

Objection to Retrospective Permission for 1/18/9006 (as amended by 1/21/9004)

Context:

The applicant's screening requestⁱ for 1/18/9006 shows the proposed plant would primarily aim to send Refuse Derived Fuel (RDF) to the Carlisle incineratorⁱⁱ – the highly controversial and much-opposed incineratorⁱⁱⁱ that the Council should not have approved^{iv}. The independent report into the Council's handling of the incinerator planning process found multiple errors and failings^v. The errors remain uncorrected even though the independent report recommended rapid and transparent rectification of errors^{vi}.

The initial January 2022 planning officer report to the planning committee regarding 1/21/9004 did not mention that 1/18/9006 had expired^{vii}. The July 2022 report recommended granting retrospective permission even though there had not been adequate consultation on the Council's intentions^{viii}. Now the Council is reconsulting on its apparent desire to grant retrospective approval to its own company^{ix}.

Please Consider:

1. The access roads are unsuitable for further increases in the number of HGVs^x which will impact the air quality and amenity of local residents.
2. The Cumbria Minerals and Waste Local Plan shows maintenance of the woodland at the site to be a "main concern"^{xi} yet the proposal removes approximately 75% of the broadleaved plantation woodland^{xii}. The proposal does not demonstrate biodiversity gain^{xiii}.
3. Significant quantities of waste are already sent for use as a fuel from Hespin Wood^{xiv}. There is also capacity that can create up to 150,000 tonnes per annum of Solid Recovered Fuel at nearby North West Recycling^{xv}. There is already sufficient waste management capacity in Carlisle and Cumbria^{xvi}.
4. The proposal can be expected to result in more waste being brought into Carlisle for processing and disposal^{xvii}. This is contrary to the proximity principle^{xviii}. Carlisle is fast becoming a waste city and this must stop.
5. The site is only a few miles from the Scottish border. Following an independent review^{xix}, the Scottish government acted to prevent increased quantities of residual waste going for incineration^{xx}. Since Carlisle and Cumbria have sufficient waste provision, the proposal can be expected to encourage importation of Scottish waste to Carlisle, frustrating Scottish government objectives. Carlisle is fast becoming a waste city and this must stop.
6. Defra has long recognised how a number of waste market failures favour incineration over less environmentally-damaging options^{xxi}. The building of more capacity to create fuel from waste will therefore encourage more waste to be turned into fuel, discourage waste reduction and discourage better ways of dealing with waste such as reuse and recycling^{xxii}.
7. The Government aims to halve the quantity of residual waste used for fuel and landfill by 2042^{xxiii}. The proposal can be expected to increase the quantity of residual waste destined for combustion and would not achieve the reduction required to meet the Government's aim^{xxiv}.
8. The proposal has not provided evidence that only waste that is currently landfilled would be processed into RDF^{xxv}. The proposal does not consider whether better alternatives exist for any of the source waste^{xxvi}. The proposal does not consider whether landfill may be environmentally preferable to incineration for some of the waste^{xxvii}. The proposal does not say that wastes that could be recycled would not be made into RDF and there are reasons to consider that the RDF produced would be likely to include recyclable material^{xxviii}.
9. The Cumbria Minerals and Waste Local Plan describes Hespin Wood as a landfill site^{xxix} (not a "Waste Management Park"^{xxx}). The site is considered withdrawn from the list of allocated sites and unsuitable for further waste developments^{xxxi}. The proposal is not in accordance with numerous

Cumbria Minerals and Waste Local Plan policies (and Carlisle Local Plan policies) including those regarding the location of waste facilities^{xxxii}.

10. Landfill operations cease in 2039. Waste management facilities at Hespian Wood remain operational until this time^{xxxiii} and, for consistency with the Local Plan, these operations must be tied to the duration of landfill operations at the site^{xxxiv}. Cumbria needs sustainable waste management solutions at appropriate long-term locations, not facilities built for short-term profit at temporary locations^{xxxv}.
11. Defra's definition of RDF^{xxxvi} shows RDF is a fuel for use in an energy from waste facility. RDF, as defined by Defra, has no other use than its combustion in an energy from waste facility. Making RDF can therefore be expected to result in the subsequent release of all the carbon. The Council has subscribed to the Zero Carbon Cumbria Partnership (ZCCP) 2037 net-zero carbon objective^{xxxvii}. Neither the applicant nor the Council has shown how the proposal is compatible with this net-zero objective^{xxxviii}.
12. The proposal's primary aim^{xxxix}, which the proposal also anticipates^{xl}, is to send the RDF for incineration. The combustion of materials made from fossil fuels, such as plastics, is unsustainable^{xli}. Therefore, the proposal's creation of RDF from waste materials, which can be expected to include plastics^{xlii}, is not sustainable development^{xliii}.
13. The applicant failed to satisfy the pre-development drainage conditions for 1/18/9006^{xliv}. The drainage conditions specified are necessary for managing the risk of pollution and minimising the risk to people and property^{xlvi}. The development as described increases surface water run-off^{xlvi}. The granting of retrospective permission would remove the pre-development conditions necessary for satisfactory control. The Council must not treat its own company with favouritism and must not assume a company that has failed to comply with pre-development planning conditions will correct its drainage plans after the granting of retrospective permission.

Summary:

The Council must not grant retrospective to its own company for this unnecessary proposal, that has been constructed in breach of the Council's own planning regulations, that is contrary to the Council's own plan, that risks frustrating the government's waste reduction aims, that does not demonstrate compliance with climate objectives, that would have harmful environmental and amenity outcomes, and when the applicant stated that the primary aim is to send waste to the incinerator that the Council should not have approved^{xlvi}. Is there no end to the Council's planning debacle on incinerator-related planning matters?

Finally, please also consider that the Council must not show planning favouritism to its own company and must not allow its own short-term commercial interest to interfere with its planning judgement. Please refuse the application and take enforcement action against this development that has been constructed in breach of planning regulations.

- i The Screening Request can be obtained from https://planning.cumbria.gov.uk/Planning/Display/1/2017_screening2
- ii The screening request says:

“A proportion of the material to supply the Kingmoor ERF could come from the existing Mechanical Biological Treatment (MBT) plants. The County Council's municipal waste strategy is based upon the operation of two MBT plants, one which is located in Barrow and one which is on the Hespian Wood Waste Management Park. The plants process municipal wastes to produce RDF. In the event that the material from both plants is taken to Kingmoor the total amount of material supplied would be 80-85,000 tonnes. Even with this amount of material being supplied to the Kingmoor ERF the plant would have significant additional capacity. It is this additional capacity which the proposal plant at Hespian Wood would primarily aim to cater for, at least in part. It is anticipated that the new RDF production facility would process around 100,000 tonnes of commercial and industrial wastes every year.”

This shows Cumbria County Council's knowledge that the proposal would “primarily aim to cater for” the Carlisle incinerator. The update sheet to the July 2022 committee considered the representation that
“Under the heading ‘The Proposal’, the Officer's report says ‘RDF can be used for a number purposes including replacing fossil fuels and can also be used in cement kilns.’ This is misleading because the applicant's proposal as described in 1/18/9006 anticipates the RDF going to the proposed Carlisle incinerator, not the use of RDF for cement kilns.”

The update sheet's response is:
“RDF can be used for a multiple of purposes and its up to the applicant to determine the onward sales of the product.”

The concern remains that the Council's reference to the use of RDF for cement kilns appears misleading when the Council knew that the applicant had said the proposal's primary aim is to cater for the Carlisle incinerator and yet makes no mention of this in the report.
- iii The officer's reports on 1/16/9005 and 1/18/9012 report 363 and 412 objections (but the actual number of objections was almost certainly larger because the Cumbria County Council planning website lost representations and because these numbers do not include objections made between the officer's report and the decision).
- iv <https://www.newsandstar.co.uk/news/19252056.cumbria-county-council-admit-error-plans-incinerator-kingmoor-park-carlisle/>
- v The PAS report can be found following the Executive Director Economy and Infrastructure response to the PAS report for agenda item 9 of the 2 September 2021 meeting of the Council's Scrutiny Advisory Board - Communities and Place (<https://councilportal.cumbria.gov.uk/ieListDocuments.aspx?CID=1069&MID=11493&Ver=4>). The findings of the independent report were referred to by <https://www.newsandstar.co.uk/news/19552090.findings-review-cumbria-county-councils-handling-incinerator-application-confirms-error/>
- vi The independent PAS report said “Where errors are discovered (whenever and by whoever) ensure that these are rectified rapidly and transparently”. The Council has acknowledged errors but not rectified them.
- vii Report on 1/21/9004 dated 19 January 2022.
- viii The Council's reconsultation letter did not make the Council's intention to consider the proposal under section 73A clear. Following much local opposition, the Development Control and Regulation Committee agreed to reconsult on the proposal.
- ix The Council's intention to grant retrospective permission is shown by the Council officer's report to the planning committee dated 15 July 2022. The Council has indicated that there “are several ways to regularise the development” (paragraph of the officer's report to the planning committee dated 15 July 2022) so the Council does not *need* to consider granting retrospective permission in response to the applicant's section 73 amendment. It is the Council's choice, or desire, to do so.
- x The unsuitability of the local roads was one of the reasons why the site is considered unsuitable for further waste developments (source: Site Assessments for the Cumbria Minerals and Waste Local Plan). Paragraph 8.20 of the 15 July 2022 planning officer's report says:

“The All Purpose Road (APR) provides an alternative link between Carlisle and Gretna when the M6 is closed, thereby the road is constructed for use by HGV's and provides a strategic link to the highway network.”

Just because the road provides an alternative route, that does not mean that the road is constructed for use by HGVs. Also “being constructed for use by HGV's” does not show that the road is suitable for the further increase in HGVs that would arise and so sufficient to consider the location “strategically located”.

As per point 24 on page 16 of the update sheet for the July 2022 committee:
“A revised traffic assessment should be made. The assessment should consider the applicant's anticipated RDF destination and the Council's suggestion that the RDF may be used for cement kilns. The traffic situation now is different from 2018 so an updated assessment should be provided. The assessment should also consider the impact on the Parkhouse Road roundabout because this proposal anticipates RDF to be sent to the proposed Carlisle incinerator via the Parkhouse Road roundabout, and because the incinerator planning application modelled the traffic lights incorrectly. The proposal may therefore result in unacceptable traffic impacts on that roundabout.”

The update sheet does not address these concerns saying only that “Comments from Highways are reproduced in the report at paragraph 6.4.” These concerns and the need for a revised traffic assessment remain.
- xi Site “CA24 Hespian Wood Landfill Complex, Todhills, Carlisle” in the Site Assessments document of the Cumbria Minerals and Waste Local Plan (<https://cumbria.gov.uk/elibrary/Content/Internet/538/755/1929/4298491657.PDF>).

- xii Paragraph 5.3 of Appendix 4 Habitat Survey of 1/18/9006. The planning officer response to this is shown on the update sheet for the July 2022 committee:
“Part of the woodland was removed prior to the submission of planning application 1/18/9006. The removal of the woodland did not require any form of planning permission or related planning consent as it is not within the grounds of a Listed Building or within a Conservation Area. It is also noted that it does not appear on the Ancient Woodland inventory. There is a band of the woodland which screens the site.”
 Even if some of the woodland was removed prior to the submission of planning application 1/18/9006, most of the woodland was removed after the 1/18/9006 planning application was submitted. This is evidenced by the woodland shown on the diagrams and in the documents (including appendix 4) of 1/18/9006. The applicant may not have required planning permission or related planning consent, but it is disturbing that the applicant, who is ultimately owned by Cumbria County Council, should act in such a way. Why did a Cumbria County Council-owned company give little or no regard to due planning process, the importance of the trees as expressed in the local plan, the importance of trees as expressed in the consideration of numerous previous planning permissions, and the views of local residents? Why is Cumbria County Council recommended granting retrospective permission to its own company that has acted in this way? Surely the Council should have more regard for the planning process, the local plan, the trees that have been cited in numerous previous planning permissions and the views of local residents? Furthermore, the removal of the trees is a material planning consideration because it is part of the 1/18/9006 planning application. The trees were removed to clear the land for the development, development which commenced without compliance with the pre-development conditions and development which the applicant no longer has permission for. Development contrary to the local plan and started without complying with planning conditions should not be rewarded with retrospective permission.
- xiii The Supporting Statement for 1/18/9006 makes no commitment for any mitigation of the lost habitat for birds which include biodiversity loss. The Site Assessments for the Cumbria Minerals and Waste Local Plan 2015-2030 adopted on September 2017 says “The site is also home to breeding birds.” Section 3.20 of the Habitat & Preliminary Arboricultural Appraisal Report refers to the Cumbria Biodiversity Data Centre and says:
“CBDC identified 1,063 individual records of 113 bird species identified within 2km of the site boundary. Included in these records are 13 species categorised as “sensitive” by CBDC and as such are confidential and cannot be referenced in this report.”
 There is also the possibility that some birds considered so sensitive that they cannot even be named may be impacted by the proposal.
 Paragraph 3.8 of the Officer’s report says “A triangular area of trees, measuring approximately 107m x 60m, has been removed.” There is no indication that mitigation has been provided for the loss of trees and the impact on birds. The Local Government Association says:
“National policy sets out that planning should provide biodiversity net gains where possible. National Planning Policy Framework (NPPF) Paragraphs 170(d), 174(b) and 175(d) refer to this policy requirement and the Natural Environment Planning Practice Guidance (PPG) provides further explanation on how this should be done. Delivering net gain is also referred to in the National Infrastructure Commission’s Design Principles, National Policy Statements and the National design guide.”
<https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain-local-authorities/biodiversity-net-gain-now-and-future>
- xiv Of LACW waste, the 2019 Cumbria Waste Needs Assessment shows 24% goes for RDF/incineration with 71% overall going to recycling/recovery and 16% lost (mainly because the waste is dried). LACW waste is processed at the MBT plants at Hespian Wood and Barrow. Waste from the MRF plant at Hespian Wood also goes for incineration (<https://www.letsrecycle.com/news/cumbria-waste-opens-1-25m-mrf-near-carlisle/>).
- xv Officer’s report for the Development Control and Regulation committee for planning reference 1/20/9013.
- xvi The October 2019 “Joint Cumbria Waste Needs Assessment Cumbria County Council and Lake District National Park Authority” says “**No capacity gaps are identified.**” (with use of bold as per original document). Carlisle already has waste handling capabilities in excess of Carlisle’s needs with Hespian Wood, Northwest Recycling at Rockcliffe Industrial Estate, Kingmoor Road, Boustead Grassing and the wrongfully assessed and approved incinerator site at Kingmoor Park. Paragraph 8.12 of the 15 July 2022 planning officer’s report says “There is clearly an identified need for the RDF facility as this is diverting 50,000 tons of waste per annum, which would have previously been directed to the landfill site, thereby moving waste up the waste hierarchy”. This statement is not supported by the applicant’s supporting statement which says “Some of this is delivered directly to the landfill site and some is residual material from the material recovery facility which is currently landfilled.” The applicant’s statement does not say 50,000 tons of waste would previously have been directed to the landfill site only that *some* if it would be. The proposal does not commit to divert 50,000 tons of waste per annum from landfill and, even if it did, such a commitment may be unenforceable and not realised. The officer’s report does not consider whether better waste treatment methods are available to treat any of the waste that is currently landfilled and whether these may move more materials further up the waste hierarchy than the proposal. The officer’s report also fails to consider that some of the waste processed by the RDF facility will not be suitable for RDF and may be landfilled, further reducing the quantity of waste diverted from landfill. The officer’s report also fails to consider whether the provision of excess waste management capacity will encourage the production of residual waste and the better handling of waste thereby moving some materials *down* the waste hierarchy.

- xvii Since there is already an excess of waste processing facilities in Carlisle, waste would have to be brought in from elsewhere. The application shows waste is expected to be brought in from other locations but the quantities of waste from the various locations are not shown. There is no commitment to take 50,000 tonnes per annum of waste from materials currently imported into Hespin Wood because the application just says that the 50,000 tonnes of material currently imported “could be diverted to RDF production” not “will be diverted to RDF production” (there is therefore insufficient evidence to support the planning officer’s statement that “50% of the source material is already on site at Hespin Wood” in paragraph 8.10 of the committee report dated 15 July 2022). There is little waste currently landfilled and only a fraction of that will be suitable for RDF. Even if some of the material currently imported is diverted, it may just result in more material being imported to replace the diverted material. The quantity of waste from “other commercial sources” could be a high fraction of the waste processed with no consideration of the possibility of better ways of handling this waste.
- xviii Cumbria Minerals and Waste Local Plan, e.g. paragraph 3.3. Section 8.4 of the planning officer’s report dated 15 July 2022 says “previously the majority of RDF was not treated within Cumbria but was shipped to Europe for use in appropriate facilities”. This statement is strange because the proposal is not for the treatment of RDF nor does the report state where the majority of RDF in Cumbria will now be treated. The report may be referring to the applicant’s anticipated destination: the Carlisle incinerator that the Council wrongfully granted permission for. That plant, however, does not have a permit to operate and may never be built. The report contains insufficient information to show conformity with the proximity principle.
- xix <https://www.gov.scot/publications/stop-sort-burn-bury-independent-review-role-incineration-waste-hierarchy-scotland/documents/>
- xx The independent report commissioned by the Scottish government recognised “Lock-in is where the development of residual waste treatment infrastructure with a long operational life ... limits the treatment of waste further up the hierarchy. This can come about nationally if more capacity is built than, over time, is needed as an economy moves towards a more circular model...”. As a result, the Scottish government have taken steps to prevent further increased residual waste treatment infrastructure (<https://www.gov.scot/news/putting-limits-on-incineration-capacity/>).
- xxi ‘The economics of waste and waste policy’ (14th June 2011) available at <https://www.gov.uk/government/publications/the-economics-of-waste-and-waste-policy>
- xxii According to Department for Environment Food and Rural Affairs (Defra):
“Government intervention will aim to divert waste away from landfill and incineration... Disposal methods at the bottom of the waste hierarchy such as landfill, incineration and RDF are associated with higher greenhouse gas emissions. Reducing the levels of waste being disposed of via these residual waste methods will lead to an increase in the reuse, repair and remanufacture of materials and move England’s waste system to a more circular economy”.
 (Source: Resource efficiency and waste reduction targets - Impact Assessment (Pages 48 and 49). Department for Environment Food and Rural Affairs (Defra), 28 April 2022. <https://consult.defra.gov.uk/natural-environment-policy/consultation-on-environmental-targets/>)
- xxiii <https://www.gov.uk/government/news/delivering-on-the-environment-act-new-targets-announced-and-ambitious-plans-for-nature-recovery>
 The government’s aims to reduce the quantity of waste going for energy recovery was also stated by Rebecca Pow, the Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs:
“I want to set the record straight: as my right hon. Friend the Member for Romsey and Southampton North (Caroline Nokes) highlighted, our focus as a Government is on “reduce, reuse, recycle”. We are sticking to that, as well as to the drive towards an ever more circular economy, which many Members touched on. That means extracting maximum value from our resources, then recovering and regenerating products and materials at the end of their lifespan. Through that, we seek to minimise the amount of waste that goes to incineration or landfill, which certainly are at the bottom of the waste chain...Policies aimed at diverting waste away from landfill mean that, in addition to recycling gains, the volume of waste being treated at energy-from-waste plants has increased. Of course, however, the aim with all the measures in the waste and recycling strategy is to bring that down”
 (Source: Hansard - Westminster Hall debate on Industrial and Commercial Waste Incineration. UK Parliament, 28 January 2020. <https://hansard.parliament.uk/Commons/2020-01-28/debates/9209AD6A-6C6B-47CB-A460-5147EC43131F/IndustrialAndCommercialWasteIncineration>)
 Paragraph 8.54 of the planning officer’s report considers that “there has been no changes to policies or legislation since the granting of 1/18/9006”. The report makes no mention of the government’s aims to reduce residual waste, the ever increasing urgency of the climate emergency, the Scottish government’s action to limit residual waste facilities (and the potential for the proposal to frustrate the Scottish government’s aims) and the Environment Act 2021. The update report to the July 2022 committee has noted that the importance and urgency of the climate crisis has grown since the original planning permission was granted but did not give adequate consideration to this increased importance and urgency.
- xxiv Point 1 of 1.1 of the Supporting Statement of 1/18/9006 shows the RDF will be made from “commercial and industrial wastes”. Table 3 of October 2019 “Joint Cumbria Waste Needs Assessment Cumbria County Council and Lake District National Park Authority” (<https://cumbria.gov.uk/elibrary/Content/Internet/538/755/1929/4379018936.PDF>) shows only 13% and 12% of waste going to landfill for industrial and commercial wastes respectively (with other waste sources ranging from

3% to 14%). Figures for RDF/incineration are 24% (for LACW) with this waste being processed at the MBT plants at Hespin Wood and Barrow. For commercial waste and industrial wastes, the WNA is less clear but it can be expected that the bulk of the waste destined for “treatment” (41% for commercial, and 48% for industrial), plus possibly a significant fraction of the waste transferred (24% for commercial and 14% for industrial), will be destined for incineration. These fractions exceed the quantities of waste recycled and going to landfill.

The amount of waste that the proposal would divert from landfill has not been quantified (the proposal uses words such as “expected” “could” and “some”). Since only a small fraction of Cumbria’s waste goes to landfill, with only a fraction of that landfilled waste combustible, the proposal may actually divert very little, or perhaps even zero, landfilled waste. However, even diversion of waste away from landfill will not achieve the Government’s aim, which is to reduce residual waste going to landfill and incineration. There are strong reasons to expect that the provision of yet more RDF capacity would *increase* the quantity of waste going to make RDF because, once such facilities are constructed and operational, there is a commercial necessity to use them in order to get a return on the investment. The provision of yet more fuel from waste capacity will not achieve, and will hinder, the significant decrease in residual waste required. The issue is not addressed by point 8 of the update sheet issued for the July 2022 committee meeting.

xxv The applicant said, in their document titled “Response to Objections” uploaded 19 July 2018 (available at <https://planning.cumbria.gov.uk/Planning/Display/1/18/9006>) that “The decision to pursue the development of a RDF production facility has been a response to identifying a commercial opportunity to treat waste (which would otherwise be landfilled) to create a fuel.” This suggests that the facility would only treat waste which would otherwise be landfilled, but Appendix 2 of the Supporting Statement for 1/18/9006 says waste is expected to comprise “a mixture of diverted material presently received by the landfill and MRF operations” and paragraph 3.9 of the Supporting Statement refers to waste that is not necessarily destined for landfill (e.g. the waste described as “other commercial sources”). Despite questions being asked, the quantities and nature of the wastes from the various sources have not been provided. The update sheet to the committee shows the Council has noted the lack of response (Council response to point 12 on page 15) yet the Council has not insisted that the applicant provide the necessary information. The applicant’s words regarding the sources of wastes (“throughput of the plant is expected ...”) is non-committal, unenforceable and subject to change. The applicant has provided insufficient information to verify their claims and insufficient information on which to judge the likelihood of the waste sources continuing in the same quantities.

xxvi Reducing landfill waste by using the waste as a fuel instead is, in many cases, not a satisfactory solution. According to the Committee on Climate Change:

“Key policy changes needed: ...Banning biodegradable waste from landfill from 2025 is a priority, and should be achieved via prevention, reuse and recycling, not via more energy-from-waste”.

(Source: Policies for the Sixth Carbon Budget and Net Zero (Page 185). Committee on Climate Change, 9 December 2020. Available from: <https://www.theccc.org.uk/publication/sixth-carbon-budget/>)

The proposal, which seeks to send more waste to energy-from-waste, does not demonstrate the level of ambition required.

xxvii The following quotes show landfill can be environmentally preferable to incineration.

In answer to questions to the “Environment, Food and Rural Affairs Committee”, Prof Ian Boyd, DEFRA’s Chief Scientific Advisor, said:

*“If there is one way of extinguishing the value of the materials fast, its to stick it in an incinerator and burn it. Now it may give you energy at the end of the day, but actually some of those materials, even if they are plastics, with a little bit of ingenuity, can be given more positive value. And one of the things that worries me is that we are taking these materials, we’re putting them in incinerators, we’re losing them forever, and actually we’re creating carbon dioxide out of them as well, which is not a great thing, when in fact we could be long-term storing them until we have the innovative technologies to re-use them and to turn them into something that is more positively valued. And this brings me to a more general point about landfill... **landfill is actually a very low marginal-cost method for storing materials – highly resistant materials such as plastics and metals – for a long period of time. If we cannot extract the value from them now, so one caveat I would put around the current direction of travel on landfill, is that we shouldn’t lose sight of the fact that in a few decades time, or maybe a bit longer, we might be mining our landfill sites for the resources they contain, and rather than put some of those resources into incinerators and just lose them forever we might want to think differently about the landfill sites.**”*[emphasis added, source: from 15:21:00 at <http://www.parliamentlive.tv/Event/Index/9c6b4590-5882-4464-a945-29783d4af339>]

DEFRA’s Waste Economics Team noted that:

“MBT-landfill provides the best emissions performance in terms of the treatment/disposal of residual waste. It essentially involves landfilling somewhat stabilised wastes with some material recovery. The magnitude of the environmental impact depends on the extent to which the waste is stabilised”

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69500/pb13548-economic-principles-wr110613.pdf)

An OECD Working Party on National Environmental Policy said:

“...the environmental harm caused by a modern landfill and a modern incineration plant are of a similar magnitude, while the costs of building and operating an incinerator are much higher than the similar costs for a landfill. Hence, the total costs to society as a whole of a modern incinerator seem significantly higher than for landfilling – which indicates that some reconsideration of the current preference being given to incineration could be useful.”

([http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC/WGWPR\(2005\)4/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/EPOC/WGWPR(2005)4/FINAL&docLanguage=En))

xxviii Defra has said

“Of total residual waste from household sources in England in 2017, an estimated 53% could be categorised as readily recyclable, 27% as potentially recyclable, 12% as potentially substitutable and 8% as difficult to either recycle or substitute.”

(Resources and Waste Strategy Monitoring Progress 2020,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907029/resources-and-waste-strategy-monitoring-progress.pdf)

The transport assessment of 1/18/9006 used the assumption that two thirds of the waste would be suitable for being processed into RDF. With this assumption, at the very most only one third would be recycled (the actual amount recycled would probably be less because it can be expected that some of the material will be neither recyclable nor suitable for RDF). Extracting less than a third of the material seems very poor when the residual waste may contain as much as 80% recyclable and potentially recyclable material.

Furthermore, the diversion of materials currently processed by the MRF suggests recyclable materials that are currently extracted by the MRF would be turned into RDF by the proposal instead.

Paragraph 3.4 of the planning officer’s report dated 15 July 2022 says:

“This process removes recyclable material and any material which would be suitable for use as RDF.”

Since the officer’s report says both recyclable material and RDF material are being removed, this may mean that the removed RDF material includes the removed recyclable material. The response to point 13 on page 13 of the update sheet to the July 2022 committee shows the potential for the diversion from the MRF, and hence the potential for materials currently recycled to be turned into RDF, yet the update sheet gives no indication for how the Council’s assessment of the proposal has addressed this realisation that the facility may not move wastes as far up the waste hierarchy as possible.

xxix The Site Assessments (<https://cumbria.gov.uk/elibrary/Content/Internet/538/755/1929/4298491657.PDF>) within the Cumbria Minerals and Waste Local Plan show the site as “CA24 Hespín Wood Landfill Complex, Todhills, Carlisle”. See also table 3.9, paragraphs 3.56, 3.63 and 18.8 of the Cumbria Minerals and Waste Local Plan. Paragraph 8.11 of the 15 July 2022 planning officer’s report quotes the site assessment document ““No site allocation is needed for the current waste operations” but the proposal is not “current waste operation” but a new waste development.

xxx The committee report for planning application 1/21/9004 describes the location as “Hespín Wood Waste Management Park, Rockcliffe, Carlisle, CA6 4BJ” and refers to “Hespín Wood Waste Management Park” throughout the document. Such a description is not in accordance with the Cumbria Minerals and Waste Local Plan

xxxi As shown by the Cumbria Minerals and Waste Local Plan Site Assessments. However, paragraph 8.61 of the planning officer’s report to the committee dated 15 July 2022 says “The reason CA24 was withdrawn from the process is not because it was considered unsuitable for waste management operations but that no further landfill sites were needed to be identified and no site allocation was needed for the existing waste operations to continue on the site.” The Site Assessments document makes no statement about whether the site is suitable or unsuitable for existing waste management operations. However, regardless of that, it is impossible to conclude that the removal of the site as an allocated waste management site for further waste developments means anything other than the site was considered unsuitable for further waste developments – both landfill and other. This consideration of both landfill and non-landfill operations is supported by the stated reason which refers to “current waste operations, including landfill”. The comments in the summary of comments also support the withdrawal of the site as an allocated site.

xxxii The following assessment of the proposal against applicable policies shows the proposal is not compliant. The policy below is a Cumbria Minerals and Waste Local Plan policy unless otherwise stated:

SP1: Not compliant. A proposal that prepares materials for destruction, especially when some of the source materials are limited (such as fossil fuels, but also other materials), is not sustainable. A proposal that creates a product intended for combustion which, when burnt, harms the climate for future generation by release of fossil-fuel carbon is not sustainable (according to the NPPF definition of sustainability). Since the proposal also does not accord with other policies in this plan, the proposal is not compliant with policy SP1. The planning officer’s report dated 15 July 2022 considers the application to be compliant with policy SP1 but has provided no evidence or even explanation. Point 20 on page 15 of the July 2022 update sheet to the committee says:

“This proposal is not sustainable because it prepares materials for their destruction. It therefore cannot accurately be described as sustainable development nor can it be considered part of the circular economy.”

The update sheet shows the point is noted but provides no indication of how the point has been considered. There is no indication that the Council has revised its assessment of the proposal's compliance with policy SP1 accordingly.

- SP1 (Carlisle): Not compliant. Since the proposal is not sustainable (see SP1 above) the proposal is also not compliant with Carlisle Local Policy SP1 yet paragraph 8.55 of the planning officer's report to the committee dated 15 July 2022 considers the proposal compliant with policy SP1 without explanation.
- SP2: Not compliant. There is already sufficient provision for waste. Proposal likely to result in more than "limited cross boundary movements". No demonstration of local, social, environmental and economic benefits that outweigh sustainability issues. Paragraph 8.6 of planning officer's report dated 15 July 2022 says "The proposed RDF facility is considered to comply with CMWLP 2015-2030 policies SP2 and SP3, as it moves waste away from landfill and up the waste hierarchy" but such an explanation does not demonstrate compliance with SP2 which concerns provision for waste.
- SP2 (Carlisle): Not compliant. Key land has been set aside, including for waste developments, but this location is not in accordance with either the Cumbria Minerals and Waste Local Plan site allocations nor the Carlisle Local Plan site allocations. The site is fundamentally rural in nature and should be restored when landfill ceases. The proposal is not commensurate with its rural setting (point 7 of policy SP2 (Carlisle)).
- SP3: Not compliant. Already sufficient provision for waste. Hespian Wood is not one of the 7 sites nor one of the Broad Areas nor an HWRC. The proposal is withdrawn so questionable whether it can be considered "unallocated" but, even if it is unallocated, it does not conform to other relevant policies in the Plan so is not compliant with SP3. Paragraph 8.6 of planning officer's report dated 15 July 2022 says "The proposed RDF facility is considered to comply with CMWLP 2015-2030 policies SP2 and SP3, as it moves waste away from landfill and up the waste hierarchy" but such an explanation does not demonstrate compliance with SP3 which concerns provision for waste and the suitable locations for such provision.
- SP5 (Carlisle): Not compliant. The additional HGVs would harm a road which is used by many cyclists. The proposal would not, therefore, "increase the provision for walking and cycling, including improved connectivity across the District;" but would hinder cycling provision. The proposal, which would involve increased numbers of HGVs, would also not secure a modal shift in the transport from road to rail as required by policy SP5.
- SP6 (Carlisle): Not compliant. The industrial buildings in a rural context, with the associated destruction of trees, is not a suitable response to the local context, nor does the development respect local landscape character, nor has there been adequate steps to ensure there will be no adverse effects on amenity (including from noise, odour and increased traffic), nor has the development aimed "to ensure the retention and enhancement of existing trees", nor have appropriate mitigation measures been put in place, nor has sufficient information been provided to demonstrate the design has maximised opportunities to employ sustainable design and construction techniques. Paragraph 8.19 of the planning officer's report dated 15 July 2022 says "The design is considered to comply with Carlisle CC Local Plan Policy SP6" but the assessment of design (paragraphs 8.15 to 8.19) is in relation to the "Hespian Wood Waste Resource Park" which is a description not recognised by the local plan.
- SP7 (Carlisle): Not compliant. No consideration has been given to the possibility of archaeological remains at the site.
- SP8 (Carlisle): Not compliant. The proposal destroys trees in an area important for birds with no mitigation for the damage.
- SP9 (Carlisle): Not compliant. The proposal has not demonstrated that noise, odour and dust will not harm health and well-being. Increased air pollution arising from HGVs will harm health and well-being (because there is no safe level of air pollutants, such as particulates, emitted from HGVs). The proposal also has not demonstrated that the additional noise, vibration and potentially congestion will not harm health and well-being. The proposal does not prepare for extreme weather events but, by preparing plastic for combustion, encourages the release of all the fossil carbon in the plastics in the atmosphere worsening the climate crisis and making extreme weather events more likely. Concerns remain regarding the proposal's drainage plans and so also whether these adequately prepare for extreme weather events. The proposal also has not maximised opportunities for renewable energy as required by the policy.
- SP12: Not directly applicable, but the policy shows the importance given by the Cumbria Minerals and Waste Local Plan to protecting peat. This proposal would harm peat by construction on a predominately peat site. Any harm which has already been caused should be reversed so that the peat can begin to recover. The planning officer's report dated 15 July 2022 makes no reference to the proposal's destruction of peat.
- SP13: Not compliant. The making of RDF (which prepares the materials for destruction making them unavailable to future generations) is not an efficient use of resources unless it can be demonstrated that there really is no better way to handle the resources higher up the waste hierarchy. This proposal does not demonstrate that this is the most efficient use of resources. Questions about the materials and their source remain unanswered. Questions about the efficiency of the extraction of recyclable material remain unanswered. The update sheet to the committee shows the Council has noted the lack of response

(Council response to point 12 on page 15) yet there is no indication that the Council has required the applicant to provide the necessary information. The proposal does not demonstrate energy management and carbon reduction have been determining design factors. Nor has there been a demonstration of the minimisation of road miles. The development affects peat, but there has been no demonstration that carbon emissions will not be significantly increased by the development's impact on peat. No consideration has been given to restoration to mitigate or adapt to climate change. The planning officer's report dated 15 July 2022 considers policy SP13 to be a key policy "relevant to the determination of this planning application". The associated committee update sheet says
"It is considered the proposal complies with Cumbria MWLP SP13 as this reduces minerals and waste road miles as the material is already brought to the site for landfill purposes, the material is diverted from landfill to make an alternative end product."

but this gives no consideration to the other important considerations of SP13. It also gives no consideration to road miles associated with materials that are not currently brought to the site, gives no consideration to whether a reduction in road miles may be achieved by an alternative destination of the waste, no consideration of road miles associated with the end product, no consideration as to possible alternative ways of dealing with the any waste that is currently landfilled and no consideration of the fraction of waste processed by the RDF plant that has to be landfilled anyway because it is unsuitable for RDF and cannot be recycled.

- SP14: On balance, not compliant. The policy requires weighing of "adverse economic impacts on other industries". The proposal can be expected to have an adverse impact of industries that would handle the waste further up the waste hierarchy, e.g. recycling, which can employ many more people than energy from waste. Paragraph 7.34 of the planning officer's report dated 15 July 2022 only considers the creation of jobs and has not given consideration to the adverse economic impacts.
- SP15: Not compliant. The proposal destroys much of a boundary woodland that is described in the local plan as a "main concern"; the loss of the woodland was sited as one of the reasons why the site was considered unsuitable for further developments; the woodland was considered a mitigating factor in numerous previous planning applications; the proposal will harm quality of life, e.g. from increased traffic, removal of woodland, preparing materials for destruction; preparing plastics for burning (with burning expected to put all carbon into the air) is climate harm not mitigation; lacks evidence of biodiversity gain; proposal not consistent with landscape designation. The planning officer's report dated 15 July 2022 considers policy SP15 to be a key policy "relevant to the determination of this planning application" yet makes no other mention of whether the proposal is compliant with the policy.
- SP16: Not compliant because the proposal has no restoration plan. The planning officer's report dated 15 July 2022 gives no consideration to whether the proposal is compliant with policy SP16.
- SP17: The proposal lacks "long term management of relevant environmental assets" such as the woodland and wildlife that is dependent on the woodland but the Council has made no plans for section 106 planning obligations. The planning officer's report dated 15 July 2022 gives no consideration to potential 106 agreements.
- DC1: Not compliant. The roads to the site are not suitable for increased number of HGVs nor does the site utilise rail or waterborne transport. The proposal lacks sufficient information on the source and nature of waste to be processed, lacks information on alternative ways of dealing with the waste; without such information, minimisation of waste miles cannot be demonstrated. The planning officer's report dated 15 July 2022 gives insufficient consideration to the possibility that the proposal may result in significantly more than 50,000 tonnes of waste being imported to the site.
- DC2: Not compliant. The proposal has not demonstrated that "the overall carbon footprint of the development has been minimised" (as required by DC2d). Paragraph 8.55 of the planning officer's report dated 15 July 2022 considers that the proposal complies with policy DC2 but has provided no supporting explanation nor any explanation of how the proposal minimises the overall carbon footprint. The response to point 11 on page 14 of the update sheet to the July 2022 committee shows that the Council has noted, but not explained how they have considered, that the use of high-carbon materials for a short-duration facility is not consistent with the Council's climate objectives.
Also, the proposal's aim, as given in the screening request, is to cater for the Carlisle incinerator and this is "anticipated" by the application. However, regardless of where the RDF is burnt, it will inevitably increase emissions including pollutants with no known safe level (such as particulates and NOx) because, by Defra's definition, RDF is to be burnt at energy-from-waste facilities, and, with the technology available today, particulate and NOx emissions will occur. Increased air pollution inevitably harms health and the government has declared an Air Quality Health Emergency (<https://www.gov.uk/government/speeches/air-pollution-is-a-health-emergency> and <https://www.bmj.com/content/378/bmj.o1664>). In such a situation, inevitable increases in air pollution, arising from the inevitable incineration of the RDF product, especially when the creation of the RDF is not being minimised, is significant. The proposal is therefore also not compliant with DC2b.
- DC3: No evidence to show compliance. No BS4142 noise assessment has been carried out. The 1/21/9004 amendment increases door sizes which can be expected to increase noise. The planning officer's report to

the committee dated 15 July 2022 appears to consider the proposal compliant with DC3 without a noise assessment to demonstrate compliance. Point 19 on page 15 of the update sheet to the July 2022 committee meeting says

“The amended proposal increases the size of the doors compared to the original proposal. This change can be expected to increase noise and odour ... The Officer's report does not adequately consider the potential impacts because noise and odour can go round and over buildings and not all residents are located in the direction of Todhills.”

The update sheet considers that this is addressed in the officer's report at paragraphs 8.14 to 8.19 but these paragraphs do not address the concern raised.

- DC5: No evidence to show compliance. The planning officer's report to the committee dated 15 July 2022 considers the proposal compliant with DC5 saying “There will be no external operations as sorting and working will be undertaken in the building”. This does not consider the potential for fugitive dust emissions. Access to the building will require doors to be open for at least some of the time potentially releasing dust. The planning officer appears to have reached their conclusion without requiring any dust assessment.
- DC6: Not compliant. The development can be expected to impact habitats and species (from the destruction of trees), have greater visual impact (because of the destruction of trees), affect the landscape character (industrial buildings in an essentially rural area), increased noise (the process is noisy and the destruction of trees that reduce noise), air quality (because of increased traffic, no dust assessment has been carried out and primary aim is to cater for an incinerator that will worsen air quality as quantity of feedstock increases), increase traffic on minor roads near residential properties, increased risk of fire, harm to wider economy (recycling of waste creates more jobs), impacts local amenity (because of increased traffic, noise). Paragraph 3.4 of the planning officer's report dated 15 July 2022 says “shredded RDF would be baled awaiting transportation to an appropriate facility” but gives no consideration to the maximum quantity or maximum duration of the storage nor the fire safety of the storage nor whether the location and its size is appropriate for the storage. Nor does the planning officer's report give consideration to the storage of waste prior to processing, the appropriateness of that storage and the fire safety of that storage. The planning officer's report appears to give little consideration to the inability of regulation to adequately control the risk of fire. The July 2022 committee update report considers that “The building has been designed to be compliant with Fire Safety Regulations. Building Regulations deal with Fire Safety” but is failing to address the experience of Carlisle residents that shows existing regulations (be that Fire Safety Regulations or Building Regulations) are clearly not sufficient to adequately control the risk of fire at waste plants.
- DC7: Compliance not demonstrated. The proposal is considered an energy from waste proposal and the proposal primarily aims to cater for the Carlisle incinerator which is an energy from waste plant. It is therefore reasonable to consider that the proposal forms part of a set of developments that, together, generate energy from waste. There is already sufficient waste processing capacity, including capacity to turn waste into fuel, and the provision of excess capacity can be expected to “prejudice the reduction, re-use or recycling of waste”. The proposal lacks information on the waste to be processed and its origin to show that the proposal conforms to the waste hierarchy. The proposal, which includes making fuel from plastics made from fossil fuels, can be expected to result in the release of all the carbon into the atmosphere so the proposal lacks evidence that it will contribute to a reduction in greenhouse gas emissions – certainly when compared to feasible alternatives.
- DC8: Not compliant. The proposal includes no plan for renewable energy, such as roof solar panels. The planning officer's report dated 15 July 2022 gives no consideration to policy DC8.
- DC9: Not compliant. The proposal meets none of the following criteria for a new waste management facility so is not in accordance with policy DC9.
- a: The proposal is not one of the listed facility types
 - b: The proposal is not a Household Waste Recycling Centre
 - c: The proposal is not “Open windrow green waste composting”
 - d: The proposal is not “Enclosed composting facilities”
 - e: The location is not an industrial estate, nor a farm, nor a countryside location. The location is a landfill site but a landfill is only appropriate “where required for pre-treatment or for treatment of leachate”
 - f: The proposal is not “Construction and demolition, mineral or excavation waste recycling” nor does the location match
 - g: The proposal is not “Wastewater treatment infrastructure”
- Paragraph 8.13 of the planning officer's report dated 15 July 2022 says “Each element has been considered against the relevant policies SAP2 and DC9 of Cumbria MWLP” but this statement does not claim that the proposal *complies* with policies SAP2 and DC9. Paragraph 8.55 of the same report does, however, claim compliance with policy DC9 but gives no supporting explanation. Paragraph 6.3 of the report quotes the so-called consultation responses from the CCC Local Plan Officer. This quote refers to DC9 criterion e but this was amended by the update report to the July 2022 committee to refer to DC9

criterion a. This last minute change is not supported by so-called consultation responses from the CCC Local Plan Officer (a member of the same Council planning team with the same manager as the planning officer?) because the consultation response currently shown on planning.cumbria.gov.uk (under 1/18/9006) refers to DC9 criterion e. Did the Council really receive a revised “consultation response” from the CCC Local Plan Officer? If so, why is it not available on the planning.cumbria.gov.uk website? Or did the Council planning officers responsible for the update sheet make this last minute change because they realised DC9 criterion e cannot possibly support the proposal? DC9 criterion a also does not support the facility because, as stated in representations quoted in the update sheet to the July 2022 committee, “The proposal is also not in accordance with DC9 a) because the proposal is for a facility that makes RDF so is not one of the facility types covered by DC9 a)” (page 3, 5, 7, 8, 10-11). This representation was not addressed in the update sheet. Paragraphs 8.7 to 8.13 in the report to the committee (referenced by the update sheet) do not demonstrate the proposal complies with DC9 criterion a.

DC16: Not compliant. To be compliant, the proposal would need to demonstrate DC16a to d, but

- a: The proposal gives no consideration to alternative locations.
- b: The proposal lacks evidence that mitigation is appropriate and lacks evidence that opportunities to incorporate beneficial biodiversity and geological conservation features have been taken
- c: The proposal lacks evidence that adequate compensatory measures have been identified and secured
- d: The proposal lacks evidence that compensatory measures are compatible with the characteristics of Cumbria.

Paragraph 8.36 of the 15 July 2022 committee report says “The development would not adversely affect any ecological interests and would comply with Policy DC16 of the CMWLP and Policy CP2 of the Carlisle District Local Plan” but has provided no supporting explanation of why a proposal that fells trees and does not demonstrate compliance with DC16 a to d can be considered to comply with DC16 and not adversely affect any ecological interests. The Carlisle District Local Plan does not appear to contain a policy CP2.

DC17: There has been little or no consideration by the applicant and the Council of the potential for archaeological remains which, if they exist, could be an important heritage asset. The proposal therefore lacks evidence that it is compliant yet paragraph 8.46 of the 15 July 2022 planning officer’s report considers the development complies with policy DC17.

DC18: Not compliant. Harm to peat at the site is a significant adverse impact on the natural landscape. The removal of trees is a significant adverse impact on the landscape. Unnecessary over-provision of residual waste facilities can be expected to result in greater greenhouse gas emissions which will also have an adverse impact on the natural landscape. Paragraph 8.28 of the 15 July 2022 planning officer’s report considers that the RDF building complies with DC18 but the explanation suggests that the planning officer has not considered harm to peat, the removal of trees nor the impact of the greenhouse gas emissions from the unnecessary over-provision of residual waste processing.

DC19: Concerns remain. DC19 requires “The Flood Risk Assessment should assess potential effects from current and future flooding from all sources, whether it would increase flood risk elsewhere and measures to deal with these effects and risks.” The “Supporting Statement Information required by Conditions 7, 8, 9 and 10 of Planning Permission Ref: 1/18/9006” does not quantify the increased risk from the proposal of flooding elsewhere. There is a lack of information to show that firewater drainage has been considered by the proposal or by the Cumbria Lead Local Flood Authority. The Council will be aware that concerns over firewater drainage at the North West Recycling site resulted in the fire burning for a month releasing much smoke and greatly impacting local residents. Paragraph 8.43 of the planning officer’s 15 July 2022 report says “CCC Lead Local Flood Authority are satisfied that the information submitted would not cause any issues of flooding or impact on drainage to Hespian Wood Waste Management Park”. However, it is not the “information submitted” that may cause problems and the statement does not say that the CCC Lead Local Flood Authority are satisfied that the proposal would not cause any flooding or impact on drainage.

DC20: Lacks information to demonstrate compliance. Diagram H-52-2G dated 5 May 2022 has significant differences from H-52-2F dated 30 July 2021 yet the Flood Risk Assessment and drainage assessments have not been updated to reflect the significant changes such as the removal of a lagoon on diagram H-52-2G. Which diagrams do the documents relate to and how can they possibly relate to both diagrams when there are such significant differences? The “Supporting Statement Information required by Conditions 7, 8, 9 and 10 of Planning Permission Ref: 1/18/9006” refers to Catchpit 1 and Catchpit 2 yet these are not shown on the diagrams H-52-2F and H-52-2G. Paragraph 3.1 of the planning officer’s report dated 15 July 2022 also considers the development includes the creation of two lagoons yet H-52-2G shows just one lagoon.

DC21: Not compliant. The soil at the site is predominantly peat. Building on the peat can be expected to cause damage and peat is a hugely important carbon sink. The proposal includes no evidence that soil resources are conserved and maintained in viable condition to be used in restoration of the site. Following site closure in 2039, the peat is unlikely to be restored in a satisfactory time-frame to mitigate climate change.

Increased water runoff can also be expected to increase erosion of peat.

- DC22: Not compliant. DC22 says “Proposals for ... for temporary waste facilities ... shall be accompanied by restoration and aftercare proposals with sufficient detail to clearly demonstrate that the overall objectives of the scheme are practically achievable, including a vision for overall restoration of the site, and to include proposals for appropriate afteruse and the means to achieve it.” Hespian Wood is planned to close when landfill operations cease in 2039. The proposal is therefore temporary. No restoration and aftercare proposal has been included.
- EC1 (Carlisle): Not compliant. The proposed Sui Generis use is not at the locations considered acceptable by policy EC1.
- IP2 (Carlisle): Not compliant. The applicant’s transport statement does not demonstrate how “the needs of cyclists and pedestrians will be met and prioritised on site”, does not demonstrate that “the development will help to reduce the need to travel, particularly by private motor car”, does not demonstrate that “the movement of freight and goods by rail will be maximised where possible”, does not demonstrate that “the site will safely and conveniently connect to public and green transport routes”, does not demonstrate that “the accessibility needs of more vulnerable people have been taken into account”, does not include “sustainable vehicle technology such as electric vehicle charging points”.
- IP3 (Carlisle): Not compliant. The proposal does not show adequate HGV parking, car parking and secure bicycle parking. Paragraph 3.1 of the planning officer’s report dated 15 July 2022 considers that the application includes a car park and paragraph 8.51 of the same report refers to a “new car park” but the description of the proposal on the application form includes no mention of a car park, the supporting statements do not refer to a car park and “HGV manoeuvring and parking area” on diagram H-52-2C has been amended to “HGV manoeuvring area” on later versions of the diagram.
- CC3 (Carlisle): Not compliant. The proposal does not demonstrate that it has made the “fullest contribution” to enabling carbon reduction. A proposal which prepares fossil-fuel carbon materials for combustion is making a contribution to carbon *increase* not carbon reduction. There is no indication that the proposal has taken energy conservation and efficiency into account in the design, layout and choice of materials. There is no indication of the use of environmentally sustainable and recycled materials which is “expected within the design”.
- CC5 (Carlisle): Not compliant. The proposal lacks details of the hydraulic brake, the locations of catch pit 1 and catch pit 2, pollution prevention and water quality treatment measures together with details of pollutant removal capacity (as set out in the CIRIA SUDS Manual C697).
- CM5 (Carlisle): Concerns remain. The proposal has not demonstrated that increased surface waste runoff will not increase the release of toxins from the historic landfill. The proposal has not demonstrated that the proposal will not result in unacceptable levels of dust, noise and odour. The proposal has not demonstrated that the fire risk can be adequately managed so as not to pose an unacceptable risk to health or safety. Paragraph 8.48 of the officer’s report incorrectly considers that the proposal is “not producing any emissions which would impact on human health” because dust emissions impact human health.
- HE1: Not compliant. The proposal has not demonstrated the careful assessment required for proposals outside the Hadrian’s Wall buffer zone.
- G11: Not compliant. The proposal has not taken the opportunity to enhance the landscape.
- G13: Not compliant. The proposal lacks “species appropriate provision”. The proposal lacks information that the increased water runoff will not increase the release of toxins into the River Eden SAC.
- G16: Not compliant. The proposal destroys, not protects, existing trees that “contribute positively to a locality”. The proposal lacks any mitigation for significant loss of woodland.
- SAP2: Not compliant. The site is not listed in SAP2 nor does the site comply with DC9.
- 28/037/20141016 (NPPF Waste Practice Guidance): The planning officer’s report dated 15 July 2022 lacks consideration of important 28/037/20141016 matters such as the likely distribution of waste arisings. 28/037/20141016 refers to the “layout of settlements” indicating that it is source of the waste that should be considered and not the intermediate sites (such as waste transfer sites) mentioned by the proposal. The planning officer’s report also gives no consideration to existing residual waste infrastructure in Carlisle for using waste as a fuel and therefore the local over-capacity of such provision that would arise. A consideration of the source of the waste could show better locations than the location proposed. The planning officer’s report has also given insufficient consideration to the closure of the landfill site (a constraint on the proposed location) and the minor roads which already have large numbers of HGVs make the proposed location inappropriate.
- 28/040/20141016 (NPPF Waste Practice Guidance): The waste planning authority has identified areas suitable for waste management but the proposal is not at such a location. The planning officer’s report dated 15 July 2022 may be assuming that because the reports call the site a “Waste Management Park” (contrary to the description in the Local Plan) that this makes the site appropriate for further waste management.
- 28/041/20141016 (NPPF Waste Practice Guidance): Brownfield sites have been identified in the Local Plan and “priority should be given to the re-use of previously developed land”, but the location is not an identified brownfield site. The proposal has turned unnecessarily to a greenfield location contrary to 28/041/20141016.

28/046/20141016 (NPPF Waste Practice Guidance): No significant changes in technological impact and land ownership have occurred in a short period of time that have necessitated the use of an unallocated site. The proposal is not consistent with the Local Plan and there is a lack of evidence of 'need'.

28/047/20141016 (NPPF Waste Practice Guidance): The planning officer's report dated 15 July 2022 refers to the relevance of 28/047/20141016 but does not consider its implications. The report appears to have assumed, contrary to 28/047/20141016, that because there are other waste management facilities at the site then the proposal is acceptable. The planning officer has not considered whether it is appropriate to extend the life, nor has the *cumulative* effect on the community's well-being been considered, nor has there been engagement with the local community.

The Waste (England and Wales) Regulations 2011: Requires everyone involved in waste management to take all reasonable measures to apply the waste hierarchy but the planning officer's report gives no indication that consideration has been given to the efficiency of the extraction of recyclable material (and therefore whether the proposal will maximise recycling) nor whether the facility may result in over-capacity (therefore encouraging the production of waste rather than waste reduction and material reuse) nor whether there may be better ways of handling some or all components of the waste (details of the waste types and sources are not known making it impossible to determine whether the proposal moves waste as far up the waste hierarchy as possible).

xxxiii See paragraph 7.42 of the Officer's report for 1/18/9006 dated 5 October 2018.

xxxiv The site is described in the Cumbria Minerals and Waste Local Plan as a landfill location. The duration of waste processing facilities at landfill locations should be tied to the lifetime of the landfill operations (see Cumbria Minerals and Waste Local Plan Policy DC9, also Policy DC22, Objective 9 and paragraphs 14.11 and 4.14). The Council acted contrary to the Local Plan when it failed to include a planning condition limiting the duration of the facility in its 1/18/9006 permission. Fortunately, this unlimited-duration permission has now expired. The Council's 1/18/9006 permission can be found in Appendix 1 of 1/21/9004.

xxxv The profit motive for the proposal is clear from the applicant's document titled "Response to Objections" uploaded 19 July 2018 (available at <https://planning.cumbria.gov.uk/Planning/Display/1/18/9006>). Whilst the profit motive of the applicant is not necessarily a planning consideration, the perceived profit may mean the applicant, and the Council, is inclined to ignore adverse impacts of the proposal. The short-term nature of the proposal is a planning consideration and is shown by the limited duration of Hespian Wood landfill operations when other waste management operations at Hespian Wood should also cease. This gives rise to the temporary nature of the location. The proposal will not be in accordance with the rapid reduction in residual waste quantities required to achieve government targets and for net-zero targets.

xxxvi Defra published the following definition of RDF:

"Refuse derived fuel (RDF) consists of residual waste that is subject to a contract with an end-user for use as a fuel in an energy from waste facility. The contract must include the end-user's technical specifications relating as a minimum to the calorific value, the moisture content, the form and quantity of the RDF."

<https://www.letsrecycle.com/news/defra-publishes-rdf-definition>

<https://www.circularonline.co.uk/news/defra-publishes-refuse-derived-fuel-definition/>

<https://resource.co/article/defra-updates-rdf-definition-10661>

xxxvii Cumbria County Council says:

"The Zero Carbon Cumbria Partnership is working towards the shared aim of making Cumbria the first carbon neutral county in the UK, by 2037. ... The Partnership, jointly chaired by Cumbria County Council and CafS ..." (<https://cumbria.gov.uk/planning-environment/climatechange.asp/>)

The response to point 15 on page 15 of the update sheet for the July 2022 committee meeting shows the Council has noted the incompatibility with ZCCP climate objectives yet the update report did not revise its assessment of the proposal accordingly, nor did the update report explain why it is appropriate to ignore such an important consideration especially when the consequences of the Council's decision can be expected to extend far beyond Cumbria (because ZCCP aims to be a role-model for other UK counties).

xxxviii The House of Commons research briefing paper "Plastic waste"

(<https://researchbriefings.files.parliament.uk/documents/CBP-8515/CBP-8515.pdf>) quotes a report from the circular economy charity, the Ellen MacArthur Foundation:

"Incineration and energy recovery result in a direct release of the carbon (not taking into account potential carbon savings by replacing another energy source). If the plastics are landfilled, this feedstock carbon could be considered sequestered"

The proposal includes no plans to landfill plastics. The proposal would therefore squander the opportunity to sequester the carbon.

The government's Committee on Climate Change considers more ambitious waste reduction targets are needed to achieve the net-zero by 2050 goal. The committee said:

"Recycling rates (recycling, anaerobic digestion (AD) and composting) need to rise to 70% across UK by 2030 (and by 2025 in Scotland and Wales). Total waste arisings should be reduced by up to 33% by 2037 from baseline projections, through improved product design, light-weighting & standards, asset sharing & repair, deposit return schemes and extended producer responsibilities. Household edible food waste should be reduced by 50% by 2030 (reaching 46kg per person) and 60% by 2050, compared to 2007 levels, and similar % reduction targets should be

achieved by the commercial food sector.”

(Source: Local Authorities and the Sixth Carbon Budget (Page 89). Committee on Climate Change, 9 December 2020. Available from: <https://www.theccc.org.uk/publication/sixth-carbon-budget/>)

The proposal, which can be expected to increase residual waste, is not consistent with the reduction in residual waste required to meet the government’s 2042 target. Since the government’s Committee on Climate Change considers even more ambitious waste reduction targets to be necessary to achieve a net-zero by 2050 goal, this proposal cannot be consistent with the Council’s net-zero by 2037 objective. The expected release of all the carbon into the atmosphere is not addressed by point 9 on page 14 of the update sheet issued for the July 2022 committee meeting. The Council has noted (response to point 10 on page 14 of the update sheet issued for the July 2022 committee meeting), but not shown how they have taken into consideration, that the use of RDF for fuel may displace the use of renewable sources of energy. Renewable energy can be expected to replace more fossil fuel energy sources over time, so the RDF is more and more likely to displace renewable energy sources. The Council has noted (response to point 10 on page 14 of the update sheet issued for the July 2022 committee meeting), but not shown how they have taken into consideration that the use of waste-plastic may delay the uptake of renewables. The Council has noted (response to point 14 on page 15 of the update sheet for the July 2022 committee meeting) that:

‘The evidence does not support the Officer’s assertion that the “production of RDF from waste will help to reduce CO₂ emissions by providing an alternative form of non-fossil fuel”’

but the Council has not corrected its statement. The Council has noted (response to point 14 on page 15 of the update sheet for the July 2022 committee meeting that “As a source of energy, incineration of waste has significantly higher adverse climate change impacts than generation from fossil fuels such as natural gas”, but the Council has not shown how this impacts its assessment of the proposal. The Council has noted (responses to point 10 on page 14 and point 14 on page 15 of the update sheet issued for the July 2022 committee meeting), but not shown how they have taken into consideration, that the proposal’s climate impact deserves thorough consideration, not the grossly simplistic assessment in the Officer’s report.

xxxix The aim is expressed in the applicant’s Screening Request which can be obtained from:

https://planning.cumbria.gov.uk/Planning/Display/1/2017_screening2

xl The anticipated RDF destination, the Carlisle incinerator, is shown in paragraph 3.2 of the Transport Statement of 1/18/9006.

xli The National Planning Policy Framework says “At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs”. By that definition, this proposal is not sustainable. The burning of fossil fuels is not sustainable. Fossil fuels are limited, but, even more limiting is that burning them releases the carbon into the atmosphere and is causing catastrophic damage to the climate. This catastrophic damage is compromising the ability of future generations to meet their own needs contrary to the NPPF definition of sustainability. Waste materials made from fossil fuels will also require additional energy to have been used for their manufacturer. As a source of energy, waste made from fossil fuels is not a sustainable energy source. According to DECC and Defra, even waste from non-fossil fuel sources should not automatically be considered sustainable:

“...Bioenergy is not automatically low carbon, renewable or sustainable”.

(Source: UK Bioenergy Strategy (Paragraph 1.8). DECC and Defra, April 2012. Available from:

<https://www.gov.uk/government/publications/uk-bioenergy-strategy>)

xlii The significant volumes of plastic waste materials are reported by the House of Commons research briefing paper “Plastic waste” (<https://researchbriefings.files.parliament.uk/documents/CBP-8515/CBP-8515.pdf>). Without information from the applicant and on the nature of the wastes to be processed, it can be expected that the waste will include a significant fraction of plastics.

xliii A proposal which makes a fuel from a non-sustainable energy source cannot be considered sustainable development – especially when the burning of the fuel (which is the intended eventual outcome from making a fuel, and the only outcome possible with Defra’s definition of RDF) will damage the climate for future generations. Nor can the temporary duration of the site be considered, nor can it be considered sustainable development to increase residual waste processing capacity when Government and climate objectives require the reduction in such capacity.

Proposals which are not sustainable are not supported by the National Planning Policy Framework nor Cumbria County Council Minerals and Waste Local Plan policy SP1 nor Carlisle Local Plan policy SP1.

xliv Paragraphs 2.7 to 2.11 of the officer’s report to the committee on 1/21/9004 dated 20 July 2021.

xlvi Each planning condition on 1/18/9006 is shown with its associated reason. The 1/18/9006 permission and planning conditions cannot be found by looking up the 1/18/9006 application on planning.cumbria.gov.uk but can be found in Appendix 1 of 1/21/9004.

xlvii A number of documents from the applicant are shown on

<https://planning.cumbria.gov.uk/Planning/Display/1/21/9004> with an upload date of 6 October 2021. These include the Supporting Statement in relation to “Information required by Conditions 7, 8, 9 and 10 of Planning Permission Ref: 1/18/9006”. Paragraph 3.2.9 includes:

“... the northern part of the site would flow into the existing drainage system for the site ...”

Whilst Cumbria County Council’s consultation response dated 4 May 2022 says

“We were consulted on the original FRA in 2018 and sought to impose drainage conditions on the original

application . We considered the amendments and had no concerns with the revisions proposed ... we are content that this proposal will not increase the flood risk either on site or elsewhere”

Whilst Cumbria County Council had no concerns with the revisions proposed, that is not the same as saying that the revisions proposed fully address all the concerns raised. The consultation response provided no information to explain why it is “content” regarding flood risk nor does the consultation response say that its previous comments have been fully addressed. The comments included:

“The applicant is also to consider the treatment of the surface water prior to discharge in line with the requirements of the SuDS manual prior to any approval from the LLFA. The LLFA have determined that this information is to be provided prior to any approval.”

(consultation comment dated 12 March 2021).

The text and diagrams appear to be inconsistent, but our understanding is that the drainage system as shown on the latest diagrams will increase drainage flow rates from the site. This is of great concern because of the historic and continued landfill operations at the site. Landfill has been carried out at the site for a considerable length of time and long before modern restrictions on types of waste that can be landfilled or before it was mandatory to install a protective lining. Leachate from all landfill sites is a risk but especially leachate from historic landfill sites. Our understanding is the application does not fully control peak runoff water rates and the proposed building and concreting over a large area will increase the total volume of water runoff. There is therefore a danger that this increased water runoff will increase toxins from landfill sites (including historic landfill sites) because leachate from these sites in drainage channels and ditches will have less time to sink into the ground. Increased pollution could harm soils and the River Eden SAC/SSSI that the water eventually feeds into. In addition, planning application 1/17/9001 extended the landfill at the site until 2039 and raised the height of the landfill. This may increase water drainage from that area into lower surrounding land. The flood risk assessment of planning application 1/17/9001 would have been with the assumption that the trees would remain in place and there is no indication that the applicant or Cumbria County Council have reassessed the flood risk of 1/17/9001 in light of the information in this proposal.

xlvi Supporting information regarding all of these matters are considered in relation to the numbered points. With regard to “other harmful environmental ... outcomes”, the destruction of trees is covered elsewhere, but in addition, paragraph 8.34 of the planning officer’s report dated 15 July 2022 says:

“There are no confirmed protected species identified on or close to Hespian Wood Waste Resource Park.”

but the statement appears contrary to the applicant’s Habitat Survey which shows protected species that have been identified on or near the site. The same paragraph also considers that bats are only to be impacted from the felling of trees giving no regard to the potential impact of operational noise and light on bats.