A7

6.117 The Appellant submits that the Development complies with Biomass Criterion 5.

Biomass Energy Criterion 6: Nature Conservation Considerations

The Council requires that proposals should consider, and incorporate as appropriate, the following considerations (where applicable):

- a) Due consideration has been given to the potential impacts of the proposal on local, national and international designated sites, including those outside South Kesteven. Where a proposal is likely to have adverse impacts, applicants should demonstrate how these potential impacts have been addressed in the proposal, with proposed mitigation measures being commensurate to the significance of the designation, in relation to the local national, international hierarchy. This applies to all proposals, regardless of scale.*
- b) In instances where a proposal would have an adverse effect on a protected habitat or species, the applicant should demonstrate that the need for and public benefits of the development clearly outweigh the harm caused, and that mitigation and/or compensation measures can be secured to offset the harm and achieve, where possible, a net gain for biodiversity (see also paragraph 118 of the NPPF).*
- c) Developers are encouraged to consider opportunities to achieve net biodiversity gains (i.e. gains in addition to any measures deployed to mitigate any adverse impacts that may result from the development), regardless of whether the proposal will result in adverse impacts in order to conserve, enhance and promote the biodiversity and geological interest of the natural environment throughout South Kesteven.*
- d) In relation to the above applicants will be required to undertake surveys and provide evidence as necessary in relation to the anticipated impacts of their proposal. In instances where the evidence supplied includes uncertainty in relation to the anticipated impacts of a proposal, or in instances where there is a lack of evidence, a precautionary approach will be taken by South Kesteven District Council.*

6.118 As set out at paragraph 6.56 above, there are no adverse effects on sites of ecological value and therefore these are preserved

6.119 Therefore, the Development does not conflict with sub-criterion a.

6.120 The PEA⁴⁹ assesses protected habitats and species: these are identified at sections 4.3 and 4.4 respectively. Relevant ecology surveys have been undertaken and concluded that the Development will have negligible or minor beneficial effects on the various identified ecological features once mitigation measures have been taken into account. These include:

- a) A Construction Environment Management Plan to be implemented to protect the roots of the deciduous woodland (see paragraph 5.2.1 of the PEA).
- b) Whilst some habitat will be removed as detailed at 5.2.2 of the PEA, this is largely restricted to those with low ecological value, and a Biodiversity Net Gain area is proposed to be created (see paragraph 5.2.3 of the PEA and paragraph 12.3 of the LVIA).
- c) It has been identified that there could be greater crested newts within 500m of the boundary. eDNA results returned negative results for some ponds but not all identified ponds have not been able to be surveyed to date, but a further survey is to be secured and, if necessary, the required licences obtained, and mitigations measures adhered to in full (see paragraphs 5.3.1 to 5.3.5 of the PEA).

⁴⁹ AB A18

- d) It is considered highly unlikely that habitats within the Site will support a significant reptile population, and therefore it is unnecessary to undertake further surveys, but measures are proposed to reduce the likelihood of impacting reptiles, as outlined at paragraph 5.3.8 of the PEA.
- e) One site has been assessed as providing high potential to support roosting bats, and one identified as having low suitability. The current proposals do not necessitate the removal of any trees, but a no-work buffer is proposed, and sensitive management of machinery to reduce noise and vibration impacts. A lighting schedule is also to be designed in such a way as to avoid direct and indirect lighting impacts (see paragraphs 5.3.9 to 5.3.14 of the PEA).
- f) Mitigation measures are also proposed in relation to suitable bird nesting habitat as outlined at paragraphs 5.3.23 to 5.3.26 of the PEA.

6.121 These mitigation measures can be secured to offset the harm and therefore there is no conflict with sub criterion b.

6.122 A Biodiversity Net Gain Estimates report⁵⁰ was submitted in support of the Application. The report found that the Development would result in a net gain of 12.21% in habitat units and 28.64% in hedgerow units achieved through the implementation of a Habitat Management and Monitoring Plan to ensure the success of proposed habitats. The Development would therefore significantly enhance the biodiversity of the Site meeting the requirement of sub criterion c.

6.123 The PEA includes the consideration of surveys undertaken as referenced in sub-criterion d. There is no uncertainty or need to take a precautionary approach. Therefore, there is no conflict with sub-criterion d.

6.124 The Appellant submits that the Development complies with Biomass Criterion 6.

Biomass Energy Criterion 7: Agricultural Land

a) The Council requires that proposals should consider, and incorporate as appropriate the following considerations:

a) The advice as set out at paragraph 112 of the NPPF (2012) and follows the location search process set out in paragraph 5.23 above.

b) If a proposal includes the development of the best and most versatile agricultural land, where possible, development should be sited so as to minimise the impact on agricultural operations during its operation and associated installation and maintenance works.

As such, where opportunity exists:

i) Equipment/facilities should be sited at the periphery of fields rather than in central positions

ii) Where it is not possible to locate on the periphery, due to physical constraints or another material consideration rendering such positioning unviable, the development should be sited in a strategic position which avoids unnecessary disruption to agricultural operations.

6.125 NPPF (2012 version)⁵¹ paragraph 112 sets out that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. The best and most versatile agricultural land is defined in the NPPF's glossary as "*Land in grades 1, 2 and 3a of the Agricultural Land*

⁵⁰AB A19

⁵¹ Note similar wording is now contained at paragraph 187 (b) of the current version of the NPPF

Classification." Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

- 6.126 The Site is agricultural land, but the majority of it is classed as sub-grade 3b, with the remainder being an access track not in agricultural use (see 3.4 to 3.7 of the Agricultural Land Report⁵² which is Technical Appendix G to the ES). This classification is not deemed "best and most versatile agricultural land" (see paragraph 13.3.3 of Chapter 13 of the ES). This complies with paragraph 112 of the 2012 NPPF.
- 6.127 Since the Development is not sited on the best and most versatile agricultural land it is not necessary to consider how to minimise impact on agricultural operations through siting.
- 6.128 Paragraph 7.4 of the Planning Statement explains how six potential alternative sites were considered, each being individually appraised against a comprehensive criteria assessment including:
- a) transport (access and road network capacity and routeing);
 - b) biodiversity (designated and non-designated assets, veteran trees or protected species);
 - c) landscape and visual impact (landscape and townscape impact);
 - d) amenity impacts (noise, dust odour, lighting, public rights of way, proximity to dwellings and leisure/amenity uses);
 - e) water environment and pollution control (flooding and hydrology);
 - f) historic environment (cultural heritage assets and archaeology);
 - g) soils and agriculture; and
 - h) cumulative impacts.
- 6.129 A key point was that the Development needs to be located in a rural setting to benefit from close proximity to the energy crops which are necessary to fuel it and near to gas mainline (see 4.3 of the Planning Statement⁵³). The site appraisal which includes further detail on the choice of site and reasons for it, is at Appendix 2 of the Planning Statement.
- 6.130 The Appellant submits that the Development complies with Biomass Criterion 7, a conclusion confirmed at paragraph 7.19 of the Committee Report.

The proposal does not negatively impact the District's agricultural land asset

- 6.131 An Agricultural Land Classification Survey was undertaken by Land Research Associates in August 2023⁵⁴. The survey found that the Site has heavy soils over clay with slowly permeable substrates and is limited by wetness and workability constraints. It is classified as Subgrade 3b, which means it is moderate quality agricultural land, capable of consistently producing moderate to high yields of a narrow range of arable crops, especially cereals, or moderate yields of crops.

⁵² AB A24

⁵³ AB A4

⁵⁴ AB A23

- 6.132 The Development means the loss of approximately 7.1ha of agricultural land, assessed as having a classification of Grade 3b. This land is not the best and most versatile agricultural land and the amount to be lost will not negatively impact the District's agricultural land asset overall.
- 6.133 In addition, the AD plant will require crops to be produced as feedstock (fuel). This demand will mean that more agricultural land is supported to remain in agricultural use, as it will be necessary to produce the fuel. The energy crop itself will be grown as part of a crop rotation so will not detract from food production which will remain the key output from local agricultural land. This diversity of cropping and income sources will contribute to the viability of other agricultural businesses in the area and the local agricultural economy more generally.
- 6.134 The impact of the Development is therefore limited to the parts of the Site used for the built form of the Development and access. The Appellant submits that this limb of policy RE1 is complied with.

The proposal can demonstrate the support of affected local communities

- 6.135 The interaction between Policy RE1 and the REA upon which the policy relies has recently been explored in an appeal decision on a hearing held for the Folkingham solar development (Appeal Reference APP/E2530/W/24/3337544⁵⁵ ("**Appeal Decision**") and LPA reference S23/0511) at paragraphs 38 to 40. Policy RE1 relies on the accompanying REA and sets out more detailed criteria for renewable energy generation schemes. The Appeal Decision concerned a solar scheme and noted that the REA included a requirement to demonstrate how local communities have been consulted and how the proposal has sought to address concerns in relation to wind turbine schemes but is silent on the point in relation to proposals for solar PV schemes. The inspector found that as there is no community support test within the Appendix in relation to Solar PV she could find no firm basis for applying one. She also bore in mind "*that the national policy and guidance referred to in the plan did not require a public support test for solar farms when the Plan was adopted and to require one would go much further than the current requirements of national policy in the Framework*" (paragraph 39 of the Appeal Decision). These points are also relevant for anaerobic digestion facilities as the REA is similarly silent on the need for public support for such proposals, and similarly there is no requirement in the NPPF. Similarly, in the Appeal, there is no basis for demonstration of the local community's support since it is not required by the REA. Therefore, if a consistent approach is to be taken by the planning inspectorate in its decision making (in accordance with *DLA Delivery Ltd v Baroness Cumberlege of Newick* [2018] EWCA Civ 1305), the policy should be applied in the same way.
- 6.136 In addition, it is pertinent that there is no national policy which requires community support for proposals such as these.
- 6.137 The Appellant submits that this limb of Policy RE1 does not apply (in accordance with the Planning Inspectorate's previous interpretation of policy and the interaction of Policy RE1 with the REA) and therefore there is no conflict.
- 6.138 The Appellant remains committed to working with local residents following the grant of permission.

The proposal includes details for the transmission of power produced

- 6.139 In this case the Development produces gas rather than electricity. The gas produced by the Development will be transmitted via a grid entry unit. Details of this are contained in paragraph 4.3 of the Planning Statement⁵⁶.

⁵⁵AB D16

⁵⁶ AB A4

The infrastructure works will be undertaken, owned and maintained by the statutory undertaker, Cadent Gas. A gas pipeline route plan⁵⁷ illustrates the proposed gas grid connection point.

- 6.140 The Appellant submits that the provision of these details is sufficient to comply with this limb of Policy RE1.

The proposal details that all apparatus related to renewable energy production will be removed from the site when power production ceases

- 6.141 The Application confirmed that the apparatus which is proposed to be used on the Site has a typical life span of around 30 years. At the end of its lifespan, the Site will either be upgraded, repurposed or decommissioned. Decommissioning would take place following the closure of the Site within the following 6 months. A planning condition could secure this; condition 2 of the schedule of conditions to the Committee Report provides suitable wording.

- 6.142 The Claimant submits that the provision of this confirmation and use of a condition is sufficient to comply with this limb of Policy RE1

That the proposal complies with any other relevant Local Plan policies and national planning policy

- 6.143 As will be demonstrated in the remainder of this Statement of Case, the Development complies with other relevant Local Plan policies and national planning policy.

Compliance with Policy RE1

- 6.144 Policy RE1 supports proposals for renewable energy generation so long as they comply with specified criteria. It has been set out above how the Development complies with each of the requirements of the Policy. The only adverse impact arising from the landscape and visual effects of the Development being negligible to moderate adverse following completion of the Development reducing to negligible or minor and even beneficial in some places once landscaping has matured at around year 15 and the effect on landscape character being moderate adverse reducing to minor as planting mitigation matures. However, the policy expressly anticipates that in relation to effects on landscape character it may not be possible for them to be wholly avoided in which case they should be minimised.

- 6.145 Accordingly, it is submitted that the Development complies with Policy RE1.

Conclusion Regarding Compliance with the Development Plan

- 6.146 As has been extensively demonstrated above, the Development complies with the Development Plan.
- 6.147 Policy RE1 is a key policy in the determination of the proposal, setting out the criteria to be considered in relation to renewable energy generation schemes.
- 6.148 It is acknowledged that there is some residual impact of the Development on the landscape character of the surrounding area remaining after mitigation, of minor harm, which could be deemed to raise a conflict with limb a of policy DE1. However, the effect of the Development is mitigated as far as possible, and in accordance with other policies in the plan which acknowledge it is likely there will be some level of harm to the landscape and its character by such developments.
- 6.149 The Appellant has systematically addressed each of the policies above to demonstrate overwhelming compliance with the Development Plan.
- 6.150 It is trite law that for the purposes of applying section 38(6) of the Planning and Compulsory Purchase Act 2004, a development must be assessed against the development plan as a whole, rather than against individual policies.

⁵⁷ AB C2

In R (oao Cummins) v LB Camden [2001] EWHC 1116 (Admin)⁵⁸, Ouseley J cited with approval, at paragraph 163, the following paragraphs of the judgment of Sullivan J in R v Rochdale MBC ex parte Milne, unreported 31 July 2000:

"48. It is not at all unusual for development plan policies to pull in different directions. A proposed development may be in accord with development plan policies which, for example, encourage development for employment purposes, and yet be contrary to policies which seek to protect open countryside. In such cases there may be no clear-cut answer to the question: "is this proposal in accordance with the plan?". The local planning authority has to make a judgment bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach ...

49 ... I regard as untenable the proposition that if there is a breach of any one policy in a development plan a proposed development cannot be said to be 'in accordance with the plan'. Given the numerous conflicting interests that development plans seek to reconcile: the needs for more housing, more employment, more leisure and recreational facilities, for improved transport facilities, the protection of listed buildings and attractive landscapes etcetera, it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the development plan. Numerous applications would have to be referred to the Secretary of State as departures from the development plan because one or a few minor policies were infringed, even though the proposal was in accordance with the overall thrust of development plan policies."

- 6.151 On the basis of the above, it is submitted that, applying the development plan holistically in accordance with established case law, the Development is in compliance with the development plan. As such, there is a statutory presumption in favour of granting planning permission pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004.

⁵⁸ AB D17

7. MATERIAL CONSIDERATIONS

7.1 It has been shown above that the Development complies with the Development Plan. Accordingly, there is a statutory presumption in favour of granting planning permission. Notwithstanding this, there are a number of material considerations in favour of the Development which add further weight to a positive determination. These material considerations are explored in further detail below.

Net Zero/Carbon Negative

7.2 South Kesteven District Council has formally declared a climate emergency. In response to this they then published a Climate Action Strategy⁵⁹ (September 2019, updated October 2023) which identifies driving opportunities to support and encourage renewable energy generation within the District and unlocking green growth at page 22. This is highlighted by their vision that the District will have "*increased renewable energy generation and is more self sufficient for energy*" (page 22). Further, page 24 highlights their vision to have "a strong low-carbon economy" and "more low-carbon employment opportunities". The Appellant submits that the benefits the Development could contribute towards the achievement of reducing GHG emissions, South Kesteven becoming a low carbon district, and the district being more self-sufficient for energy should be afforded significant weight as a material consideration. The 3 September GHG Letter⁶⁰ provides further explanation of the AD facility and its carbon-negative impact, through the capture and sequester of CO₂ from the atmosphere and the production of digestate, an organic bio-fertiliser which will replace fossil-fuel derived synthetic fertiliser.

7.3 The benefits of the Development, a renewable energy scheme, in terms of helping towards the Government's net zero target, by increasing the amount of low carbon energy generated, also helping to improve energy security and provide economic opportunities was given weight by the Case Officer's recommendation in the Committee Report at paragraphs 10.4 and 10.8.

Economic Benefits

7.4 The Development would generate a minimum of 6 full time jobs when fully operational (see paragraph 4.6.1 of the Planning Statement) which would be retained for the duration of the operations. It will also result in additional indirect employment, its wider contribution to the local economy arises in particular through the demand for crops to be grown locally as fuel for the AD plant (see paragraph 6.2.10 of the Planning Statement). It presents a rural diversification project, providing opportunities for both the Buckminster Estate and long term support to a large number of other farms within the Development's catchment to grow and provide fuel for the AD facility.

7.5 The Appellant submits that the economic benefit of the Development is a material consideration adding to the indication that that planning permission should be granted for the Development.

Environmental Benefits

7.6 A Biodiversity Net Gain report⁶¹ was submitted in support of the Application. This is explained more fully at paragraph 6.122 above. The biodiversity of the Site is significantly enhanced by the Development.

7.7 Accordingly, the Appellant submits that this is a material consideration indicating that planning permission should be granted for the Development.

⁵⁹ AB D12

⁶⁰ AB D3

⁶¹ AB A19

Compliance with the NPPF

- 7.8 Pursuant to paragraph 2 of the NPPF, the NPPF is a material consideration in planning decisions.
- 7.9 Paragraph 109 requires consideration of transport issues in development proposals. Of most relevance here is the need to understand and address the potential impacts of development on transport networks. As discussed at paragraph 6.63 to 6.64 above, the Development produces a negligible number of extra vehicles particularly when considered against the current level of traffic on the local highways and would not have an impact on the local transport network. Therefore, there is no conflict with this paragraph.
- 7.10 Paragraph 116⁶² states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe. It has been established that there are no unacceptable impacts on highway safety or the road network (see sections 9 and 10 of the Create Transport Assessment).
- 7.11 NPPF paragraph 125 sets out various aspirations for planning decisions to support in order to ensure that effective use of land is made. The first limb is relevant to the Development which states that decision should *"encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside."* It is clear that the Development provides multiple benefits by way of environmental gains, firstly due to its contribution by renewable energy generation, secondly by the fact it is carbon negative, due to carbon capture (see paragraph 7.2 above), and thirdly, by the biodiversity gains offered onsite, and through the offsite planting (see paragraphs 6.120 to 6.123 and 6.76 above). This paragraph supports the grant of permission of the Development which offers these benefits.
- 7.12 Paragraph 135 of the NPPF sets out a number of criteria which planning decisions should ensure developments meet. These are considered in turn.
- 7.13 Paragraph 135 (a) aims to ensure that developments function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. The Development itself adds to the quality of the area through benefits given by the generation of renewable energy, and carbon capture, as outlined in paragraph 7.2 above. It has been designed to fit into its surroundings, in the context of being an AD facility, as described at paragraph 6.40 and 6.88 above, and accepted in the Committee Report (see paragraph 7.31 below). It also presents a rural diversification opportunity to the area, providing not only direct job opportunities at the facility itself, but also opportunities for the surrounding farmland to supply energy crops for the AD plant, therefore providing further benefits to the local economy. Bringing economic advantage to the area will assist to add to the overall quality of the area. The Development is in accordance with paragraph 135(a).
- 7.14 Paragraph 135(b) aims for developments to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. As referred to above, the design of the Development has sought to fit in with its settings and is an attractive presentation. The layout, particularly the siting of taller aspects has been considered. Additionally landscaping and mitigation has been considered, as outlined above at paragraphs 6.7 to 6.10 and 6.76 and further off-site mitigation is proposed to be provided and secured by s.106 planning obligation. This mitigation planting is comprehensive and will offer effective screening of the Development from most views, as is shown by the reduced visibility and impact of the Development as the planting matures to negligible, minor adverse or even minor beneficial effects in certain areas (see paragraphs 3.6 and 3.7 of the LVIA). Therefore, it is submitted that this limb of paragraph 135 is complied with, to the extent it can be, considering the nature of the Development.
- 7.15 Paragraph 135(c) aims for developments to be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Whilst the Appellant acknowledges there is some residual harm to the landscape character at a moderate adverse level reducing to minor adverse level by 5 years after completion of construction, the Appellant submits that this is shown to reduce as the landscaping matures, and in any event should be viewed

⁶² paragraph 111 in the December 2023 version of the NPPF

in the light of the innovation of the renewable energy generation and opportunity to secure the benefits of that (see paragraph 7.2 above). Considered in the round, the Appellant submits that the Development is as sympathetic as possible to the local character, and to refuse the Appeal would be to discourage appropriate innovation or change which is an important caveat contained in paragraph 135(c). Therefore, the Development is shown to comply with this limb.

7.16 Paragraph 135(e) of the NPPF requires the potential of the site to be optimised and support local facilities and transport networks. It is clear from the Council's decision that there is concern as to the effect of the Development on the local transport networks. However, the fact that this does not arise is discussed in more detail at paragraphs 6.64 and 6.106 to 6.113 above. The Appellant submits that there is no conflict with this limb of paragraph 135.

7.17 In terms of the remainder of section 12:

- a) Paragraph 136 relates to trees making an important contribution to the quality and character of urban environments. Whilst the Site is not situated within an urban environment, landscaping mitigation is being provided with trees and planting being chosen which is in keeping with the surrounding countryside. Appropriate conditions will be applied and a section 106 planning obligation⁶³ is proposed to be entered to ensure such planting is secured.
- b) Paragraph 137 requires design quality to be considered. Paragraphs 6.24, 6.76, and 6.47-6.48 and 6.50 to 6.52 hereto demonstrate how the Development has been designed to fit into its local surroundings, blending in with various appropriate landscape measures. Further to this, NPPF paragraph 139 advises that development that is not well designed should be refused. The Development has been well designed and is shown to fit in with the overall form and layout of its surroundings (LVIA paragraph 3.8); although residual harm is identified this is minimal, particularly in the context of the development of an AD plant.
- c) Paragraph 140 advises local planning authorities to ensure relevant planning conditions refer to clear and accurate plans and are clear about the proposed use of development. The Committee Report offered draft conditions which the Appellant believes achieves this; however, if any further relevant plans or appropriate conditions are identified, the Appellant would welcome any further which are considered necessary.

7.18 Accordingly, it is submitted that the Development complies with paragraph 135 and section 12 of the NPPF.

7.19 Paragraph 161 of the NPPF states that the planning system should support the transition to net zero by 2050, including contribution towards radical reduction in greenhouse gas emissions and supporting renewable and low carbon energy. The Development is fully in accordance with this aspiration, both in being a proposal for renewable energy generation, and also in being carbon negative (see paragraph 7.2 above).

7.20 Paragraph 168 of the NPPF provides some guidance on how local planning authorities should determine planning applications for all forms of renewable and low carbon energy developments. It is highly pertinent that it is stated that significant weight should be given to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future (paragraph 168 a).

7.21 Paragraph 181 requires that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere. There are then points to be demonstrated where the development is in an area at risk of flooding. The Flood Risk Assessment has confirmed that the site is within Flood Zone 1 so at a low to moderate risk of groundwater flooding and very low risk of flooding from reservoirs (see section 8 of FRA). However, there are areas at higher risk of surface water flooding. A sustainable urban drainage system has been proposed (see section 5 of the FRA) and will be secured by condition. This will mitigate the identified

⁶³ Draft provided at AB C3

risk of surface water flooding and flooding risk being increased elsewhere. Therefore, the Development raises no conflict with paragraph 181.

7.22 Paragraph 187 outlines a number of ways in which planning decisions should contribute to and enhance the natural and local environment. These are taken in turn, as follows:

- a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils: the impact on the character and visual aspects of the landscape within which the Development is sited have been discussed at 6.75 to 6.77. In respect of soils, the land is of grade 3b agricultural classification (see paragraphs 6.131 to 6.132 above) meaning that it is not of best and most versatile agricultural land. There is also an area of biodiversity gain provided within the site (see paragraph 6.122 above) which will enhance the soil in that area. In addition, offsite planting will further enhance biodiversity.
- b) Recognising the intrinsic character and beauty of the countryside and wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland: The Development includes mitigation as far as possible to reduce the level of harm to the landscape character, recognising that it is important to do so. It is not on the best and most versatile agricultural land, being on land with agricultural classification 3b (see paragraphs 6.131 to 6.132 above). The Development does value the importance of trees and woodland, adding to hedgerows and planting both on and off site (see section 12 of the LVIA) and providing on-site biodiversity net gain (as explained in the Biodiversity Net Gain report⁶⁴ and at paragraph 6.122 above). Therefore, although there is some harm caused to the landscape character, the importance of the local character of the landscape in which the Site sits has been recognised as shown by the mitigation proposed to be secured, and wider benefits are given with the extensive planting proposed, in accordance with this element of paragraph 187.
- c) Applies to coast: not applicable
- d) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species. As explained at paragraph 6.122 above there will be a high biodiversity net gain secured by the Development. As explained at 6.1.1 of the PEA, a range of habitat enhancement opportunities will be secured, providing refuge for amphibian and reptile species and native hedgerow, tree and shrub planting to include a variety of berry and seed-bearing species which will provide for a variety of species including birds and bats. Therefore, meeting the aspirations of 187d).
- e) Preventing new and existing development from contributing to, or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Paragraphs 6.16 to 6.29 above discuss the levels of pollution which are negligible to soil, air, water and noise and therefore demonstrate that the Development will not cause any unacceptable risk of pollution. There is also no land instability predicted. Limb e also advises that development should, wherever possible, help improve local environmental conditions such as air and water quality. In this respect the carbon capture, as referred to elsewhere in this statement of case (paragraph 7.2), and in the 3 September GHG Letter, the Development will improve the surrounding area by reducing GHG emissions and removing CO₂.
- f) Relates to contaminated land: not applicable.

⁶⁴ AB A19

7.23 Paragraph 193 requires that specified principles are applied when planning applications are determined. These are considered below:

- a) If significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for, then planning permission should be refused. As detailed at paragraph 6.120 to 6.123 above, there is no harm to biodiversity following mitigation measures
- b) Development should not normally be permitted which is likely to have an adverse effect on a Site of Special Scientific Interest ("**SSSI**"). There is no effect on an SSSI arising from the Development.
- c) Development resulting in the loss or deterioration of irreplaceable habitats should be refused. There is no such loss arising from the Development.
- d) 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 or enhance public access to nature where this is appropriate. As explained in section 6 of the PEA, section 12 of the LVIA and by the Biodiversity Net Gain Assessment, biodiversity has been integrated into the design of the Development through its on-Site provision, and also through the off-site landscaping works which will enhance existing hedgerows. The Development is clearly securing measurable net gains for biodiversity in accordance with the aspiration of this element of paragraph 193.

7.24 In respect of section 16 of the NPPF which relates to heritage, and more specifically paragraphs 207 and 212. Compliance with this is covered at paragraphs 6.79 to 6.81a) above, which demonstrates that there is no conflict.

7.25 It is submitted that the Development complies with the NPPF is a material consideration adding weight to the notion that planning permission should be granted for the Development (particularly when paragraph 168 is considered which puts significant weight on the benefits offered by the development of its contribution to renewable energy generation and a net zero future).

Compliance with EN-1 (National Policy Statement for Energy) (November 2023) (last updated 17 January 2024) and EN-3 (National Policy Statement for Renewable Energy Infrastructure)

7.26 Paragraph 1.2.1 of EN-1 provides that the statement may be relevant to the determination of an application for the generation of renewable energy by biomass combustion as a material consideration. EN-3 which relates specifically to renewable energy infrastructure would be treated in the same way. Both policy statements are primarily a tool for decision making by the Secretary of State in relation to the Planning Act 2008 and the extent they are relevant as a material consideration in other decisions depends on the extent to which matters are already covered by applicable planning policy (paragraph 1.2.2 of EN-1). In this respect planning policy RE1 and the accompanying REA is the development plan policy which covers these matters and a review of EN-1 and EN-3 does not raise any further issues in addition to those considered elsewhere with which the Development needs to comply. However, the two NPS do provide relevant advice in relation to the net zero GHG emissions target to be achieved by 2050 and that the decarbonisation of the UK's energy system is necessary to achieve this (paragraph 4.2 of EN-1). Combustion of biomass for electricity generation will play an important role in decarbonisation (paragraph 3.7d of EN-3).

Committee report

7.27 The Council's professional planning officer's ("**Officer**") report to the Council's planning committee ("**Committee**") is a material consideration to be given weight in the determination of this Appeal.

7.28 The Committee Report⁶⁵ recommended that the Committee grant planning permission, subject to conditions. The executive summary at page 4 of the Committee Report provides a summary of the reason for the Officer's conclusion and recommendation.

⁶⁵ AB D1

- 7.29 The Officer assessed that there are significant benefits from the Development; in brief, the Development provides:
- a) a rural diversification project for the operations and farms of Buckminster estate and within the AD plant catchment. In respect of this point we note that the officer has attributed limited weight to the economic benefits. The Appellant submits that there is a significant benefit for the local area indirectly through its provision of a rural diversification opportunity for the local farms (see paragraphs 7.4 to 7.5 above). The Appellant will provide an annual spend in the local rural economy in the region of £7.8 to £8.45 million which will be made up of a mixture of crop purchase, harvesting, haulage and digestate spreading;
 - b) significant public benefit of renewable energy generation to which the Officer attributed significant weight;
 - c) Biodiversity Net Gain ("**BNG**") onsite achieving the statutory requirement and being of benefit to the Site in terms of improved ecology and gain in BNG;
 - d) no adverse effects in relation to heritage, noise, odour, ecology, drainage and traffic.
- 7.30 The Officer did recognise a degree of impact on the landscape character of the area and the fact that the Development will be visible to neighbouring dwellings and from the highway. This assessment is at paragraph 10.5 of the Committee Report, which did take into account that landscape and visual impacts can be reduced through the mitigation proposed by the landscaping and planting scheme.
- 7.31 The Officer found that despite the impact raised by the visual appearance of the development, "*when considered in the context of the AD plant and neighbouring industrial area, the development could be further addressed using the imposition of an appropriate planning conditions should planning permission be granted, and with this in mind the planning officer considers that criteria (d) of the biomass Energy Criterion 3 (Renewable Energy Appendix 3) has been met*" (paragraph 7.25 of the Committee Report).
- 7.32 The Officer concluded that the Development would result in a minor to moderate adverse impact⁶⁶ on landscape character. We agree that there is an impact on landscape character, but note the effect is not significant (see paragraph 3.7 of LVIA Addendum. The effect is considered to be moderate adverse once the Development has been completed, reducing over time as planting mitigation matures to minor adverse (see paragraph 3.6 of LVIA Addendum). The Officer cites that this impact is contrary to Policies EN1, DE1, REA Criteria 1 and Section 12 of the NPPF.
- 7.33 The Officer went on to find that the impacts could be partially mitigated through the proposed landscaping scheme therefore leaving some harm. This harm is cited as being contrary to policy EN1 in the Committee Report. However, the Appellant submits that whilst it is agreed that there is some harm to landscape character, the policy does not require it to be fully mitigated as explained at paragraph 6.9 above and therefore there is no conflict with EN1. If conflict is found with policy EN1 the Appellant submits that such conflict should be weighed in the planning balance, in accordance with section 8 hereof. It is also submitted that the Development complies with Section 12 of the NPPF, which conflict is alleged to arise because of the landscape impacts; this is discussed further at paragraphs 7.12 to 7.18 to above. 7.12 to 7.18 to above.
- 7.34 Despite the Officer's conclusion of some harm arising due to the perceived effect on landscape character and visual impacts, the officer, taking into account paragraph 163 of the NPPF which clarifies that "*when determining planning applications for renewable and low carbon development, local planning authorities should (a) not require applicants to demonstrate the overall need for renewable or low carbon energy ... and (b) approve the application if its impacts are or can be made acceptable*" (paragraph 10.9 of the Committee Report), concluded as follows:

⁶⁶ Note the impact is described as being assessed by the officer at paragraph 7.26 of the Evaluation section of the Committee Report as being minor to moderate adverse impact, but is referred to as being moderate in the concluding section at paragraph 10.5

"taking all of the above into account, it is the Case Officer's assessment that the application proposals are in accordance with the adopted Development Plan when taken as a whole, albeit there are conflicts identified in relation to the visual impact of the development. In this case, it is Officer's assessment that the balance of material planning considerations would also weigh in favour of granting planning permission".

7.35 The Officer also noted that there were no objections raised by statutory consultees as follows:

- a) Lincolnshire County Council Highways: who concluded "*the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.*"
- b) Anglian Water: no comments
- c) The Council's Environmental Protection Team: advised that mitigation measures as stated in the Odour and Air Quality Report should be implemented:
 - a) 5m tall stack to effectively disperse combustion emissions from biogas boiler
 - b) Covering of feedstocks, with exception of the working clamp face, to control odour emissions
 - c) Covering of the digestate lagoon to control odour emissions
 - d) Production of an odour management plan
 - e) Production of a noise management plan
 - f) Production of a containment assessment for the facility to include all tanks, surface run-off and digest containment
- d) Cadent Gas: no objection
- e) Natural England: "considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes."
- f) Heritage Lincolnshire: no objection subject to conditions requiring further archaeological evaluation
- g) Leicestershire County Council Highways: no objection: concluded: *The number of HGVs associated with this development are negligible when compared against the Annual Average Daily Traffic (AADT). Therefore, it is not considered that the proposed will have a severe impact on the local highway network, in accordance with Paragraph 115 of the National Planning Policy Framework (NPPF)*'.
- h) Council's Conservation Officer: no objection: "*Overall there is only a minor potential for indirect impact upon the setting of the heritage assets within the wider proximity of the site. This is not considered to cause harm to their setting.*"

7.36 There was an objection from the Environment Agency⁶⁷, but upon receipt of a proposed drainage plan Revision D, on 12 June 2024⁶⁸, found it satisfactorily addressed their earlier concerns.

7.37 This demonstrates that there is no evidence of any harm which is thought likely to be caused by the Development in terms of pollution, highways, heritage and ecology. This supports that there is no reason to refuse planning

⁶⁷ See paragraph 7.62 of Committee Report AB D1

⁶⁸ AB B32

permission for the Development, and moreover, these factors weigh in favour of the grant of planning permission.

8. CONCLUSION ON COMPLIANCE WITH THE DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

- 8.1 Pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development complies with the Development Plan taken as a whole. Even if the Council were correct in the conflicts with the Development Plan it has identified, these are minimal (relating to effect on landscape character and lack of local support) and as such do not mean that a conclusion should be drawn that the development does not comply with the Development Plan taken as a whole, as detailed at 6.150 to above. In addition, it has been shown that there are further material considerations adding weight in favour of planning permission being granted.
- 8.2 Even if it were considered that the Development does not comply with the Development Plan, these conflicts should be given limited weight because of their nature, and the weight which should be applied to the material considerations outlined in section 7 above. It is clear that the Development brings many benefits which weigh heavily in favour of permission being granted. This is the case in any event, but particularly when considering the application of paragraph 168 of the NPPF which advises significant weight should be given to the benefits of the Development of renewable energy generation and contribution to net carbon reduction.

9. REASON FOR REFUSAL

9.1 The Decision Notice sets out its reason for refusal in 3 paragraphs, the first two containing the substantive reasons and the third setting out a conclusion in relation to the weighing of the benefit of the renewable energy generation against the harms identified by the Council to be caused by the Development. It then identifies the policies with which the Development is deemed to conflict.

Paragraph 1 of the Reason for Refusal

9.2 Part 1 of the reason for refusal states:

The proposal, including the required upgraded access route, would result in a large-scale, industrial development which is considered to be an inappropriate form of development in this countryside location. The large scale and industrial nature of the development proposal would result in an adverse impact on the landscape setting and character of the area, which would be reduced, but not fully mitigated by the proposed landscaping and planting scheme resulting in harm to the rural landscape of the Kesteven Uplands.

9.3 AD facilities which are fuelled by biomass crops are most sustainable when located near to the crops which will serve them. The Development also needs to be near to a main gas grid connection as explained at paragraph 7.4.3 of the Planning Statement. It presents an opportunity for rural diversification, which brings with it economic benefits for the local agricultural economy, a benefit which is bolstered by the demand for biomass energy crops from neighbouring farmland. A site appraisal was undertaken (see Appendix 2 of the Planning Statement) through which a number of sites were considered against detailed criteria. These criteria are summarised at paragraph 7.4.2 of the Planning Statement as follows:

- a) *Transport – access and road network capacity and routeing*
- b) *Biodiversity – designated and non-designated assets, veteran trees or protected species*
 1. *Landscape and Visual Impact – landscape and townscape impact*
- c) *Amenity Impacts – noise, dust, odour, lighting, PROW, proximity to dwellings and leisure/amenity uses*
 2. *Water Environment and Pollution Control – flooding and hydrology*
 3. *Historic Environment – cultural heritage assets and archaeology*
 4. *Soils and Agriculture*
 5. *Cumulative Impacts*

9.4 This included relevant considerations about location, and it was concluded at paragraph 7.4.4 of the Planning Statement that "*the proposed location is considered to meet both operational needs and planning policy requirements at local, county and national level.*" It is also relevant that the Committee Report does not consider the Site to be unsuitable for the Development. The Development does not represent an inappropriate form of development for this location.

9.5 However, it is understood that the nature of the Development means there could be a risk of it having an adverse impact on the landscape setting and character of the area if not appropriately mitigated. The LVIA submitted with the Application determined that the Site would have a medium/low landscape capacity, which suggests that thresholds for development of the Site are relatively low and development can be accommodated only in limited situations, having regard to the setting and form of the existing settlement and the character and the sensitivity of the adjacent character areas (see paragraph 3.2 of the LVIA). However, in the context of the Development, this means that mitigation is required to ensure that there is as low an adverse impact to the landscape setting and character of the area as possible.

- 9.6 A mitigation scheme has been provided, as outlined at section 12 of the LVIA. It is robust and deemed to lead to a minor adverse impact to existing landscape character by year 15 of the Development, at which point the visual impact will be negligible or minor, or minor beneficial due to the proposed planting having matured and screening most views of the Development (see paragraph 3.7 of the LVIA). In years 1 to 5 there will be a range of visual impact from negligible to moderate adverse (see paragraph 3.6 of the LVIA). This point is further made out in detail at paragraph 6.76 above.
- 9.7 Therefore, adverse impacts of the Development on the landscape setting and character are so low, and at year 15 in terms of visual impact are negligible, or minor or even minor beneficial for most receptors, and in relation to landscape character are minor adverse at this stage, which mean that this reason for refusal is not justified.
- 9.8 It is clear that it is not uncommon for the impacts of the introduction of new development on landscape not to be able to be fully mitigated, by reason of its introduction: it is submitted that this reason for refusal is not applying a policy as it is applying a test of whether harm to the landscape setting and character is "fully mitigated". It is explicitly acknowledged in policy that it may not be possible to fully mitigate, and therefore the impacts should be minimised through suitable mitigation measures: Biomass Energy Criterion 1 states "*in instances where it is not possible to wholly avoid adverse impact, applicants should demonstrate that they have minimised the potential for adverse impact... suitable mitigation measures should be proposed as necessary*". Similarly, Policy EN1 requires development and mitigation to be appropriate and its impact to be assessed but does not require development to be fully mitigated. Hence the Development is not in conflict with either of these policies, and it is considered the test applied in the reason for refusal cannot be justified.
- 9.9 As outlined at paragraph above, it is clear that suitable mitigation measures have been proposed. It is also described at paragraph 6.86 to 6.87 above in relation to Biomass Criterion 3, that sufficient screening has been proposed to mitigate any visual impacts. The requirement for the Development to be fully mitigated in terms of its impact on the countryside landscape setting and character could never be achieved unless it were invisible.
- 9.10 It is noted that the planning officer (see paragraph 10.5 of the Committee Report) considered that the Development would result in a minor to moderate adverse impact⁶⁹ on landscape character, but as discussed at, 6.149 to 6.151 above, they found that when the conflicts identified were considered against the adopted Development Plan taken as a whole the Development was in accordance with that plan. And, additionally, the material planning considerations would then weigh further in favour of granting planning permission.
- 9.11 As discussed above, at paragraph 8.2, it is submitted by the Appellant that if there were found to be unacceptable harm to the landscape setting caused by the Development, which is found to mean that the Development does not comply with the Development Plan when considered as a whole, the material considerations outlined should be given significant weight in the decision. This includes those identified in section 7. It is also pertinent that paragraph 168 of the NPPF provides guidance that when determining planning applications for forms of renewable energy generation development, significant weight should be given to the benefits associated with the renewable energy generation and contribution to net zero. When the landscape harm, even at the level identified by the planning officer in the Committee Report, is weighed against this benefit, it clearly does not suggest it is great enough to justify a reason for refusal.
- 9.12 It is submitted that for all the reasons given above, the amount of harm found likely to be caused to the landscape setting and character from the development following its mitigation, and that planting maturing, is not sufficient to justify a refusal of planning permission.

Paragraph 2 of the Reason for Refusal

- 9.13 Part 2 of the Reason for refusal states:

The proposal would additionally negatively impact on neighbouring villages and residents through disturbance from the generation of additional traffic movements on local roads. There is particular

⁶⁹ Note the impact is described as being assessed by the officer at paragraph 7.26 of the Evaluation section of the Committee Report as being minor to moderate adverse impact, but is referred to as being moderate in the concluding section at paragraph 10.5

concern with increased numbers of HGV movements on minor rural roads, including through the neighbouring villages, that are used by vulnerable road users such as walkers, cyclists, horse riders and children. The mitigation of the site access road does not remove the concern regarding the increase in HGV movements through neighbouring villages, and the application does not suitably take into account or address the negative impacts from the development on the transport network or amenity of neighbouring communities.

- 9.14 As reported at paragraph 1.5 above, the Appellant asked for clarification of the meaning of this reason for refusal. The response clarified that there is concern not only about the highway safety impacts but also on the impact of the increased traffic on the amenity of local residents and communities. The Appellant's positive case with regard to traffic movements on local roads is set out at paragraphs 6.63 to 6.66 above.
- 9.15 The Create Transport Assessment⁷⁰ demonstrates that there is a low change on local highways due to the Development. Section 10 of the Create Transport Assessment explains that both Gunby and Sewstern show no material change as a result of the construction stage and the operational stage outside harvest. However, during harvest they are likely to experience a reduction in HGV movements (and in particular tractor-trailer movements), since those delivering to the Development would be directed straight to the Site, avoiding the public highway. The further work undertaken by Create has proposed amendments to the access track for the Site to be used by HGVs. This will assist by making there only one route for HGVs accessing the Site (other than for some Buckminster Estate vehicles which may access the Site directly from the surrounding fields), such route to be straight onto the B676 and avoiding Gunby Road and the smaller villages of Gunby and Sewstern. Section 5 of the Create Transport Assessment contains further detail on this.
- 9.16 Whilst the highest increase of HGV movements would be in Buckminster (either during harvest time or relating to the delivery of liquid digestate in the non-harvest period) these movements (for harvest or digestate) would be happening on the highway in some way in any event, so they are a reassignment of traffic, rather than an increase of traffic. The only real increase in HGV movements is to and from the hub clamp/store anticipated to be located to the east of the A1 and the removal of CO₂ generated on site, which will go through Colsterworth and Stainby. Even the maximum of these additional movements to the hub clamp/store and delivering liquid digestate (adding 13.5 HGV vehicle movements in both directions (a less than 5% increase in maximum daily HGV vehicle movements in these areas for a maximum of 24 days a month during non-harvest period and 14-17 during harvest period) would not be classified as a significant level of impact.
- 9.17 Given that there is no objection by the local highways authority, and that the Officer in the Committee Report raised no issues with highways, other than to confirm that conditions are proposed to secure a traffic management plan (which was anticipated by the Appellant and detail included at paragraph 1.16.1 of the Transport Statement), there is no support for this reason for refusal either in the Council's consideration of the Application or in evidence provided by the Council. It is contrary to the findings of the original Transport Statement and the conclusions of the additional work undertaken by Create, but no evidence has been provided by the Council to suggest why or how these conclusions are wrong. On this basis alone this reason for refusal cannot be upheld.
- 9.18 The reason for refusal in terms of amenity to neighbouring communities remains unclear; the reason for refusal does not explain how this negative impact on the neighbouring community would manifest itself. Further, the survey undertaken on behalf of the Appellant shows that there was a very low number of pedestrians, cyclists and horse riders in the vicinity of the Site; 19 cycle movements on one day being the highest number, but mostly between 3 and 9; pedestrian movements were even lower (see paragraph 8.2 of the Create Transport Assessment). This is one of the points on which there is no clear evidence which supports the refusal due to effect on road users.
- 9.19 However, in terms of amenity, the Appellant would propose to offer to provide a new unsurfaced footway along Gunby Road, seeking to link the existing footway in Sewstern to the new Site access road and the industrial

⁷⁰ AB C4 – C6

estate: this will improve access to bus stops within the village and enable pedestrians to access the Site and industrial estate more easily.

- 9.20 If this point in the Reason for Refusal relates to highway safety, it is noted that Leicestershire County Council, as highway authority, raised no objections and concluded that the proposal will not have a severe impact upon the local highway network. Indeed, paragraph 7.60 of the Committee Report draws the conclusion in relation to access and highway impacts that "*the proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policy ID2 and Section 9 of the NPPF*". Section 9 of the Create Transport Assessment considers highway safety. The direction of all HGV movements to and from the Site along the HGV access track to the B676 provides a safety benefit and reduces HGV movements within the villages of Sewstern and Gunby where highway width is limited. The improvement of footway connections by the provision of the unsurfaced footpath mentioned at 9.19 would also provide a safety benefit.
- 9.21 Since there is such a low generation of traffic on local roads, in addition to which much of that traffic is a reassignment of traffic already on the roads (i.e. the movements related to the harvest and to liquid digestate) now to be used to supply the AD plant, it does not seem that there would be sufficient increase in traffic to make a discernible difference on the amenity of neighbouring communities. In particular (as referred to in paragraph 10.11 of the Create Transport Assessment) the only real increase in HGV movements are those delivering between the Site and the Hub Clamp /Store (anticipated to be located to the east of the A1) and removing CO₂ generated on Site, which would go through Stainby and Colsterworth; at their worst case these are not considered to have a significant level of impact.
- 9.22 In terms of amenity, the Create Air Quality Assessment⁷¹ considered the predicted traffic generation (see further explanation at paragraph 6.17) and concluded at paragraph 6.4 (of the Create Air Quality Assessment) that the impacts associated with exhaust emissions from vehicles travelling to and from the site during operation were predicted to be negligible. Similarly, the Create Acoustic Report (further explained at paragraph 6.22 above) found that the change in noise level would not give rise to a significant adverse impact to surrounding sensitive properties (see paragraph 8.10 of the Create Acoustic Report). Therefore, neither noise or emissions from traffic are predicted in the assessments undertaken to accompany the Application to have a significant adverse effect and no evidence has been supplied by the Council to demonstrate otherwise.
- 9.23 In terms of amenity, the Officer in the Committee Report specifically states at paragraph 7.47 "*It is the Officer's assessment that the proposed development would not result in any unacceptable adverse impacts on the neighbouring residential dwelling houses or industrial estate, and would not impact on their amenity.*"
- 9.24 Therefore, there is no evidence to support a reason for refusal on grounds of harm to amenity from increased traffic.
- 9.25 If the reason for refusal is citing harm to amenity other than from increased traffic, this is unclear, but, as detailed above, no such harm arises other than in respect of landscape which is dealt with in response to paragraph 1 of the Reason for Refusal (paragraphs 9.2 to 9.12).
- 9.26 Therefore, this reason for refusal (whether it is citing additional levels of vehicles too great for the highway capacity, an issue arising with highway safety, or harm to (unspecified) amenity) cannot be upheld.

Paragraph 3 of the Reason for Refusal

- 9.27 Paragraph 3 of the Reason for Refusal reads:

"It is acknowledged that the generation of renewable energy would be a significant benefit provided by the scheme, however, it is not considered to outweigh the harm from the development in terms of impact on landscape, character and appearance of the area, and the amenity of neighbouring residents. The

⁷¹ AB C7

development is therefore contrary to Local Plan Policy E7, EN1, EN4, DE1 and RE1, and paragraph 135 of the NPPF."

- 9.28 The Decision Notice appears to undertake the exercise prescribed by section 38(6) of the Planning and Compulsory Purchase Act 2008. However, in doing so it:
- a) firstly, has misapplied the Development Plan in particular in relation to policy E7, which does not apply, policy EN1 in which incorrect weight has been accorded to landscape character, and DE1 and EN1 in terms of the failure to consider the Development against the Development Plan as a whole; and
 - b) secondly, has only applied one of the material considerations which have been identified in this Statement of Case (i.e. generation of renewable energy) and, the Appellant submits, even that material consideration has not been given the weight it deserves (see paragraph 7.20 above regarding paragraph 168 of the NPPF which advises that significant weight should be given to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future). If significant weight were given to these benefits alone, it is suggested that they would outweigh the harm identified to the landscape, character and appearance of the area, which at worst is identified as moderate adverse for landscape character reducing to minor as planting mitigation matures, and in terms of visual appearance is negligible, minor or minor beneficial each of the assessed viewpoints at 15 years after the start of the Development.
- 9.29 Not only have the material considerations not been appropriately identified and given appropriate weight in the Council's decision, they are applied to a harm on the landscape character of the local area which the Appellant has shown in this Statement of Case is at a low level and should be considered with an accordingly low weight, and to an effect on the amenity of neighbouring residents which has been shown not to exist.
- 9.30 Fundamentally, the reasons for refusal are not in accordance with the Council's professional officer's view expressed in the Committee Report. .
- 9.31 The Appellant's case in respect of compliance with the development plan policies identified in this reason for refusal is set out in section 6 above. The Appellant's case in respect of compliance with the NPPF is set out in paragraphs 7.8 to 7.25 above.

Policy E7 – Rural Economy

- 9.32 The Council has identified, in its Decision Notice, the Development is in conflict with Policy E7. This policy sets out when small business schemes in the rural economy can be supported. The Development is not a small business scheme and therefore this policy is not applicable. The Officer does not cite a conflict with Policy E7 in the Committee Report. This should not constitute either a conflict with the Development Plan or a reason for refusal.

Policy EN1 – Landscape Character

- 9.33 This is fully considered at paragraphs 6.7 to 6.11 above. The conclusion is drawn that there would not be a significant adverse effect on landscape character, but a moderate effect after completion of the Development reducing to minor adverse effect as the landscaping planting matures. Whilst the Officer in the Committee Report considered that the harm to the landscape character was contrary to Policy EN1 (a conclusion the Appellant does not agree with), their conclusion was still that the Development complied with the Development Plan when considered as a whole.

Policy EN4 – Pollution Control

- 9.34 The Council's reason for refusal alleges the Development is in conflict with Policy EN4 which relates to pollution control.
- 9.35 The nature of the pollution with which the Council's committee is concerned is unclear from the text of the Decision Notice.

- 9.36 Policy EN4 itself is clear that development should seek to minimise pollution, acknowledging that it is often not possible to eliminate such effects altogether, but that they can be mitigated. The Policy itself has been extensively discussed at paragraphs 6.12 to 6.35 above, and it is clear there are no significant pollution impacts or harm which would mean that development should not be permitted, indeed it promotes environmental benefits (in particular by way of on-site biodiversity gain and extensive planting both on and off-site) which won't be secured if permission is not granted.
- 9.37 The Council's Environmental Protection Team, Environment Agency, and County Council highways were all consulted on the Application and raised no objections.
- 9.38 The Committee Report concludes at paragraph 7.53 that *"It is the Officer's assessment that the proposed development would not result in any unacceptable pollution impacts regarding noise, air quality or odours, and would not impact on the amenity of neighbouring dwelling houses or the industrial estate. This would be in accordance with Local Plan Policy EN4 and Section 15 of the NPPF"* In relation to potential impacts, the Committee Report (again at 7.53) pointed towards proposed conditions regarding construction management, traffic management and external lighting which would secure minimise any impacts.
- 9.39 The Appellant submits that there is no conflict with Policy EN4, as shown by their assessments and case, and agreed by the planning officer and supported by the lack of objections from the Council's Environmental Protection Team. Indeed, the benefits given in respect of improvements to air and land quality weigh in favour of a grant of planning permission.

Policy DE1 – Promoting Good Quality Design

- 9.40 The Development's compliance with Policy DE1 is extensively established at paragraphs 6.38 to 6.70 above, other than the conflict with limb a to the extent there is a moderate adverse impact on landscape character reducing to minor after around year 5 as planting mitigation matures.
- 9.41 In addition to this, the Committee Report concludes at paragraph 7.46 *"that there is sufficient separation distance between residential dwellings, and the proposed development site, that residential amenity will not be adversely impacted in terms of loss of privacy or loss of light."* and that this is sufficient to ensure compliance with policy DE1 in this respect, so there is no unacceptable adverse effects on the amenity of neighbouring residential dwelling houses or the industrial estate (see paragraphs 7.46 and 7.47 of the Committee Report). However, the report does identify a residual minor to moderate adverse impact on landscape character, following mitigation through the proposed landscaping scheme and therefore remains contrary to DE1.
- 9.42 As concluded at paragraph 6.70, the Development substantively complies with Policy DE1, the identified conflict arising only on one element of a policy which includes 8 substantive criterion. However, if there were any such conflict, this should be considered in the planning balance. It is submitted (as explained at paragraphs 6.148 and 6.150 to 6.151 above) that when considered in the context of the Development Plan as a whole the Development complies with the Development Plan.
- 9.43 The Officer has also drawn this conclusion; paragraph 10.10 of the Committee Report concludes that *"the application proposals are in accordance with the adopted Development Plan when taken as a whole"*.

Policy RE1: Renewable Energy Generation

- 9.44 The Appellant's case on compliance with policy RE1 is at paragraphs 6.71 to 6.144. The Development complies with this policy.

Paragraph 135 of the NPPF

- 9.45 Compliance with this paragraph of the NPPF is comprehensively considered at paragraph 7.12 to 7.16 above. This demonstrates that the Development is in accordance with the various limbs of paragraph 135. The Appellant submits that it complies with limb (b) as the Development is designed to be as visually attractive as possible in the context of its purpose as an AD facility. However, if conflict is considered to arise in relation to this element of paragraph 135, this should be weighed in the planning balance as a whole, and in particular the

considerations raised in paragraph 168 of the NPPF which advises significant weight should be given to the benefits associated with renewable energy generation.

- 9.46 Therefore, it is submitted that the Development complies with paragraph 135 of the NPPF, but if and to the extent it is deemed not to, this conflict, which is small in extent, should be weighed against the advantages offered by the Development.

10. REPRESENTATIONS

10.1 In terms of objections from the public, they fall into the following categories: comments on specific issues and the Appellant's response to the points are included below.

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|----------------------------------|--|---|--|
| Site Selection | 1) The site should be smaller. | <p>The site itself is set out at section 1 of the planning statement. It is shown on the site layout plan at B6.</p> <p>Paragraphs 6.76 and 6.87 hereof describe landscape mitigation measures incorporated to mitigate the development.</p> <p>Paragraph 6.120 and 6.122 of the SoC detail BNG provision which is also detailed in Biodiversity Net Gain Report at Appendix F of the PEA.⁷²</p> | Size of the site is sufficient to include the landscaping mitigation measures and the provision of BNG, through the creation of a BNG area which would result in a 12.21% net gain in habitat units and 28.64% in hedgerow units. This is shown on the plan at B6. |
| | 2) Linked closer to the motorway/an A-road. | <p>See paragraph 9.3 and 9.4 of SoC and Appendix 2 of the Planning Statement for detail on location of the Site and site appraisal.</p> <p>Page 6 of the 3 September Response Letter.⁷³</p> | As explained in the 3 September Response Letter on page 6, the chosen site is on land with a good connection to feedstock and the local highway network, which contributed to the site outperforming other alternatives. |
| | 3) Other comments stated that the site should be in a location closer to where the gas will be used. | <p>As above, regarding site appraisal.</p> <p>See also paragraphs 6.128 to 6.129 of the SoC and paragraph 4.3 of the Planning Statement.</p> | A rural setting is necessary to be close to energy crops and near a high-pressure gas mainline. Detail is also provided in the site appraisal/selection process and criteria on the choice of site. |
| Development of a Greenfield Site | Linked to the Site Selection objection, comments were received that the use of greenfield land in the open countryside is inappropriate. | Paragraph 6.129 of the SoC explains the need for a rural setting, which is further covered at paragraph 4.3 of the Planning Statement. | A rural setting is necessary to be close to energy crops and near a high-pressure gas mainline. No brownfield alternatives close to |

⁷² AB A18

⁷³ AB D8

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|---------------------------|--|---|---|
| | | This is also set out on page 6 of the 3 September Response Letter. | the source of material, with a good grid connection were identified. |
| Lack of Community Support | 1) No community benefits from the proposal and the community will bear the negative impact of the proposal in terms of traffic and environmental issues. | <p>Paragraph 6.133 of the SoC details benefit to local agricultural businesses.</p> <p>Paragraph 6.135 of the SoC considers community support test.</p> <p>Paragraphs 7.4-7.5 of the SoC outline the economic benefits for the community.</p> <p>Page 5 of the 3 September Response Letter also considers this.</p> | <p>Demand for crops for the AD plant will mean agricultural land remains in agricultural use, also it will contribute to the viability of other local agricultural businesses / economy.</p> <p>Appeal decisions and the NPPF demonstrate that there is no community support test / need for public support in the REA and so there is no conflict with that specific limb of Policy RE1.</p> <p>Rural diversification opportunity which generates direct and indirect employment opportunities.</p> <p>In terms of the negative impact, as demonstrated in the many reports undertaken for this proposal, there are no significant traffic impacts, and environmental impacts such as noise and air quality are also negligible.</p> |
| | 2) Gas not being used locally. | Paragraph 6.139 of the SoC explains how the gas will be used. | <p>The gas needs to enter the national grid to be used.</p> <p>It should be noted that the digestate which is produced as a bi-product of the gas production is proposed to be used locally as an organic fertiliser.</p> |

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|------------------------------------|---|--|---|
| | 3) Decreasing attractiveness of the area. | This is discussed in the LVIA and its addendum, as referred to at paragraphs 6.7 to 6.10 and 6.73 to 6.77 of the SoC. | Whilst it is acknowledged that the development will have a moderate adverse impact on the character of the area during the construction of and early years of the development this will reduce to minor adverse at most as planting matures. |
| | 4) Comments relating to a lack of trust within the community about the Applicant's commitments. | Paragraph 6.135 discusses the need for support from the local community. | It should be noted that the Applicant remains committed to working with local residents. In any event, there is no national policy requirement for community support for proposals such as these. |
| | 5) Complaints about the Applicant's lack of community involvement. | | |
| Transportation and Highways Impact | 1) Addition of HGV traffic on already strained roads, especially when the A1 is closed for accidents and the B676 due to cycle races. | <p>Paragraph 6.110 for construction traffic impacts.</p> <p>Paragraph 6.112- to 6.113 details TS conclusions.</p> <p>Paragraph 9.14-9.17 responds to the traffic refusal reason.</p> | <p>Concludes that there will be a low traffic generation and so there will be no implications for highway capacity, especially as the roads have modest traffic levels. The Transport Statement concludes that there will be no significant impact on the Highways. This is because the level of extra traffic generated is not significant, and the upgraded access track to the B676 means that HGVs will no longer be able to use Gunby Road, thereby avoiding the villages of Gunby and Sewstern.</p> <p>A Construction Transport Management Plan can be secured by condition to direct HGV and other travel routes during the construction period (see paragraph 6.22 of the Create Transport Assessment).</p> |

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|-----------|--|---|--|
| | 2) Exact number of HGV trips is not yet determined and so the full impact on the Highway cannot fully be considered. | Create Transport Assessment and paragraph 6.68 hereof | The level of HGV trips has been further considered for harvest and non-harvest periods by the Create Transport Assessment. Appendix C of the Assessment sets out anticipated trip movements. These have then been modelled and considered as described the assessment. |
| | 3) Roads are narrow and windy, creating 'accident blackspots'. | Create Transport Assessment, section 9. | Highway Safety is considered in section 9 of the Create Transport Assessment which has reviewed the number of accidents in the close proximity of the Site and found none from 2023 onwards. |
| | 4) Site is within a '7.5 tonne environmental protection zone' that protects several small villages and rural lanes. | Create Transport Assessment, figure 3.25. | There is a 7.5 tonne restriction on the roads neighbouring the site, however this is "except for access" (see figure 3.24 of the Create Transport Assessment). This includes roads which are used for existing to the existing industrial park and Brooks Bros and therefore is used by vehicles exceeding the restriction in any event. |

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|-------------------------------------|---|---|---|
| Safety of Other Road Users | Linked to Transportation and Highways Impact, concerns as a high number of pedestrians and cyclists use the road and as it is a narrow lane, comments have been made regarding the safety of the users. | Paragraph 6.68 details TS conclusions. Paragraph 9.17-9.18 on refusal reason because of highway safety. 3 September Response Letter. | Paragraph 8.2 of the Create Transport Assessment reports on the pedestrian and cycling movements along Gunby Road in the vicinity of the Site and found that levels were very low. It is proposed an unsurfaced footpath could be provided by the Appellant between the Site and the village of Sewstern to provide a further benefit to local residents by providing a safer route for pedestrians who may wish to access the Site, the adjoining industrial estate or the Brooks Bros timber yard. |
| Visual Impact | Comments stating that the visual impact is stark and unmitigated, affecting a significant number of villages. Concerns were also brought up regarding the design and height of the proposed buildings. | Paragraph 6.73 to 6.77 and paragraphs 9.5 to 9.10 of the SoC discuss landscape, by reference to the LVIA and the LVIA Addendum. Paragraph 6.86-6.87 for cumulative visual impacts, again with reference to relevant sections of the LVIA and its Addendum. Paragraph 6.88 of the SoC refers to paragraphs 5.2.7 to 5.2.9 of the Design and Access Statement ⁷⁴ for design details. | Proposed mitigation measures, including a comprehensive landscape scheme, which establishes long-term screening to fit in with the agricultural surroundings. The LVIA concludes that the effect is not wholly avoided but minimised to a minor adverse effect. |
| Inaccuracies within the Application | Inaccuracies relating to: 1) the size of the site; | 3 September Response Letter. | As detailed above, the size of the Site is that necessary to accommodate |

⁷⁴ AB A5

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|-----------|--|---|--|
| | 2) the type of development; | | The Development is an AD Facility and the plant required for this has been detailed within the Application (for example see the Design and Access Statement ⁷⁵) |
| | 3) the application not being updated accurately; | | Any updates to the original Application documents have been included within the Appeal documents (in particular the amended access and visibility splay details which are included in the Create Transport Assessment ⁷⁶) |
| | 4) misleading statements within the Application; and | | The Appellant refutes the suggestion that misleading statements were made within the Application |
| | 5) inaccurate Transport Statement. | 3 September Response Letter and Create Transport Assessment. | <p>This point was rebutted by the letter from NTP attached to the 3 September Response Letter. In addition, a further JC Transport Assessment has been undertaken to provide additional information in relation to the potential impact of the development on the surrounding highway network.</p> <p>The Create Transport Assessment concludes at 10.16 to 10.17 that there will be negligible impact on the amenity of surrounding</p> |

⁷⁵AB A5

⁷⁶AB C4 – C6

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|-------------------------|---|--|--|
| | | | villages and no detrimental impact on highway safety and highway capacity. |
| Traffic Management Plan | 1) Comments stated that lack of a traffic management plan creates concerns over the feasibility and safety of the proposal. | <p>Paragraph 6.110 of the SoC explains that a construction traffic management plan will be secured by condition, further detail on this is found in paragraph 7.13 of the JC Transport Statement.</p> <p>Pages 2-3 in 3 September Response Letter explain the inductions drivers will receive.</p> | <p>A Construction Traffic Management Plan (CTMP) will be secured, with the implementation of such, there will be minimal, manageable and acceptable impact on the highways.</p> <p>A Traffic Management Plan can be secured by condition to direct HGV routes, although note the point below on design of access.</p> <p>As explained in the 3 September Response Letter, all haulage drivers will be inducted on their first site visit and refreshed on an annual basis. All vehicles attending the site will also be fitted with a GPS monitor, with number plates recorded and kept on file.</p> |
| | 2) Cannot police driver's routes, especially if third party. | See paragraphs section 5, 6.15, 7.14 and 9.5 of the Transport Assessment. | <p>The Transport Assessment confirms that the Construction Traffic Management Plan will identify approves routes to and from the site for various sizes of vehicles and securing penalties through the main contract if contractors do not comply.</p> <p>The design of various parts of the access also ensures all HGVs visiting the site will need to use one route as turning will not be possible for other accesses.</p> |
| Cumulative Impacts | Concerns regarding the cumulative impacts arising from other similar developments in the local area (2 other AD plants within the | Paragraphs 6.86 to 6.87 consider visual cumulative impacts. | Planting on-site and off-site enhancements to mitigate the landscape impact, as the development has a negligible to moderate |

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
|---------------------------|--|---|---|
| | vicinity). Also, concerns about the cumulative traffic impacts from housing developments. | 3 September Response Letter considers whether there are cumulative impacts arising. | <p>adverse impact in the medium-term on views. However, there is a minor beneficial impact once the vegetation has matured which prevents detrimental cumulative impacts.</p> <p>The 3 September Response Letter refers to the distance from the 2 projects referred to: assessment of cumulative effects to be considered with these projects is neither proportionate nor required by the Environmental Impact Assessment Regulations.</p> <p>As referred to above, the traffic generated by the Development is modest.</p> |
| Impact on the Environment | Worries about the carbon emissions and the risks of pollution, including nitrate pollution on the soil and spillages in water sources. | <p>Paragraph 6.16 of the SoC outlines the emissions impacts of operational phase with reference in particular to relevant parts of the Redmore Report.</p> <p>Paragraph 6.88 of the SoC refers to the design of the Development which will mitigate combustion emissions (see also paragraph 5.1.1 of the Redmore Report).</p> <p>Paragraphs 6.13-6.15 and 7.2 to 7.3 on proposal being carbon negative, with reference to the 3 September GHG Letter.</p> <p>Paragraph 6.25 to 6.27 of the SoC considers water pollution, with reference to the FRA.</p> | <p>The SoC demonstrates by reference to relevant reports (in particular the Redmore Report) that there will be no significant impact on ecological receptors from road traffic emissions, combustion plant emissions, dust, air quality etc.</p> <p>Surface water management will minimise the risk of pollution to surface and ground water. FRA also outlines pollution control designs (see in particular section 5) and concludes no significant risk of water pollution.</p> <p>The Development will be carbon negative, as fully explained in the 3 September GHG Letter.</p> |

| Objection | Summary of Objection | Section addressed in this Statement of Case ("SoC") and other documents | Summary of Response |
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| | <p>Also comments about the fact the site is within a '7.5 tonne environmental protection zone' that protects several small villages and rural lanes.</p> | | <p>There is a 7.5 tonne restriction on the roads neighbouring the site, however this is "except for access" (see figure 3.25 of the Crate Transport Assessment). This includes roads which are used for existing to the existing industrial park and Brooks Bros and therefore is used by vehicles exceeding the restriction in any event.</p> |
| <p>Food Security</p> | <p>Use of fields to grow energy crops instead of food crops which may result in food insecurity and price increases.</p> | <p>Paragraph 6.125-6.126 of the SoC detail the agricultural land on which the Development will be sited, referring to the conclusions contained in the Agricultural Land Report at paragraphs 3.4 to 3.7.</p> <p>See paragraph 7.4 to 7.5 of the SoC which discuss the opportunity for rural diversification.</p> | <p>Classification of site is not considered as BMV as per NPPF and so no mitigation measures are necessary. The land is subgrade 3b which is a moderate quality and there will be a loss of 7.1ha, which will not negatively impact the District's agricultural land asset.</p> <p>The AD Facility itself provides an opportunity for rural diversification which provides an opportunity for the farms in the area, which in any event are not otherwise confined to producing food crops.</p> |
| <p>Threats to Biodiversity and Wildlife</p> | <p>Worries about the impact on wildlife in the nearby SSSI, agricultural land and rural lanes.</p> | <p>See paragraphs 6.16 to 6.32 of the SoC and more particularly the referenced section of the Redmore Report for emission impacts from operational phase.</p> <p>Paragraphs 6.56 and 6.48 of the SoC discuss the for PEA and BNG conclusions, drawing on section 5 of the PEA in particular.</p> | <p>PEA concludes no harm to SSSI due to distance, therefore no mitigation required for this.</p> <p>PEA also sets out that the relevant ecology surveys have been undertaken, with more to follow, and a negligible/minor beneficial effect will be had once mitigation measures are secured.</p> <p>Implementation of a Habitat Management and Monitoring Plan will see a 12.21% net</p> |

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| | | | gain of habitat units and 28.64% in hedgerow units – therefore significantly enhancing the biodiversity. |
| | Also, Site is adjacent to a watercourse that feeds into the River Witham with known white-clawed crayfish. | Heatons Letter 6 August 2025 | <p>Gunby Brook, which runs into the Site has been visually examined on two occasions and was found to be dry and more recently interspersed with largely still water at a depth of less than 50mm. In order for white-clawed crayfish to migrate up the brook the level of water would need to be maintained for a long period of time: the channel of water drying up at any time during the year would be a significant barrier to movement.</p> <p>Further, in relation to drainage from the Site, the Environment Agency confirmed their satisfaction with the detail of the disposal of foul water and withdrew their objection. As confirmed by the Ecology Letter 6 August 2025 the Development will cause no harm to white-clawed crayfish.</p> |
| Impact on Amenity | Relating to noise, odour, traffic and light pollution and the impact of this on residents, especially those living nearby to the facility. Effects on physical and mental health as a result of this plant. | <p>Paragraphs 6.16 to 6.17 for emission impacts of operational phase and the parts of the Redmore Report and the Create Air Quality Assessment referenced therein.</p> <p>Paragraph 6.95 of the SoC and 5.1.1 of the Redmore Report for mitigation regarding dust emissions.</p> <p>Paragraph 6.97 to 6.100 of the SoC and 5.1.1 of the Redmore Report outline the mitigation</p> | <p>The consultants' reports which deal with these issues state that there will not be significant impacts and therefore there is no need for additional mitigation, however, they do take into consideration integrated mitigation measures (such as for control of combustion emissions, dust and air quality).</p> <p>For lighting, it is stated that lighting will be complied with through planning condition.</p> |

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| | | <p>to control odour, with conclusions at 10.1.4 of the Redmore Report.</p> <p>Paragraph 6.102 of the SoC covers lighting.</p> <p>Paragraphs 6.36 and 6.105-6.106 of the SoC refer to noise which is covered in detail in the Noise Assessment, particularly section 6.</p> <p>Paragraph 9.17-9.24 of the SoC which refers to the Create Transport Assessment responds to impact on amenity from traffic refusal reason.</p> <p>Paragraph 9.25 on amenity refusal reason.</p> | <p>The Noise Assessment considers mitigation through conditions to ensure no unacceptable impact by securing that noise limits are in place for the plan (see paragraph 6.3 thereof).</p> |
| Safety | <p>Concerns that the site will result in traffic accidents with vulnerable road users, also worries that the Applicant knows the environmental risks of the proposal, won't always comply with environmental safety laws</p> | <p>Paragraph 6.30-6.31 and 6.106 of the SoC discuss impact on safety.</p> <p>The increased safety risk is also responded to in the 3 September Response Letter.</p> <p>This aspect is also covered within the <i>Impact on Amenity</i> section above.</p> <p>Response to traffic concerns is within <i>Safety of Other Road Users</i> section.</p> | <p>Concludes that there is no harm to amenity, health, well-being or safety arising from traffic or pollution, among other concerns.</p> <p>No issues with the compliance of environmental safety laws have been raised by the Council, and no such issues have been raised by the various reports underpinning the Application.</p> <p>As detailed in the 3 September Response Letter: All AD operators in the UK must comply with regulations concerning environmental protection, Control of Substance Hazardous to Health Regulations (COSHH), Dangerous Substance & Explosive Atmosphere Regulations (DSEAR), Health & Safety at Work Regulations, Regulatory Reform (Fire Safety) Regulations as set out</p> |

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| | | | <p>by UK regulations (EA, HSE). These basic duty of care controls exist to ensure the safety of our people & those living or working near our plants. These regulations cover plant design and equipment – which have built in automated safety controls & fundamental operational controls that fail safe. All of Future Biogas’ plants have sophisticated lightning protection systems that meet the British Standard 62305 and will be regulated by the HSE. All plants contain fire suppression equipment as standard as well as being built with comprehensive containment to ensure nothing leaves the site other than intentional exports of by-products. This site will fall under lower tier COMAH and be regulated by the Health and Safety Executive (HSE).</p> |
| Fire or Explosions | From the AD plant, comments about the Oxfordshire AD fire. Concerns that the site is far away from a fire station/emergency services. | <p>Fire Hydrant Connection Specification.⁷⁷</p> <p>Proposed Site Layout Plan.⁷⁸</p> | <p>Fire safety is dealt with by the inclusion of fire hydrants (see fire hydrant connection specification⁷⁹).</p> <p>A lightning mast is also proposed (see Proposed Site Layout Plan⁸⁰).</p> |

⁷⁷ AB C1

⁷⁸ AB B6

⁷⁹ AB C1

⁸⁰ AB B6

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| Flood Risk | Increased risk of flash flooding, also any hydrological change will have an effect downstream. Also worries that debris dropping from HGVs will block drains and cause flooding. | <p>Paragraph 6.25 of the SoC discusses flood risk; there is further detail in the Flood Risk Assessment.</p> <p>Section 5 of the Flood Risk Assessment⁸¹ describes the surface water management system to be applied at the Site.</p> <p>Paragraph 7.21 of the SoC draws on section 8 of the FRA which concludes on flood risk arising from the proposed Development.</p> | <p>FRA demonstrates that there is a low to moderate groundwater flood risk and very low risk of flooding from reservoirs. SUDS have been proposed to mitigate the identified risk of surface water flooding and flood risk being increased elsewhere.</p> <p>Note that the HGVs will be sheeted, as confirmed at paragraph 7.3 of the Create Transport Assessment</p> |

⁸¹ AB A9

11. CONCLUSION

- 11.1 The Appellant's case is straightforward. The Development complies with the Council's Development Plan when taken as a whole.
- 11.2 In relation to Development Plan policy RE1 (limb b) it is set out above at paragraph 6.135 that a previous planning appeal decision found that this limb of policy RE1 only applies to applications for the generation of wind energy, because whilst it is included in the main policy, the supporting REA only includes more detailed criteria on the requirement for community support explicitly in relation to wind, and not (in the case considered at the relevant appeal) to proposals for solar PV. Similarly, the detailed criteria for biomass proposals do not include a requirement for support from the affected local community. The Appellant asserts that there is strong justification that this position should apply in this case; there is neither the specific guidance as provided for proposals for energy generated from wind, given in relation to Biomass, and further there is no similar requirement elsewhere in policy, including national policy. The Development complies with the general aims of Policy RE1 which is supportive of applications for renewable energy generation.
- 11.3 It is also relevant that the Officer agrees with the appeal decision and concluded the lack of support of the affected local community "*does not constitute a conflict with Policy RE1b in this case*".
- 11.4 It is submitted that the Development raises no conflict with Policy DE1. The policy is complied with in all respects other than a moderate adverse impact on landscape character, reducing to minor after around year 5 as planting mitigation matures. It is submitted that this is not sufficient to mean that overwhelming compliance with the policy cannot be demonstrated.
- 11.5 The Applicant would submit that it is shown that the Development complies with the Development Plan when taken as a whole. Indeed, the Officer also assessed that "the application proposals are in accordance with the adopted Development Plan when taken as a whole, albeit there are conflicts identified in relation to the visual impact of the development." (paragraph 10.10 of the Committee Report).
- 11.6 It follows, therefore, that there is a statutory presumption in favour of granting planning permission for the Development unless there are any material considerations that indicate otherwise. In this case, there are no material considerations indicating that Planning Permission should not be granted. Indeed, for the reasons which have been articulated above, the only material considerations relevant to this Appeal add further weight to the position that planning permission should be granted.
- 11.7 The material considerations in favour of the Development which lead to the conclusion that planning permission should be granted are:
- a) development accords with the NPPF;
 - b) carbon negative development;
 - c) renewable energy generation and contribution to net zero (which should be given significant weight in accordance with paragraph 168 of the NPPF);
 - d) economic benefits including rural diversification;
 - e) biodiversity improvements; and
 - f) positive assessment of the Development given by the Council's professional Officer in the Committee Report leading to a recommendation of approval subject to conditions
- 11.8 In addition, the reason for refusal is rebutted for the reasons articulated in section 9 of this Statement of Case. The refusal on grounds of negative effect on the landscape setting and character is acknowledged. However, it has been mitigated as far as possible, and when the resultant harm is considered against the benefit of the Development, the refusal cannot be sustained. In addition, the Council's lack of evidence to support its reason for refusal in terms of the effect arising from transport, either in terms of the traffic generated from the Development having an adverse effect on highway capacity, safety, or any (unspecified) amenity is compelling.

- 11.9 Therefore, in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004 it is the Appellants' case that the Appeal should be allowed.
- 11.10 For these reasons, the Appellant respectfully requests that the Appeal is allowed.