

**20 September 2016****Agenda Item:****REPORT OF CORPORATE DIRECTOR – PLACE****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/16/01063/CMA****PROPOSAL: INSTALLATION OF COMBINED HEAT AND POWER (CHP) PLANT****LOCATION: LAND AT SHERWOOD FOREST CENTER PARCS****APPLICANT: RAINWORTH ENERGY LTD****Purpose of Report**

1. To consider a planning application for the installation of a combined heat and power (CHP) plant within the Center Parcs complex in Nottinghamshire. The planning application raises issues concerning renewable energy planning policy, the appropriateness of the site and the environmental effects of the development. The recommendation is to grant condition planning permission.

**The Site and Surroundings**

2. The application site is located within the Center Parcs complex, a popular tourist attraction near Rufford, Nottinghamshire. Center Parcs incorporates residential holiday lodges and leisure facilities including a large swimming pool/aqua-dome area. (see Plan 1)
3. The development site itself is sited towards the eastern edge of the holiday park in close proximity to the A614 Old Rufford Road. The site incorporates part of an existing hard surfaced yard within a wider area of plantation woodland. The yard is used as a general storage area by Center Parcs and incorporates a timber clad storage shed and a number of steel container. The topography of the site is such that the hard surfaced pad sits below the surrounding land and is screened by soil embankments to the east (A614) and west/south. The application area is accessed by an existing internal track from the north which connects to the network of roadways in Center Parcs. (see Plan 2)
4. The site is remote from permanent residential property, the nearest properties being Manor Farm approximately 740m to the north east and Primrose Hill Farm a similar distance to the south. May Lodge Drive in Rufford is approximately 800m north of the site (see Plan 3), Center Parcs holiday lodges are in closer proximity to the site including a row approximately 50m to the west beyond a large screen bund. The site occupies a countryside location.
5. Birklands and Bilhaugh Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) lies approximately 3.6km to the north-north-west of the

application site. The Center Parcs site is designated as a Local Wildlife Site and lies in proximity to the 'prospective' Sherwood SPA, the nearest part of which is approximately 930m to the south-west.

## **Background to development**

6. The Center Parcs CHP facility would be powered by bio-gas produced within the Stud Farm, Rufford AD plant.
7. The Rufford Stud Farm AD plant was originally granted planning permission in July 2010 (under reference 3/09/01455/CMA). It is located approximately 2.65km to the north east of Center Parcs (see Plan 4). The AD plant is currently under construction albeit in a slightly different configuration to the scheme originally given planning permission following a series of alterations which have been formally agreed with the County Council. Members will recall the most recent modifications involving the installation of gas domes to the roofs of the digester tanks (reference 3/15/02255/CMA) and the installation of an underground gas pipeline to connect the Stud Farm AD facility with Center Parcs (reference 3/16/00115/CMA) were approved by Planning and Licensing Committee at their February meeting.

## **Proposed Development**

8. Planning permission is sought to provide a CHP plant and associated structures on land at Center Parcs. The CHP plant would be installed on an existing hard surfaced yard/clearing within woodland and next to an existing timber storage building. The existing container storage units would be removed/relocated within the Center Parcs complex.
9. The CHP plant would incorporate the following structures:
  - CHP unit and gas engine (12.2m x 2.93m x 2.95m high);
  - Transformer (3m x 4m x 2.4m high);
  - Oil Tank (3.5m x 4.4m x 1.85m high);
  - Heat exchanger unit (3m x 2.6 x 2.4m high);
  - Water storage tank (3m diameter 12m high);
  - Table cooler (4m x 3m x 2m high);
  - Pump unit (3m x 3m x 2m high);
  - Silencer (1m diameter x 7m high);
  - A 4.2m high acoustic fence to the west of the CHP plant.

The new structures would be externally finished in a moss green colour (RAL 6005) (Plans 5 and 6).

10. The CHP facility would utilise 750 cubic metres of biogas per hour sourced from the Rufford AD plant and piped to Center Parcs. The gas would be processed within the CHP plant to generate heat and power to meet the energy requirements of Center Parcs leisure facility, replacing the majority of Center Parcs existing gas boilers on the district heating system as well as a proportion of the site's electrical requirements. The system provides potential to export

electricity to grid when not required by Center Parcs. In total the heat load of the CHP plant equates to the annual equivalent heat load of 2,500-3,000 domestic properties.

11. Although planning permission has not been granted for the CHP infrastructure at Center Parcs, construction works associated with its development are now substantially complete. In a supporting letter the applicant states that they have had to continue with the development in advance of getting planning permission since they are required to meet a mandatory government (Ofgem) set Feed in Tariff accreditation deadline which requires the facility to be operational and connected to the grid by 26<sup>th</sup> September 2016. If this deadline is missed then the entire project would be very seriously impaired. The Feed in Tariff regime which the development qualified for is closed to new applicants and no further development could be accredited on this site if the 26<sup>th</sup> September 2016 deadline was missed.

## Consultations

12. **Newark & Sherwood District Council:** No objection.
13. **Newark & Sherwood District Council Environmental Health Officer:** No objection. *There would be no significant air quality impacts to either human or ecological receptors from emissions. It is also noted that the proposed location of the compound is some distance away from any sensitive human receptors, particularly for the prevailing meteorological conditions.*
14. **Rufford Parish Council:** Object on the following grounds:
  - a) *The noise impact assessment shows that there would be an adverse impact on neighbouring properties. The acoustic fence would only protect holiday lodges at Center Parcs and there is no protection intended for those living in the residential area to the west of the proposed plant.*
  - b) *There is mapping evidence to indicate that there would be air quality impacts from the development.*
  - c) *The development does not protect the heritage assets in the nearby historic Rufford Park due to influences from noise pollution and poor air quality. The development therefore contravenes Policy DM9 of the Newark and Sherwood Core Strategy (Protecting and enhancing the historic environment). English Heritage should be consulted for their views on the development.*
15. **Environment Agency:** No objection. *The CHP unit would use gas which is still categorised as a waste (rather than a product) and therefore would be regulated through the Environment Permit. As a permitted site Air Quality and noise emissions would be audited by the Agency.*
16. **Natural England:** No objection. *The information submitted with the application does not demonstrate that the requirements of Regulations 61 and 62 of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations) have been considered. It is Natural England's advice that the proposal is not necessary for the management of the European site. In order to assist your authority in screening for the likelihood of significant effects, it is*

*Natural England's advice that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.*

17. *The submitted Air Quality assessment has screened the proposal to check for the likelihood of significant effects from aerial emissions on Birklands and Bilhaugh Special Area of Conservation SAC. Natural England agrees that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.*
18. *The development is located in the Sherwood Forest area in proximity to habitats identified as important for breeding nightjar and woodlark. A risk-based approach is encouraged, to ensure that proposals are accompanied by robust assessments of the likely impacts arising from the proposals on breeding nightjar and woodlark and include measures to minimise any potential direct, indirect and cumulative impacts that are identified. Standing advice should be followed in relation to protected species.*
19. *Natural England advises that any planning application should run in parallel with an environmental permit application to the Environment Agency.*
20. **NCC Nature Conservation:** *No objection. The application site incorporates an existing area of hard standing, as such, there will be no significant direct impacts arising from an ecological perspective.*
21. *Nottinghamshire County Council, as local planning authority, is the competent authority for the purposes of Regulation 61(1) of The Conservation of Habitats and Species Regulations 2010, in relation to assessing planning applications which may affect European designated sites (SACs/SPAs). The main considerations from an ecological perspective are the potential indirect impacts of noise and emissions.*
22. *With regard to emissions, an Air Quality Assessment has been carried out which includes consideration of ecological effects resulting from the emissions, this confirms that:*
  - *There would be no impact on the Birklands and Bilhaugh SAC.*
  - *Small exceedances of the 1% threshold for nitrogen and acid deposition to heathland habitat are confined to a small area of agricultural land to the north-west of the application site, and a small area of coniferous woodland within Center Parcs.*
23. *Natural England has advised that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment, noting that screening has indicated that the process contribution for all pollutants at all sites will be <1% of the relevant critical level or load for the most sensitive habitat at each site. It is concluded that the proposals will not give rise to any likely significant effect on the Birklands and Bilhaugh SAC, or any other European designated site.*
24. *With regard to noise, a noise impact assessment has been carried out which identifies that the noise level of the CHP unit is 65dB at 10m. Background noise levels, measured on a vegetated bund which forms the western boundary of the area within which the CHP unit would be located have been*

measured as between 51.4 and 53.6 dB (day time) and between 30.1 and 33.3 dB (night time) and therefore elevated noise levels in the woodland strip to the east and south are anticipated. This has potential to affect breeding birds (i.e. by masking songs and calls) but the magnitude of impact is unlikely to be significant due to the proximity of the site close to the Center Parcs outdoor activity area and the A614.

25. *Natural England advocate a risk-based approach to ensure that proposals are accompanied by an assessment of the likely impacts arising from proposals on breeding nightjar and woodlark. An assessment of potential indirect impact on habitat used by woodlark or nightjar has been carried out as part of the Air Quality Assessment. This concludes that there is no risk of any effect on woodlark or nightjar breeding habitat as a result of the deposition of emissions. This assessment also notes that the location of the development, within an area of coniferous woodland subject to human disturbance, is unsuitable for breeding by either species. It is concluded that the proposals would not give rise to an impact on woodlark or nightjar breeding habitat.*
26. **NCC Highways Development Control:** No objection. *The installation of the facility is not expected to affect the public highway.*
27. **NCC Landscape:** No objection. *The impacts to the landscape character are likely to be slight adverse, these impacts could potentially be further reduced by undertaking some woodland management of the surrounding trees. Should it be necessary to clear any larger area of trees the landscape impact would be greater and there would be a need to provide replacement landscape planting. In terms of visual impact, the existing vegetation will screen views of the development. The level of visual impact is therefore considered to be negligible to slight.*
28. **NCC Project Engineer (Noise):** No objection. *The nearest residential property is some 740m north east of the development site. Taking the noise level as being 65dB at 10m this equates to a noise level of 29dB at the nearest façade of this property (not taking account of any further reductions due to screening or soft ground attenuation). The dominant noise source in the area is traffic on the A614. It is not expected for the plant to be audible during the daytime and evening periods. At night-time A614 traffic levels are lower and therefore background noise levels are lower giving potential for the facility to be faintly audible outside residential properties, however within properties it would be inaudible, even when windows are open.*

**NCC Land Reclamation:** No objection subject to a condition for a watching brief during site construction works for any potential contamination of the site. *The Center Parcs development is within an area of forestry with a history of having been used as military training camp. The development should be cognisant of such a potentially contaminating use but the planning application appears to have no historical record search to that effect.*

*It is noted that an oil storage tank is proposed, these features and the supply line should be bunded to contain any uncontrolled release of oil. The Environment Agency provided guidance notes for the storage of oils and the protection of the environment, the available guidance should be incorporated in the development proposals.*

29. **NCC Built Heritage:** No objection. *There would be no effect on the heritage significance of the nearby Rufford Abbey Registered Historic Park due to the screening effect of the existing mature planting, but this would change should that screening be removed.*
30. **Severn Trent Water Limited, Western Power Distribution, National Grid (Gas):** No representations received.

## Publicity

31. The application has been publicised by means of a press notice and the positing of site notices in accordance with the County Council's adopted Statement of Community Involvement Review.
32. One letter of representation has been received from a resident of May Lodge Drive, Rufford who objects to the development on the basis of its potential to create significant noise pollution to residents and the surrounding area, identifying the following concerns:
- a. The noise assessment submitted in support of the planning application does not consider the magnitude of noise impact to residential properties in Rufford including potential influences from wind direction and cumulative effects.
  - b. The main generating unit would have a noise emission of 85dB at 1 metre, a level loud enough to permanently damage hearing.
  - c. The noise assessment does not adequately consider the influences of tonal noise emissions to surrounding properties.
  - d. At night-time background noise emissions are very low and therefore noise emissions from the facility would be more noticeable.
  - e. With the above in mind, the resident suggests:
    - The plant and machinery should be relocated in closer proximity to Center Parcs current boilers/generators where any incremental noise pollution and land contamination would most probably be negligible and potential impacts on land & properties outside Center Parcs eliminated.
    - Additional sound proofing should be provided towards Rufford so that it is of the same standard as that proposed in the direction of Center Parcs (4.2m high sound-reducing fence)
    - The operating hours of the plant and machinery should be restricted to working hours.
33. Councillor John Peck has been notified of the application.
34. The issues raised are considered in the Observations Section of this report.

## Observations

### Renewable Energy Policy

35. This planning application seeks to install a CHP facility within the Center Parcs complex to enable biogas produced by the Rufford Stud Farm AD Facility to be converted to heat and power for use within Center Parcs.
36. This CHP facility is the final part of a wider renewable energy scheme granted planning permission by the County Council. In assessing the merits of this planning application it is important to have regard to the emphasis within the development plan and national planning policy which is strongly supportive of renewable energy developments. The following development plan policies are particularly relevant.
- The vision and objectives of the Newark and Sherwood Core Strategy (N&S CS) seek to maximise opportunities for appropriate renewable energy to help reduce the impact of climate change (objective 11). In particular Core Policy 10 (Climate Change) seeks to tackle the issues of climate change by delivering a reduction in the districts overall CO<sub>2</sub> emissions by maximising the use of available local opportunities for district heating and decentralised energy and promoting the development of community-led renewable energy generation projects.
  - Policy DM4 (Renewable and Low Carbon Energy Generation) of the Newark and Sherwood Allocations and Development Management Document (N&S A&DMD) states that planning permission will be granted for renewable energy generation schemes where the benefits are not outweighed by any detrimental impacts. The policy identifies that particular consideration should be given to the protection of landscape character, heritage assets, amenity, highway safety and ecology.
  - Strategic Objective 4 of the Nottinghamshire and Nottingham Waste Core Strategy (WCS) seeks to encourage the efficient use of natural resources by promoting waste as a resource. This objective is reflected in Policy WCS1 which provides a presumption in favour of sustainable development and WCS3 which gives priority to AD facilities as a way of ensuring that waste is managed sustainably.
37. Although not part of the development plan, Government's National Planning Policy Framework (NPPF) is a material consideration in the determination of the planning application. The NPPF incorporates as a 'golden thread' a presumption in favour of sustainable development. Achieving sustainable development includes the efficient use of natural resources, the minimisation of waste and the mitigation and adoption of climate change impacts including moving to a low carbon economy. It seeks to increase the use and supply of renewable energy, requiring planning authorities to plan positively to promote energy from renewable resources, maximise its production whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts. The NPPF seeks to encourage opportunities where development can draw its energy supply from decentralised renewable energy supply systems and co-locate potential heat customers and suppliers. When determining planning applications the NPPF requires planning authorities to approve renewable energy developments if its impacts are (or can be made) acceptable.
38. The Government's Overarching National Planning Policy Statement of Energy (EN-1) sets out the UK's need to diversify and decarbonise electricity generation

by dramatically increasing the amount of renewable generation capacity so as to ensure the commitments under the EU Renewable Energy Directive are met, improve energy security, decrease greenhouse gas emissions and provide economic opportunities. There is an urgent need for new renewable projects to come forward to meet the target of achieving 15% of total energy needs from renewable sources by 2020. The policy statement acknowledges the role that biomass and energy from waste plays in achieving this target, noting that such energy would normally provide 'baseload' power that is not affected by climatic conditions such as wind and solar.

39. The CHP infrastructure at Center Parcs would enable the biogas produced by the Rufford AD facility to be beneficially used, thus directly off-setting the use of fossil fuels which are currently used to heat and power the Center Parcs facilities and resulting in significant reductions of greenhouse gas emissions equivalent to the heat load of 2,500-3,000 domestic properties. These renewable energy credentials are fully supported by development plan and national planning policy. The Council is therefore encouraged to take a positive approach in its assessment of the planning application subject to the environmental impacts being acceptable.

#### Location of Development Site

40. The application site occupies a countryside location. WCS Policy WCS4 identifies that the development of waste management facilities within the open countryside will be supported only where such locations are justified by a clear local need. In the context of this policy, there is a local need for the CHP facilities proposed in this planning application to be sited within Center Parcs to provide a local source of heat and power, benefits which would be lost if an alternative location was proposed. WCS Policy WCS4 is therefore supportive of the development. WCS Policy WCS7 (General Site Criteria) also supports the development of AD Facilities in the countryside locations.
41. Policy DM8 of the Newark & Sherwood LDF Allocations and Development Management DPD (Development in the Open Countryside) is supportive of development associated with tourist industry in countryside locations. Since the heat and power produced by this installation would be utilised within a tourist facility, Policy DM8 is supportive of the development.

#### Environmental Effects

42. The significance of potential environment impacts are considered in the following section against policy criteria contained within WCS Policy WCS13 (Protecting and Enhancing our Environment). This policy seeks to ensure that new developments associated with waste are only supported where there would be no unacceptable impact to any element of environmental quality or the quality of life. Additionally, the saved environmental protection policies incorporated within Chapter 3 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) incorporate policy criteria to assess the significance of environment effects against.

#### Noise

43. WLP Policy W3.9 seeks to minimise noise emissions from waste management facilities. The level of noise emissions from the proposed CHP plant have been



assessed as part of a noise assessment. The report of this noise assessment identifies that the site is in close proximity to holiday lodges operated by Center Parcs. Due to the close proximity of these holiday lodges, night time operational noise potentially could be audible at these lodges. To minimise the level of night-time noise the report recommends a need to erect a 4.2m high acoustic fence along the western boundary of the CHP site to screen and reduce noise emissions. Subject to the erection of this acoustic fence, regulated by planning condition, it is concluded that significant adverse noise impacts would not result from the development to holiday accommodation within Center Parcs.

44. With regard to potential noise effects to residential properties, the nearest residential property is some 740m away with properties on May Lodge Drive in Rufford being over 800m away. The intervening distance between the CHP plant and these residential properties would disperse noise emissions, reducing the noise level to a calculated to be 28dB (after allowing for tonal influences) at the façade of the nearest residential property (Manor Farm) with slightly higher reductions on May Lodge Drive (not accounting for any further noise reductions due to screening or soft ground attenuation). The location of the A614 would dominate the local noise environment to such an extent that it is anticipated that the plant would be inaudible during the day-time and evening periods. During the night-time period the facility could potentially be faintly audible outside the nearest residential properties when background noise levels have dropped significantly and in particular traffic noise from the A614. However, during the night people will be indoors and asleep. Noise levels within property would be lower, even when bedroom windows are open. The projected level of noise within bedrooms is around 13dB. Essentially this level is considered inaudible and well within the level set out within *BS8233-2014 (Guidance on sound insulation and noise reduction for buildings)* for internal noise levels in bedrooms to avoid sleep disturbance which is to not exceed 30dB.
45. It is therefore concluded that noise from the operation of the CHP facility would result in no significant adverse impacts to residential properties in the surrounding area and thus there would be little benefit derived from installing noise bunds/barriers to attenuate noise emissions in the direction of May Lodge Drive. There is therefore no requirement to restrict the operating hours of the facility or to require an alternative location to be considered which may potentially result in lower noise emissions.
46. Subject to the erection of acoustic screening to mitigate noise emissions towards Center Parcs lodges, it is concluded the development is compliant with WCS Policy W3.9.

#### Ecology

47. The application has been screened for potential significant effects on any European site, as required by the Habitats Regulations, concluding that the proposals will not give rise to any likely significant effect on the Birklands and Bilhaugh SAC, and no further assessment is required.
48. The development site forms part of a larger Local Wildlife Site designation which extends across much of the Center Parcs complex. Whilst acknowledging that the application site is within this ecological designation, it does not incorporate any valuable habitat features being an existing area of hardstanding. As such there would be no loss of habitat as a result of undertaking the development.

49. The operation of the CHP plant would generate noise and air emissions which could potentially affect ecology within adjacent areas. With regard to noise emissions, there would be a predicted 65dB at a distance of 10m. This is higher than the measured existing background noise levels which are between 51.4 dB and 53.6 dB (day time) and between 30.1 dB and 33.3 dB (night time). Noise levels therefore are likely to increase in the woodland surrounding the proposed site. Elevated noise levels have been identified to have potential ecological effects particularly amongst breeding birds by masking songs and calls. However, since the development site is located adjacent to the Center Parcs outdoor activity area (which appears to include quad biking and paintballing), and is c.100m from the A614, any noise releases would be mixed into these existing activities making any increase in noise limited and unlikely to have a significant impact.
50. Potential impacts in the Birklands and Bilhaugh SAC and 'prospective' Sherwood SPA would be limited to air quality issues as a result of the combustion of the biogas within the CHP plant which would release emissions to the atmosphere, particularly oxides of nitrogen and carbon. These emissions would disperse in the surrounding area and settle on land potentially changing the chemical composition/fertility of soils and hence the habitats they support. This is a particular concern in areas of low-nutrient soils with heathland character (such as the 'prospective' Sherwood SPA and Birklands and Bilhaugh SAC) which have potential to support nightjar and woodlark habitats. The air quality assessment submitted in support of the planning application gives consideration to the magnitude of change from the emissions. It demonstrates that no significant adverse impacts would occur as a result of the emissions from the CHP Plant. Both Natural England and NCC Ecology Team have reviewed the air quality assessment and agree with this conclusion.
51. Natural England has advised that the application should be considered in parallel with an environmental permit application to the Environment Agency. While a co-ordinated approach would be preferable, it would not be a necessary requirement for the determination of the planning application.

#### Visual Impact and Landscape Effects

52. WLP Policy W3.3 seeks to minimise the visual impact of waste management facilities by appropriate siting, grouping of facilities together to prevent unsightly sprawl of development, keeping facilities as low as practicable and the use of appropriate colouring. WLP Policy W3.4 encourages the use of existing structures and landscaping and the planting of new landscaping to minimise visual impacts.
53. The CHP plant would be installed in an existing hardstanding clearing within an otherwise wooded area within the Center Parcs complex. The topography is such that the plant sits below the surrounding land which rises to form embankments to the east and to the west/south. The location of the development therefore is well screened by both the existing woodland and land form and not readily visible beyond the immediate surroundings of this part of Center Parcs. The facilities have been grouped together to avoid sprawl and have been kept as low as possible to avoid visual impact. A colour specification for the structures has been submitted which is considered appropriate and should assist with minimising visual impact. Subject to the retention of existing

vegetation in the vicinity of the site, the development would have a negligible visual impact and therefore the requirements of WLP Policy W3.3 are met.

54. Since the facility is sited on an existing hardstanding area which currently accommodates a number of containers, the siting of the additional structures proposed in this development would not result in any significant change to landscape character.

#### Heritage

55. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the planning authority to have special regard to any heritage impacts. Paragraph 134 of the NPPF provides scope to balance impacts to the historic environment which are less than substantial against any benefits provided by the development, an approach that is consistent with Newark and Sherwood Allocations and Development Management Plan Policy DM9.
56. The application site is located some 600 metres outside of the Rufford Abbey historic park and 800 metres from the nearest listed building. The modest scale and siting of the development within woodland means that the development would not result in any significant effect on the heritage value of the area subject to the intervening screen woodland to the east of the development site being retained. The applicant has confirmed that Center Parcs do not have any intentions to remove this section of woodland. Emissions from the facility in terms of noise and air quality would have no significant effect to these heritage assets.

#### Impact on the Public Highway

57. The development would not result in any material change to the numbers of vehicles using the public highway.

#### Human Health

58. Paragraph 7 of the National Planning Policy for Waste (NPPW) advises that planning authorities should concern themselves with implementing the planning strategy in the local plan and not with the control of process which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced and avoid carrying out their own detailed assessment of epidemiological and other health studies.
59. The Environment Agency have confirmed that the operation of the CHP plant would be regulated by an Environment Permit. Part of this permit process ensures that safe limits are imposed and monitored on the emissions from the process. Since the CHP would be regulated by the Environment Agency the planning authority can be satisfied in this instance that its operation would be appropriately regulated to ensure that it meets air quality, pollution and health controls.
60. Notwithstanding the above position, the planning application is supported by an air quality assessment which assesses the baseline atmospheric/pollution levels of the local area and the effect that emissions from the CHP process would have on air quality. This assessment demonstrates that the predicted concentrations of all pollutants would be below the relevant Environmental

Quality Standards at all human receptor locations and during all meteorological events. It is therefore concluded that adverse air quality impacts would not result from the development. The air quality assessment has been reviewed by Newark and Sherwood's Environmental Health Officer who agrees with this conclusion.

#### Drainage

61. The development site is not within a flood risk area. The consultation response from VIA (Land Reclamation) has recommended that the oil storage tank including the supply line are bunded to contain any uncontrolled discharge of oil which could affect underlying ground waters. A planning condition is recommended to regulate this matter.

#### Unauthorised Development

62. The applicant has progressed the development in advance of getting planning permission based on a commercial basis driven by the need to comply with a mandatory government renewable energy feed in deadline that if missed would jeopardise the viability of the entire project. The developer fully acknowledges that this decision has been taken at their own risk and is aware of the implications should planning permission be refused.
63. Whilst not wishing to condone the actions of the developer in progressing the development in advance of obtaining planning permission, the Waste Planning Authority are required to consider the planning application on its merits, regardless of whether the development has commenced or not. The Government's National Planning Policy Framework: Planning Practice Guidance concerning Ensuring Effective Enforcement of planning control advises that when breaches of planning control do occur, planning authorities should take action proportionate to the breach of planning control. In circumstances where development is undertaken without the benefit of planning permission, but the development is otherwise acceptable, or can be made acceptable by the use of planning conditions, planning authorities are encouraged to seek to resolve breaches of planning control through the use of retrospective planning applications.

#### Conclusion

64. Planning has an important role in the delivery of new renewable energy infrastructure. The strong message contained at Paragraph 98 of the NPPF is that local planning authorities should approve planning applications for renewable energy schemes if impacts are, or can be made acceptable. The planning application is strongly supported by Core Policy 10 of the N&S CS, Policy DM4 of the N&S A&DMD, Strategic Objective 4 of the WCS as well as the NPPF which aim to maximise the production of renewable energy.
65. The environmental assessment of the planning application has identified that the construction and operation of the facility would result in no significant environmental harm. The concerns raised by the Parish Council and the local resident regarding potential air quality, heritage and noise impacts are therefore not substantiated.

66. Although this planning application is now predominantly retrospective in character, this does not change the overall merits of the scheme. It is therefore recommended that planning permission be granted for the development.

### **Other Options Considered**

67. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

### **Statutory and Policy Implications**

68. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.
69. Crime and Disorder Implications: The CHP facility would be developed within the existing Center Parcs complex and would benefit from the existing security arrangements provided within Center Parcs.
70. Implications for Sustainability and the Environment: These implications are considered within the planning considerations section of the report.
71. There are no Implications for Service Users, Financial Implications, Equalities Implications, Safeguarding of Children implications or Human Resources implications.

#### Human Rights Implications

72. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

### **Statement of Positive and Proactive Engagement**

73. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **RECOMMENDATIONS**

74. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

**TIM GREGORY**

**Corporate Director – Place**

### **Constitutional Comments**

Planning & Licensing Committee is the appropriate body to consider the content of this report.

[SLB 12/08/2016]

### **Comments of the Service Director - Finance**

There are no specific financial implications arising directly from this report.

[SES 19/08/16]

### **Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

### **Electoral Division and Member Affected**

Cllr John Peck Rufford Ward

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For any enquiries about this report, please contact the report author.